

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Office of County Counsel
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009-1830
Attention: _____

(Above Space for Recorder's Use Only)

**AMENDED AND COMPLETELY RESTATED
DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS
AND RESTRICTIONS**

FOR

PARCEL C (BAHIA CABRILLO)

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**AMENDED AND COMPLETELY RESTATE DECLARATION OF EASEMENTS,
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS AMENDED AND COMPLETELY RESTATED DECLARATION OF EASEMENTS COVENANTS, CONDITIONS AND RESTRICTIONS ("**Declaration**") is made this ____ day of _____, 2022 ("**Effective Date**"), by OXNARD MARINAS, L.P., a California limited partnership ("**Waterside Owner**"), CHANNEL ISLANDS VILLAS L.P., a California limited partnership ("**Landside Owner**"), and the COUNTY OF VENTURA ("**County**"), with respect to the following recited facts:

A. County is the owner of the fee interest in that certain real property located in the County of Ventura, State of California, commonly known as the Channel Islands Harbor ("**Channel Islands Harbor**"). The Channel Islands Harbor has been and continues to be held and operated by the County in Ventura County's proprietary capacity for the purposes (among others) of providing public recreational facilities, commercial developments, residential housing, pleasure boat marinas, and related amenities, to be continually available for the residents of and visitors to the County of Ventura, California.

B. In order to implement the use of the Channel Islands Harbor for such purposes, County entered into two (2) separate ground leases pursuant to which County has leased various parcels in the Channel Islands Harbor consisting of:

(1) That certain lease agreement captioned "AMENDED AND RESTATED LEASE CONTRACT-PARCEL C (BAHIA CABRILLO - LANDSIDE)", dated as of November 21, 2006, by and between County, as lessor, and Landside Owner, as lessee (said lease agreement, as the same is and may hereafter be modified or amended from time to time, the "**Landside Lease**"). The Landside Lease conveys a ground leasehold estate in and to the "**Landside Parcel**" to Landside Owner more particularly described in Exhibit A attached hereto. The Landside Parcel is currently improved with an approximately 90-unit residential apartment complex ("**Apartment Complex**").

(2) That certain lease agreement captioned "AMENDED AND RESTATED LEASE CONTRACT-PARCEL C (BAHIA CABRILLO- WATERSIDE)", dated as November 21, 2006, by and between County, lessor, and Waterside Owner, as lessee (said lease agreement, as the same is and may hereafter be modified or amended from time to time, the "**Waterside Lease**"). The Waterside Lease conveys a ground leasehold estate in and to the "**Waterside Parcel**" to Waterside Owner more particularly described in Exhibit B attached hereto. The Waterside Parcel is currently improved with an approximately 84-slip, marina ("**Marina**").

C. The Landside Parcel and the Waterside Parcel adjoin each other.

D. County, and Channel Islands Harbor Investment Company, L.P., a Delaware limited partnership ("**Prior Declarant**") executed that certain Declaration of Easements, Covenants, Conditions and Restrictions dated as of December 31, 2003 (the "**Prior Declaration**") which Prior Declaration was recorded on January 15, 2004 as Instrument Number 2004-0010248 of the Official Records of Ventura County, California.

E. Landside Owner is the successor-in-interest to Prior Declarant under the Prior Declaration with regard to the Landside Parcel only under the Landside Lease.

F. Waterside Owner is the successor-in-interest to Prior Declarant under the Prior Declaration with regard to the Waterside Parcel only under the Waterside Lease.

G. Under the Prior Declaration, County and the Prior Declarant established certain vehicular and pedestrian ingress, egress and other easements, including parking rights, together with various other covenants, conditions and restrictions, for the benefit of the Landside Owner, the Waterside Owner and County, as the owner of the Channel Islands Harbor, and which burden and benefit each of the Landside Parcel and the Waterside Parcel.

H. County, Landside Owner and Waterside Owner desire to redevelop and remodel certain aspects and improvements to the Channel Islands Harbor, including, without limitation, the remodeling, reconfiguration and expansion of the Marina by Waterside Owner, the installation of a “promenade” walkway along the shoreline between the Landside Parcel and the Waterside Parcel by County, and the upgrading the existing rock revetment by County (collectively “**Marina Remodeling**”). The layout of the Marina Remodeling as approved by County, Landside Owner and Waterside Owner is attached hereto as Exhibit C.

I. County, Waterside Owner and Landside Owner desire to amend and completely restate the Prior Declaration to reflect the changes in their respective duties and responsibilities under the Marina Remodeling.

J. Waterside Owner and Landside Owner are sometimes hereinafter referred to as “**Declarant**.”

NOW, THEREFORE, for good and Valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant and County, on behalf of and with the intent to bind each of their respective successors in interest to each of the Landside Parcel and the Waterside Parcel, and with the intent to encumber and impose the same on each of their respective estates and interests in the Landside Parcel and the Waterside Parcel, hereby declare, covenant and agree that the Prior Declaration is hereby amended and completely restated, as follows:

I DEFINITIONS

1.1 “**Apartment Complex**” is defined in Recital Paragraph B(1) of this Declaration.

1.2 Intentionally Omitted.

1.3 “**Apartment Tenants**” means any tenants, lessees and other persons or parties entitled by any lease; rental agreement or similar arrangement or instrument to use and occupy residential apartment units in the Apartment Complex.

1.4 **“Applicable Law”** means any law, statute, regulation, rule, order, ordinance, directive, permit, requirement or mandate of any governmental entity applicable to all or any portion of a Parcel or the use, occupancy or enjoyment thereof, now in effect or hereafter promulgated, including any zoning or building code.

1.5 **“Approved Encumbrance Holder”** means any construction, interim or permanent lender, or group of participating lenders, that County has reasonably determined satisfies the Approved Mortgagee Eligibility Requirements, and any successor-in-interest or assignee thereof who acquires the applicable Mortgage by assignment or other transfer in due course and who satisfies the Approved Mortgagee Eligibility Requirements, provided that such successor-in-interest has given County written notice of its acquisition of the Approved Mortgage.

1.6 **“Approved Mortgage Eligibility Requirements”** means, with respect to an Approved Encumbrance Holder, that such Approved Encumbrance Holder is either (a) a Qualified Institutional Lender; (b) an entity of which a Qualified Institutional Lender directly or indirectly holds all or part of the beneficial or ownership interest in; or (c) a lender who is approved as an Approved Encumbrance Holder by County in County's sole direction.

1.7 **“Benefitted Owner”** is defined in Section 6.5 of this Declaration.

1.8 **“Boat Slip Tenants”** means any tenants, lessees and other persons or parties entitled by any lease, rental agreement or similar arrangement or instrument to use and occupy boat slips in the Waterside Parcel.

1.9 **“Burdened Owner”** is defined in Section 6.5 of this Declaration.

1.10 **“Business Day”** means any day other than a Saturday, a Sunday or a Federal holiday on which banks are closed for business in the County of Ventura, State of California.

1.11 **“Channel Islands Harbor”** is defined in Recital Paragraph A of this Declaration.

1.12 **“Claims”** are defined in Section 6.5 of this Declaration.

1.13 **“Common Utility Facilities”** are defined in Section 4.3 of this Declaration.

1.14 **“Common Utility Maintenance Costs”** are defined in Section 4.3 of this Declaration.

1.15 **“Consumer Price Index”** means the Consumer Price Index issued by the U.S. Department of Labor, Bureau of Labor Statistics, for the Los Angeles-Riverside-Orange County, CA region, All Urban Consumers, 1982-84 = 100.

1.16 **“Declarant”** is defined in the Recital J of this Declaration.

1.17 **“Declaration”** is defined in the Preface of this Declaration,

1.18 **“Defaulting Owner”** is defined in Section 5.2 of this Declaration.

- 1.19 **“Effective Date”** is defined in the Preface of this Declaration.
- 1.20 **“Encroachments Easement”** is defined in Section 3.1.2 of this Declaration.
- 1.21 **“Event of Default”** is defined in Section 5.1 of this Declaration.
- 1.22 **“Expense Contribution”** is defined in Section 2.4.1 of this Declaration.
- 1.23 **“Facilities Easement”** is defined in Section 2.1.3 of this Declaration.
- 1.24 **“Facilities Easement Areas”** are defined in Section 2.1.3 of this Declaration.
- 1.25 **Intentionally Omitted.**
- 1.26 **“Landside Construction Access Easement”** is defined in Section 2.1.5 of this Declaration.
- 1.27 **“Landside Construction Easement Area”** is defined in Section 2.1.5 of this Declaration.
- 1.28 **“Landside Easements”** means, individually and collectively, the easements which encumber the Landside Parcel that are granted and established under Section 2.1 of this Declaration.
- 1.29 **“Landside Easement Areas”** means, individually and collectively, those portions of the Landside Parcel which are burdened by the Landside Easements granted pursuant to Section 2.1 of this Declaration, the same may be modified or relocated from time to time pursuant to the provisions of this Declaration.
- 1.30 **“Landside Lease”** is defined in Recital Paragraph B(l) of this Declaration. "Landside Lease" shall also mean and include any subsequent lease entered into from time to time by County (or any other fee owner of the Landside Parcel) with any person or party following the expiration and/or termination of any Landside Lease.
- 1.31 **“Landside Owner”** means (a) the holder of the lessee's interest in and under the Landside Lease from time to time, and (b) upon expiration or termination of the Landside Lease, (i) any person or party in possession of the Landside Parcel pursuant to a new Landside Lease of the Landside Parcel granted by the fee owner thereof or (ii) County as the fee owner of the Landside Parcel in the event County is in possession of the Landside Parcel free and clear of any leasehold interest in another party, provided, however, that in the event the fee-owner of the Landside Parcel becomes the "Landside Owner" pursuant to the foregoing provisions of this Section 1.31, then upon the grant of a leasehold interest in the Landside Parcel by said fee owner the lessee under such leasehold interest granted by said fee owner, and said lessee's successors and assigns as the holder of such leasehold, and not the fee owner, shall be the "Landside Owner" until the expiration or termination of such leasehold interest (whereupon the then fee owner of the Landside Parcel shall become the “Landside Owner”).

1.32 **“Landside Parcel”** means that certain parcel of real property located in the County of Ventura, State of California more particularly described on Exhibit A attached hereto. The term "Landside Parcel" shall collectively mean and refer to the entire fee simple interest in such parcel of the real property described on Exhibit A hereto, including both (a) the leasehold estate of Landside Owner in such parcel of real property pursuant to the Landside Lease (and any subsequent leasehold estate in such parcel of real property granted by the fee owner thereof), and (b) the reversionary fee interest of County in such parcel of real property.

1.33 **“Landside Pedestrian Easement”** is defined in Section 2.1.2 of this Declaration.

1.34 **“Landside Pedestrian Easement Areas”** are defined in Section 2.1.2 of this Declaration.

1.35 **“Landside Utilities Easement”** is defined in Section 2.1.4(a) of this Declaration.

1.36 **“Landside Utilities Easement Areas”** are defined in Section 2.1.4 of this Declaration

1.37 **“Lease”** or **“Leases”**, as the case may be, shall mean and refer to the Landside Lease or to the Waterside Lease, or to both, as the case may be.

1.38 **Intentionally Omitted.**

1.39 **“Maintenance Expenses”** is defined in Section 2.4.1 of this Declaration.

1.40 **“Marina”** is defined in Recital Paragraph B(2) of this Declaration.

1.41 **Intentionally Omitted.**

1.42 **Intentionally Omitted.**

1.43 **Intentionally Omitted.**

1.44 **Intentionally Omitted.**

1.45 **Intentionally Omitted.**

1.46 **“Mortgage”** shall mean and refer to any duly recorded mortgage or deed of trust encumbering the Landside Parcel and/or the Waterside Parcel.

1.47 **“Mortgaged Parcel”** is defined in Section 7.5 of this Declaration.

1.48 **“Motor Vehicle”** means any passenger automobile, light truck, motorcycle or motor-driven cycle.

1.49 **“New Lease”** is defined in Section 8.3 of this Declaration.

1.50 **“Non-Defaulting Owner”** is defined in Section 5.2 of this Declaration.

1.51 **“Non-Performing Owner”** is defined in Section 4.4 of this Declaration.

1.52 **“Official Records”** means the Official Records of County of Ventura, California:

1.53 **“Owner”** or **“Owners,”** as the case may be, shall mean and refer to the Landside Owner and the Waterside Owner.

1.54 **“Parcel”** or **“Parcels,”** as the case may be, shall mean and refer to the Landside Parcel or to the Waterside Parcel, or to both, as the case may be.

1.55 **Intentionally Omitted.**

1.56 **Intentionally Omitted.**

1.57 **“Permittees”** shall mean and refer to the Owners and all of their respective officers, directors, employees, agents, representatives, contractors, customers, visitors, invitees, licensees, utility suppliers, tenants, subtenants and concessionaires. Permittees of the Landside Owner shall include Apartment Tenants, and Permittees of the Waterside Owner shall include Boat Slip Tenants.

1.58 **Intentionally Omitted.**

1.59 **“Qualified Institutional Lender”** means any of: (a) a commercial bank, savings bank, savings and loan association or trust company whose deposits are insured by the Federal Deposit Insurance Corporation or similar government-sponsored entity which provides deposit insurance; (b) a savings and loan association, insurance company, pension or retirement fund, investment banking firm, or other institutional lender engaged in the ordinary course of its business as a lender, which has net unencumbered assets the amount of not less than Five Hundred Million Dollars (\$500,000,000), as may be adjusted by the Consumer Price Index from time to time, and which is not under any order or judgment of any court or administrative agency restricting or impairing its operation as a lender in the State of California; (c) any Approved Encumbrance Holder: under a Mortgage upon which commercial mortgage backed securities are issued so long as the originator, sponsor or issuer of such securities is in the business of originating, sponsoring or issuing such securities in the ordinary course of its business; (d) any mortgage lending corporation or association which is either operated or chartered by the United States or one of its constituent States (a **“Governmental Lender”**) (including, by way of example and without limitation, Fannie Mae and Freddie Mac), or any Approved Encumbrance Holder that is the originating lender under a Mortgage that is originated under an arrangement by which such Mortgage is to be acquired by a Governmental Lender; or (e) any group, pool or association of participating lenders of which the lead lender (i.e., the lender in such pool with primary responsibility for administering the Mortgage) is an entity described in the preceding subsections (a) through (d), inclusive.

1.60 **“Responsible Utility Company”** means each public or private utility company, utility district or other governmental agency or authority which is now or may hereafter become

responsible for the construction, installation, inspection, operation, flow and passage, maintenance, repair, removal or replacement of Utility Facilities servicing the Waterside Parcel and/or the Landside Parcel.

1.61 **“Utility Facilities”** means underground storm and sanitary sewer lines and systems, underground domestic water supply lines and water systems, underground natural gas systems, underground electrical systems, fire protection water systems, underground telephone, electricity, gas, cable, television and data cable lines, conduits and systems, and all other utility systems, connections, lines, conduits and facilities reasonably necessary to service the Waterside Parcel or the Landside Parcel; as the case may be.

1.62 **“County”** is defined in the Preface of this Declaration.

1.63 **“Waterside Construction Access Easement”** is defined in Section 3.1.1 of this Declaration.

1.64 **“Waterside Construction Easement Area”** is defined in Section 3.1.1 of this Declaration.

1.65 **“Waterside Easements”** means, individually and collectively, the easements which encumber the Waterside Parcel that are granted and established under Section 3.1 of this Declaration.

1.66 **“Waterside Easements Areas”** means, individually and collectively, those portions of the Waterside Parcel which are burdened by the Waterside Easements granted pursuant to Section 3.1 of this Declaration.

1.67 **“Waterside Lease”** is defined in Recital Paragraph B(2) of this Declaration. "Waterside Lease" shall also mean and include any subsequent lease entered into from time to time by Ventura County (or any other fee owner of the Waterside Parcel) with any person or party following upon the expiration and/or termination of any Waterside Lease.

1.68 **“Waterside Owner”** means (a) the holder of the lessee's interest in and under the Waterside Lease from time to time, and in the future shall be whomever is the holder of the lessee's interest in and under the Waterside Lease at the time of reckoning) and (b) upon expiration or termination of the Waterside Lease, (i) any person or party in possession of the Waterside Parcel pursuant to a new Waterside Lease of the Waterside Parcel granted by the fee owner thereof, or (ii) County as the fee owner of the Waterside Parcel in the event County is in possession of the Waterside Parcel free and clear of any leasehold interest in another party; provided, however, that in the event the fee owner of the Waterside Parcel becomes the “Waterside Owner” pursuant to the foregoing provisions of this Section 1.68, then upon the grant of a leasehold interest in the Waterside Parcel by said fee owner, the lessee under such leasehold interest granted by said fee owner, and said lessee's successors and assigns as the holder of such leasehold, and not the fee owner, shall be the “Waterside Owner” until the expiration or termination of such leasehold interest (whereupon the then fee owner of the Waterside Parcel shall become the “Waterside Owner”).

1.69 “**Waterside Parcel**” means that certain parcel of real property located in the County of Ventura, State of California, more particularly described on Exhibit B attached hereto. The term “Waterside Parcel” shall collectively mean and refer to the entire fee simple interest in such parcel of real property described on Exhibit B hereto, including both (a) the leasehold estate of Waterside Owner in such parcel of real property pursuant to the Waterside Lease (and any subsequent leasehold estate in such parcel of real property granted by the fee owner thereof), and (b) the reversionary fee interest of County in such parcel of real property.

II

EASEMENTS OVER LANDSIDE PARCEL

2.1 Easements for the Benefit of Waterside Parcel. Subject to the terms, conditions and provisions of this Declaration, Landside Owner, and County hereby grant, declare and establish each of the following easements that shall be appurtenant to and for the benefit of the Waterside Parcel for the benefit, use and enjoyment of the Waterside Owner, it being understood County is joining herein only as the fee owner of the Parcels for the purpose of consenting to the grant of the following easements and agreeing that all such easements shall burden and encumber County’s fee interest as well as the leasehold estate in the Landside Parcel, but County shall have no maintenance, repair or other obligations as an Owner with respect to such easements until such time that County becomes the Landside Owner or Waterside Owner, as the case may be:

2.1.1 Intentionally Omitted.

2.1.2 Landside Pedestrian Easement. A non-exclusive easement (the “**Landside Pedestrian Easement**”) over and across only those portions of the Landside Parcel depicted and described as the “Pedestrian Easement Areas” in Exhibit C-2 attached hereto (the “**Landside Pedestrian Easement Areas**”), for pedestrian ingress, egress and access to and from the Waterside Parcel by the Waterside Owner and its Permittees only, and for no other purpose. The Landside Pedestrian Easement Area includes, without limitation, (i) the Promenade also detailed on Exhibit C-2. Any use of the Pedestrian Easement shall be subject to those reasonable Rules and Regulations concerning such use which the Landside Owner may promulgate from time to time; provided, however, that any such Rules and Regulations shall be applied and enforced on a uniform and non-discriminatory basis among the Waterside Owner and its Permittees and the Landside Owner and its Permittees.

2.1.3 Facilities Easement. A non-exclusive easement (the “**Facilities Easement**”) over and across only those portions of the Landside Parcel depicted and described as the “Facilities Areas” in Exhibit C-3 attached hereto (“**Facilities Easement Areas**”), for pedestrian ingress, egress and access by the Waterside Owner and its Permittees only, to and from and for use of the restrooms located on the Landside Parcel, and for no other purpose. Any such use of the restroom facilities located on the Landside Parcel by the Waterside Owner and its Permittees shall be subject to those Rules and Regulations concerning such facilities which the Landside Owner may promulgate from time to time; provided, however, that any such Rules and Regulations shall be applied and enforced on a uniform and non-discriminatory basis among the Waterside Owner and its Permittees and the Landside Owner and its Permittees.

2.1.4 Utilities Easements. Non-exclusive easements (the “**Landside Utilities Easements**”) over and across the Landside Parcel for the construction, installation, inspection, operation, flow and passage, maintenance, repair, removal, reconstruction and replacement of such Utility Facilities as are reasonably necessary to service the Waterside Parcel. The grant, use and enjoyment of the Landside Utilities Easements shall be subject to the following reservations, terms and requirements:

(a) The location of the Landside Utilities Easements on the Landside Parcel (the “**Landside Utilities Easement Areas**”) shall be subject to the prior written approval of the Landside Owner; provided, however, the location of all Landside Utilities Easements as they now exist for Utility Facilities which currently service the Waterside Parcel are deemed approved by the Landside Owner. As part of the Marina Remodeling, Waterside Owner contemplates installation of separate potable water, fire water, telephone and electricity utility services for the improvements to the Waterside Parcel (the “**Marina Remodeling Separate Utilities**”) over the portions of the Landside Parcel shown on Exhibit C-4 attached hereto (“**Marina Remodeling Separate Utilities Easement Areas**”). Landside Owner hereby approves the location Landside Utilities Easement Areas which expressly includes the Marina Remodeling Separate Utilities Easement Areas.

(b) Landside Owner and County hereby reserve from the grant of the Landside Utilities Easements the right to use the Landside Utilities Easement Areas for any purpose or manner which does not materially disrupt utility service to the Waterside Parcel, including the right to continue to use the Landside Utilities Easement Areas for the same purposes and in the same manner as the same are currently being used. Nothing contained herein, including the foregoing grant of the Landside Utilities Easements, shall be deemed or construed to give the Waterside Owner, any Responsible Utility Company, or any other person or party the right to compel the removal, or prohibit the repair or replacement, of any structure, building or other improvement which currently exists in any Landside Utilities Easement Area.

(c) Except as provided in Section 4.3 below with respect to Common Utilities Facilities, the Waterside Owner (or the Responsible Utility Company, if any) shall be responsible for any construction, installation, inspection, operation, flow and passage, maintenance, repair, removal, reconstruction and replacement of any Utility Facilities servicing the Waterside Parcel, and any such construction, installation, inspection, operation; maintenance, repair, removal, reconstruction or replacement shall comply with the provisions of Section 2.1.4(d) below and shall not otherwise unreasonably interfere with the use and enjoyment of the Landside Parcel or any improvements, facilities and installations thereon from time to time.

(d) Any work on the Landside Parcel by or on behalf of the Waterside Owner connection with Utility Facilities servicing the Waterside Parcel shall be performed only after thirty (30) days advance notice to the Landside Owner; provided, however, in the case of an emergency, any such work may be immediately performed after such advance notice to Landside Owner as is practicable under the circumstances. All such work shall (i) incorporate any and all safety measures reasonably required to protect the Landside Parcel, the Landside Owner and the Apartment Tenants and other Permittees of the Landside Owner from injury or damage therefrom, (ii) be done without cost or expense to the Landside Owner, and (iii) be performed in a manner

that minimizes to the greatest extent possible any disturbance to the Landside Parcel, the Landside Owner and its Permittees. Any and all damage to the Landside Parcel or the improvements thereon, including any portions of the surface area of the Landside Utilities Easement Areas which may have been excavated, damaged or otherwise disturbed as a result of such work, shall be restored, at the sole cost and expense of Waterside Owner, to essentially the same condition as such portions were in prior to the commencement of any such work.

(e) At all times that any work is being performed on the Landside Parcel by or on behalf of the Waterside Owner in connection with Utility Facilities servicing the Waterside Parcel, the Waterside Owner shall (i) obtain and maintain, in full force and effect, or cause to be obtained and maintained in full force and effect the insurance in such amounts and coverages as provided in Section 2.1.5(g) below, and (ii) indemnify, protect, defend and hold harmless the Landside Owner, its Permittees and County from and against any Claims arising from such work as provided in Section 6.5 below.

2.1.5 Construction Easement. A non-exclusive easement (the **“Landside Construction Access Easement”**) over that portion of the Landside Parcel designated by the Landside Owner as provided below (the **“Landside Construction Easement Area”**) reasonably necessary for ingress, egress and access by the Waterside Owner and its Permittees to the Waterside Parcel in connection with the installation, use, maintenance, repair, replacement and removal of any legally permitted structure or other improvement to the Waterside Parcel, and for no other purpose. The grant, use and enjoyment of the Landside Construction Access Easement shall be subject to the following reservations, terms and requirements:

(a) The Waterside Owner shall deliver written notice to the Landside Owner not less than (30) days prior to any use of the Landside Construction Access Easement by the Waterside Owner or its Permittees, which notice shall include (i) a reasonably detailed description of the construction or other work taking place on the Waterside Parcel and the nature of any ingress, egress and access across the Landside Construction Easement Area in connection with such construction or other work on the Waterside Parcel, (ii) a plot plan of the Waterside Parcel showing the approximate location of the proposed improvements being made to the Waterside Parcel, and (iii) a time-schedule indicating the approximate date or dates when such construction, including on-site work and preparation, will commence and be completed;

(b) The Waterside Owner shall at all times take any and all safety measures reasonably required to protect the Landside Parcel, the Landside Owner and the Apartment Tenants and other Permittees of the Landside Owner from injury or damage caused by or resulting from the use of the Landside Construction Access Easement, including, if requested by the Landside Owner, the erection of adequate, proper-appearing and painted construction barricades, by woven wire or a solid fence, at least eight (8) feet in height substantially enclosing the Landside Construction Easement Area, which barricades shall be kept in place, in good condition and repair, until the construction on the Waterside Parcel is completed or otherwise safe and secure from unauthorized intrusion;

(c) The construction or other work on the Waterside Parcel which requires the use of the Landside Construction Access Easement shall be performed diligently and continuously,

without interruption, so as to minimize to the extent possible the period of use of the Landside Construction Access Easement;

(d) The use and enjoyment of the Landside Construction Easement shall not unreasonably impair or interfere with the use, occupancy or enjoyment of the Landside Parcel by the Landside Owner and/or its Permittees it being recognized that the express intent of Declarant and County is that the Landside Construction Access Easement shall be used only when other means of access to the Waterside Parcel by construction machinery and construction personnel are not feasible on a commercially reasonable basis;

(e) The Landside Owner reserves the right to restrict the Landside Construction Easement Area to a specific area within the Landside Parcel selected by the Landside Owner from time to time, so as to cause the least practicable interference with the use and operation of the Landside Parcel;

(f) Prior to the commencement of any use of the Landside Construction Access Easement, upon request the Waterside Owner shall provide to the Landside Owner copies of any approval or consent from County under the Waterside Lease and all licenses, permits, building permits, authorizations, approvals, variances and land use entitlements issued by the City of Oxnard, the County of Ventura and other applicable governmental authorities or otherwise necessary for the construction or work for which the Landside Construction Access Easement will be utilized;

(g) At all times while the Landside Construction Access Easement is being used, the Waterside Owner shall obtain and maintain in full force and effect with a financially responsible insurance company or companies, the following insurance: (i) owner's and contractor's policy of comprehensive of general liability insurance on an occurrence basis, including coverage for any accident resulting in bodily injury or death to any person and consequential damages resulting therefrom, with a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence and excess or umbrella liability of at least Ten Million Dollars (\$10,000,000) (as such amounts may be adjusted by the Consumer Price Index from time to time), (ii) automobile liability insurance (including non-owned automobile) with-a coverage with at least One Million Dollars (\$1,000,00.0) per occurrence (as such amount may be adjusted in accordance with the Consumer Price Index from time to time), (iii) worker's compensation, employer's liability and other insurance required by law, and (iv) such other insurance coverages in such amounts as are consistent with the customary practices of prudent developers and owners of property similar to the Waterside Parcel. The owner's and contractor's policy of comprehensive general liability insurance shall name the Landside Owner and County as additional insureds thereunder and shall provide the same may not be canceled or the coverage thereunder reduced without at least thirty (30) days prior written notice being given to the Landside Owner and County. An actual insurance policy or certified copy thereof, or a binder, certificate of insurance or other evidence of insurance coverage shall be delivered to the Landside Owner and County prior to any use of the Landside Construction Access Easement;

(h) Any construction vehicles or machinery utilizing the Landside Construction Access Easement may not exceed one (1) ton capacity or ten thousand (10,000) pounds gross vehicle weight;

(i) The Landside Owner reserves the right to restrict the times during which the Landside Construction Access Easement may be utilized to reasonable business hours so as to minimize, to the extent reasonably possible, any noise or other disturbance to the Apartment Tenants;

(j) In no event shall any Landside Construction Easement Area be used for a construction staging area, construction trailers and shacks, storage of material or equipment, or parking by construction personnel; and

(k) The Waterside Owner shall, in accordance with Section 6.5 below, indemnify, protect, defend and hold harmless the Landside Owner, its Permittees and County from and against any Claims arising from the use of the Landside Construction Access Easement by Waterside Owner and/or its Permittees.

2.2 Relocation of Easement Areas and Improvements. Excluding the Marina Remodeling Separate Utilities installed within the Marina Remodeling Separate Utilities Easement Areas, the Landside Owner shall have the right, upon not less than thirty (30) days prior written notice to the Waterside Owner, to relocate any of the Landside Easements (together with any other equipment, facilities or other personal property or improvements installed or located in the Landside Easement Areas of said Landside Easements) to such alternate location as the Landside Owner may reasonably select, provided that (a) any such relocation of any Landside Easement shall be made at the Landside Owner's sole cost and expense, and (b) any such relocation shall not materially adversely affect or impair the operation, use or enjoyment of the Waterside Parcel by the Waterside Owner or its Permittees nor materially interrupt any utility service serving the Waterside Parcel. In the event of any relocation of a Landside Easement as provided, (i) such Landside Easement as granted hereby shall automatically be deemed to apply to the Landside Easement Area as relocated, without the necessity of an instrument being delivered or recorded, and (ii) at the request of the Landside Owner, the Waterside Owner and the Landside Owner shall execute, acknowledge and cause to be recorded an instrument in form and content reasonably satisfactory to the Landside Owner and the Waterside Owner for the purpose of confirming the relocation of such Landside Easement.

2.3 Covenants of Waterside Owner Regarding Landside Easements. The Waterside Owner, on behalf of itself and its Permittees, hereby covenants and agrees as follows:

2.3.1 Obstruction, Damage or Waste. The Waterside Owner and its Permittees shall not obstruct, damage or commit waste upon any portion of the Landside Easement Areas. Storage of any Motor Vehicle, boat or other item, material or property by the Waterside Owner or its Permittees in or upon any of the Landside Easement Areas shall not be permitted. For purposes of this Section 2.3, the term “**storage**” shall include the parking of a Motor Vehicle in the same parking space for more than one (1) day without movement.

2.3.2 Imperiling of insurance. The Waterside Owner and its Permittees shall not use or conduct any activities upon the Landside Easement Areas in a manner which shall directly cause the cancellation of any policy of insurance maintained by the Landside Owner pursuant to this Declaration or the Landside Lease.

2.3.3 Compliance with Laws. The Waterside Owner and its Permittees shall use and conduct all activities upon the Landside Easement Areas in full compliance with all Applicable Laws.

2.3.4 Quiet and Peaceful Enjoyment of the Landside Easement Areas. Without limitation on the other covenants of the Waterside Owner and its Permittees under this Declaration, the Waterside Owner and its Permittees shall not engage in any activity upon the Landside Easement Areas that is noxious, offensive, hazardous or annoying to the Landside Owner or its Permittees.

2.3.5 Rules and Regulations. The Waterside Owner and its Permittees shall at all times comply with all reasonable Rules and Regulations posted or circulated from time to time by the Landside Owner regarding the use, operation and enjoyment of the Landside Easement Areas, including any for the security and protection of the Apartment Complex and its residents and occupants and any with respect to the operation and parking of Motor Vehicles in or upon all roads, driveways, ramps, garages and facilities in the Landside Parcel. Any such Rules and Regulations shall be applied and enforced on a uniform and non-discriminatory basis among the Waterside Owner and its Permittees and the Landside Owner and its Permittees.

2.4 Reimbursement of Allocated Cost and Expense.

2.4.1 Maintenance Expenses and Expense Contributions. The Waterside Owner acknowledges and agrees that the Landside Owner will incur costs and expenses (“**Maintenance Expenses**”) in maintaining the Landside Easements, including the costs and expenses of maintenance, repairs, security, utilities, insurance, real property taxes and wages of management, security and maintenance personnel allocable to the Landside Easement Areas. In consideration of the grant of the Landside Easements by the Landside Owner hereunder and the use thereof that will be made by the Waterside Owner and its Permittees, the Waterside Owner shall pay to the Landside Owner the following contributions (the “**Expense Contribution**”). The Landside Owner and the Waterside Owner agree that the Expense Contribution represents a reasonable allocation of the portion of the Maintenance Expenses that is allocable to the use of the Easement Areas that will be made by the Waterside Owner and its Permittees:

(a) From the Effective Date through the date the Waterside Owner completes the Marina Remodeling Separate Utilities, on the first day of each calendar month an amount equal to Sixty-Five Dollars (\$65) multiplied by the aggregate number of boat slips located in the Waterside Parcel.

(b) From and after the date the Waterside Owner completes the Marina Remodeling Separate Utilities, the following amount (with month 1 being the first full month following date Waterside Owner completes the Marina Remodeling Separate Utilities):

\$2,250.00 per month, payable on the first day of the month, for months 1 to 84
\$2,475.00 per month, payable on the first day of the month, for months 85 to 168
\$2,725.00 per month, payable on the first day of the month, for months 169 to 252
\$3,000.00 per month, payable on the first day of the month, for months 253 to 336
\$3,300.00 per month, payable on the first day of the month, for months 337 to 420
\$3,630.00 per month, payable on the first day of the month, for months 421 to 504

(c) Waterside Owner will pay a monthly fee to Landside Owner for use of the trash dumpsters and cans located on the Landside Parcel equal to 10% of the monthly fee paid by Landside Owner for trash collection, such fee to be paid to the Landside Owner within thirty (30) days of receipt from Landside Owner of an invoice each month together with a copy of the invoice for trash collection payable by Landside Owner on which such invoice is based.

2.4.2 Failure to Pay. If the Waterside Owner fails to pay any Expense Contribution to the Landside Owner when due, then the Landside Owner may collect such Expense Contribution through any appropriate proceedings at law or in equity, and, in addition to and in lieu of any other remedies at law or in equity, the Landside Owner may record a notice of lien in accordance with Section 5.10 below against the leasehold interest in the Waterside Parcel created by any Waterside Lease, whereupon such Expense Contribution, together with any late charges or interest due thereon and reasonable attorneys' fees and costs, shall be a lien and charge upon such leasehold interest in the Waterside Parcel. Notwithstanding the foregoing, in the event County is the Waterside Owner because the Waterside Lease has expired or otherwise terminated and County is in possession of the Waterside Parcel as fee owner free and clear of any leasehold interest in another party, there shall be no right to impose a lien on the fee interest of County on the Waterside Parcel.

2.4.3 No Waiver or Exemption by Non-Use. The Waterside Owner may not exempt itself from payment of the Expense Contribution by waiver of the use or enjoyment of all or any of the Landside Easements or by waiver of the use or enjoyment, or by abandonment, of any of the Landside Easements or the Waterside Parcel.

2.4.4 Offsets. All Expense Contributions shall be payable in the amounts specified, and except as provided below in this Section 2.4.4, no offsets against such amount shall be permitted for any reasons, including a claim that the Landside Owner is not properly exercising its duties of maintenance and operation. The Waterside Owner shall be entitled to offset against the Expense Contributions those amounts which are incurred by the Waterside Owner pursuant to the Waterside Owner's exercise of the self-help remedy in strict accordance with Section 4.4 of this Declaration; provided, however, the amount which the Waterside Owner shall be entitled to offset by reason of the Waterside Owner's exercise of the self-help remedy in Section 4.4 of this Declaration shall not exceed the amount of One Thousand Dollars (\$1,000.00) for any one occurrence (as such amount is increased on each fifth consecutive year anniversary of the date of this Declaration by ten percent (10%)).

2.4.5 Transfer of Parcel. After transfer of the Waterside Parcel, the transferring Waterside Owner shall not be liable for any Expense Contribution attributable to the period after

the date the Waterside Parcel is transferred by it and written notice of such transfer is delivered to the Landside Owner. The transferring Waterside Owner shall remain responsible for all Expense Contributions attributable to the period prior to such transfer. Nothing contained herein shall be deemed or construed to allow any transfer of the Waterside Parcel in violation of the Waterside Lease or to release the Waterside Owner from any liabilities or obligations upon a transfer of the Waterside Parcel which is not permitted by the Waterside Lease.

III

EASEMENTS OVER WATERSIDE PARCEL

3.1 Easements for the Benefit of Landside Parcel. Subject to the terms, conditions and provisions of this Declaration, the Waterside Owner, and County hereby grant, declare and establish each of the following easements that shall be appurtenant to and for the benefit of the Landside Parcel for the benefit, use and enjoyment of the Landside Owner (it being understood County is joining herein only as the fee owner of the Parcels for the purpose of consenting to the grant of the following easements and agreeing that all such easements burden and encumber County's fee interest as well as the leasehold estate in the Waterside Parcel, but County shall have no maintenance, repair or other obligations with respect to such easements until such time that County becomes the Waterside Owner or the Landside Owner, as the case may be):

3.1.1 Construction Easement. A non-exclusive easement (the **“Waterside Construction Access Easement”**) over that portion of the Waterside Parcel designated by the Waterside Owner as provided below (the **“Waterside Construction Easement Area”**) reasonably necessary for ingress, egress and access by the Landside Owner and its Permittees to the Landside Parcel in connection with the installation, use, maintenance, repair, replacement and removal of any legally permitted structure or other improvement to the Landside Parcel including, without limitation, the “Promenade”, and for no other purpose. The use and enjoyment of the Waterside Construction Access Easement shall be subject to the following reservations, terms and requirements:

(a) The Landside Owner shall deliver written notice to the Waterside Owner not less than (30) days prior to any use of the Waterside Construction Access Easement by the Landside Owner or its Permittees, which notice shall include (i) a reasonably detailed description of the construction or other work taking place on the Landside Parcel and the nature of any ingress, egress and access across the Waterside Construction Easement Area in connection with such construction or other work on the Landside Parcel, (ii) a plot plan of the Landside Parcel showing the approximate location of the proposed improvements being made to the Landside Parcel, and (iii) a time schedule indicating the approximate date or dates when such construction, including on-site work and preparation, will commence and be completed;

(b) The Landside Owner shall at all times take any and all safety measures reasonably required to protect the Waterside Parcel, the Waterside Owner and the Boat Slip Tenants and other Permittees of the Waterside Owner from injury or damage caused by or resulting from the use of the Waterside Construction Access Easement, including, if requested by the Waterside Owner, the erection of adequate, proper-appearing and painted construction barricades, by woven wire or a solid fence, at least eight (8) feet in height substantially enclosing

the Waterside Construction Easement Area, which barricades shall be kept in place, in good condition and repair, until the Construction on the Landside Parcel is completed or otherwise safe and secure from unauthorized intrusion;

(c) The construction or Other work on the Landside Parcel which requires the use of the Waterside Construction Access Easement shall be performed diligently and continuously, without interruption, so as to minimize to the extent possible the period of use of the Waterside Construction Access Easement;

(d) The use and enjoyment of the Waterside Construction Easement shall not unreasonably impair or interfere with the use, occupancy or enjoyment of the Waterside Parcel by the Waterside Owner and/or its Permittees (it being recognized that the express intent of Waterside Owner and County is that the Waterside Construction Access Easement shall be used only when other means of access to the Landside Parcel by construction machinery and construction personnel are not feasible on a commercially reasonable basis);

(e) The Waterside Owner reserves the right to restrict the Waterside Construction Easement Area to a specific area within the Waterside Parcel selected by the Waterside Owner from time to time, so as to cause the least practicable interference with the used operation of the Waterside Parcel;

(f) Prior to the commencement of any use of the Waterside Construction Access Easement, the Landside Owner shall, upon request, provide to the Waterside Owner copies of any approval or consent from County under the Landside Lease and all licenses, permits, building permits, authorizations, approvals, variances and land use entitlements issued by the City of Oxnard, the County of Ventura and other applicable governmental authorities or otherwise necessary for the construction or work for which the Waterside Construction Access Easement will be utilized;

(g) At all times while the Waterside Construction Access Easement is being used, Landside Owner shall obtain and maintain in full force and effect with a financially responsible insurance company or companies, the following insurance: (i) owner's and contractor's policy of comprehensive of general liability insurance on an occurrence basis, including coverage for any accident resulting in bodily injury or death to any person and consequential damages resulting therefrom, with a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence and excess or umbrella liability of at least Ten Million Dollars (\$10,000,000) (as such amounts may be adjusted by the Consumer Price Index from time to time), (ii) automobile liability insurance (including non-owned automobile) with a coverage with at least One Million Dollars (\$1,000,000) per occurrence (as such amount may be adjusted in accordance with the Consumer Price Index from time to time), (iii) worker's compensation, employer's liability and other insurance required by law, and (iv) such other insurance coverages in such amounts as are consistent with the customary practices of prudent developers and owners of property similar to the Landside Parcel. The owner's and contractor's policy of comprehensive general liability insurance shall name the Waterside Owner and County as additional insureds thereunder and shall provide the same may not be canceled or the coverage thereunder reduced without at least thirty (30) days prior written notice being given to the Waterside Owner and

County. An actual insurance policy or certified copy thereof, or a binder, certificate of insurance or other evidence of insurance coverage shall be delivered to the Waterside Owner and County prior to any use of the Waterside Construction Access Easement;

(h) The Waterside Owner reserves the right to restrict the times during which the Waterside Construction Access Easement may be utilized to reasonable business hours so as to minimize, to the extent reasonably possible, any noise or other disturbance to the Boat Slip Tenants;

(i) In no event shall any Waterside Construction Easement Area be used for a construction staging area, construction trailers and shacks, storage of material or equipment, or parking by construction personnel; and

(j) The Landside Owner shall, in accordance with Section 6.5 below, indemnify, protect, defend and hold harmless the Waterside Owner, its Permittees and County from and against any Claims arising from the use of the Waterside Construction Access Easement.

3.1.2 Encroachments Easement. A non-exclusive easement (the **“Encroachments Easement”**) over and across those portions of the Waterside Parcel adjacent to the Landside Parcel for encroachments in the event and to the extent that (a) there are minor variations from the plans in the construction, installation, reconstruction or replacement of and structures, buildings or improvements to the Landside Parcel occurring due to construction accuracy, methods and/or techniques, (b) there shall be minor settlement or shifting of the improvements to the Landside Parcel so that any part of such improvements encroaches or shall hereafter encroach upon any part of the Waterside Parcel, and (c) canopies, overhangs, door swings, signs or other similar encroachments of up to three (3) feet in extent, together with their replacements as such replacements may be reasonably modified. The Encroachments Easement for the maintenance of encroachments shall exist, as to a particular encroachment, only so long as the encroaching portion of the improvement shall remain standing and in existence. However, in no event shall the Encroachments Easement for any encroachment be created or maintained in favor of the Landside Parcel if such encroachment materially and adversely interferes with the use, operation and enjoyment of the Waterside Parcel by the Waterside Owner or its Permittees.

3.1.3 Light, Air and View Easement. A non-exclusive easement over and across the Waterside Parcel for light, air and view to the Landside Parcel as such light, air and view to the Landside Parcel exists as of the Effective Date (it being understood that the purpose and intent for which such easement is being granted by this Section 3.1.3 is to prohibit the construction, maintenance or placement of any structure, building or other improvement on the Waterside Parcel which materially diminishes the light, air or view of the Landside Parcel.

3.2 Covenants of Landside Owner Regarding Waterside Easements. The Landside Owner, on behalf of itself and its Permittees, hereby covenants and agrees as follows:

3.2.1 Obstruction, Damage or Waste. The Landside Owner and its Permittees shall not obstruct, damage or commit waste upon any portion of the Waterside Parcel. Storage of

any item, materials or property by the Landside Owner or its Permittees in or upon any of the Waterside Easement Areas shall not be permitted.

3.2.2 Imperiling of Insurance. The Landside Owner and its Permittees shall not use or conduct any activities upon the Waterside Easement Areas in a manner which shall directly cause the cancellation of any policy of insurance maintained by the Waterside Owner pursuant to this Declaration or the Waterside Lease.

3.2.3 Compliance with Laws. The Landside Owner and each of its Permittees shall use and conduct all activities upon the Waterside Easement Areas in full compliance with all Applicable Laws.

3.2.4 Quiet and Peaceful Enjoyment of the Waterside Easement Areas. Without limitation on the other covenants of the Landside Owner and its Permittees under this Declaration, the Landside Owner and its Permittees shall not engage in any activity upon the Waterside Easement Areas that is noxious, offensive, hazardous or annoying to the Waterside Owner or its Permittees.

3.2.5 Rules and Regulations. The Landside Owner and its Permittees shall at all times comply with all reasonable Rules and Regulations posted or circulated from time to time by the Waterside Owner regarding the use, operation and enjoyment of the Waterside Easement Areas, including any for the security and protection of the boat slips in the Waterside Parcel and the Boat Slip Tenants. Any such Rules and Regulations shall be applied and enforced on a uniform and non-discriminatory basis among the Landside Owner and its Permittees and the Waterside Owner and its Permittees.

IV MAINTENANCE AND INSURANCE COVENANTS.

4.1 Landside Owner Covenants.

4.1.1 Maintenance. Subject to the other terms, conditions and provisions of this Declaration, the Landside Owner shall maintain, or have maintained, the Landside Easement Areas in good order, condition and repair. Nothing contained herein shall be deemed to diminish any of the obligations of the Landside Owner under the Landside Lease. The foregoing notwithstanding, Landside Owner's obligations concerning the existing restrooms within the Facilities Easement Areas shall be limited to structural repairs with Waterside Owner being responsible for the day-to-day cleaning, operation, maintenance and minor repairs of the existing restrooms within the Facilities Easement Areas, all at Waterside Owner's sole cost and expense. Minor repairs shall include but not be limited to (i) stocking and replacement of hand soap, paper towels, toilet seat covers, toilet paper and dispenser housings of same, as necessary, (ii) repair and replacement of plumbing leaks and related plumbing pipes, (iii) unclogging of drains due to blockage, (iv) repair and replacement of vanity fixtures and lighting elements, (v) cleaning/sanitization of restrooms, and (vi) repair and replacement of grout, as necessary.

4.1.2 Insurance. Without limiting any obligations of the Landside Owner under Section 3.1.1 above, the Landside Owner hereby covenants and agrees to all times maintain in full force and effect, with a financially responsible insurance company or companies, (a) commercial general liability insurance, and (b) “all-risk” casualty insurance in connection with the Landside Easement Areas as required under the provisions of the Landside Lease. All such general liability insurance policies shall name the Waterside Owner and County as additional insureds and shall provide the same may not be canceled or the coverage thereunder reduced without at Least thirty (30) days prior written notice to the Waterside Owner and County.

4.2 Waterside Owner Covenants.

4.2.1 Maintenance. Subject to the other terms, conditions and provisions of this Declaration, the Waterside Owner shall maintain the Waterside Easement Areas in good order, condition and repair. Nothing contained herein shall be deemed to diminish any of the obligations of the Waterside Owner under the Waterside Lease.

4.2.2 Insurance. Without limiting any obligations of the Waterside Owner under Section 2.1.6 above, the Waterside Owner hereby covenants and agrees to all times maintain in full force and effect, with a financially responsible insurance company or companies,

(a) commercial general liability insurance, and (b) “all-risk” casualty insurance in connection with the Waterside Parcel as required under the provisions of the Waterside Lease. All such general liability insurance policies shall name the Landside Owner and County as additional insureds and shall provide the same may not be canceled or the coverage thereunder reduced without at least thirty (30) days prior written notice to the Landside Owner and County.

4.3 Common Utility Facilities. As used herein, “**Common Utility Facilities**” means any Utility Facilities now or hereafter located in the Landside Utilities Easement Areas which serve both the Waterside Parcel and the Landside Parcel. The construction, installation, inspection, improvement, alteration, maintenance, repair, removal, reconstruction or replacement of any Common Utilities Facilities which is not the responsibility of a Responsible Utility Company shall be governed by the following provisions of this Section 4.3:

4.3.1 Additional Common Utility Facilities. No Common Utility Facility shall be constructed or installed, and no Common Utility Facility shall be altered, modified or improved to increase the capacity or level of service thereof, without in each instance the prior written approval of both the Waterside Owner and the Landside Owner; provided, however, (a) all Common Utility Facilities, as they now exist, are deemed to be approved by the Owners, and (b) the approval of both Owners shall not be required for any improvement, alteration or modification to any then-existing Common Utility Facility which is reasonably necessary to maintain the current capacity or level of service or which is mandated by Applicable Law or any regulation, rule, order or directive of any Responsible Utility Company.

4.3.2 Payment for Approved Common Utility Facilities. If both the Waterside Owner and the Landside Owner approve the construction or installation of a new Common Utility

Facility, or the alteration, modification or improvement of a then-existing Common Utility Facility, as provided in Section 4.3.1 above, then (a) such work shall be performed by the Landside Owner or by a contractor selected by the Landside Owner with the reasonable approval of the Waterside Owner and pursuant to a construction contract and plans and specification obtained by the Landside Owner and reasonably approved by the Waterside Owner, and (b) the costs of such work shall be borne by the Landside Owner and the Waterside Owner as follows: (i) first, in such proportions as the Landside Owner and the Waterside Owner shall mutually agree at the time of their approval of the new Common Utility Facility or their approval of the alteration, modification or improvement of a then-existing Common Utility Facility, (ii) second, in the event the Landside Owner and the Waterside Owner are unable to so agree upon the sharing of the costs of such work, then the costs of such work shall be borne by the Landside Owner and the Waterside Owner in proportion to the usage of such Common Utility Facility by the Landside Parcel and the Waterside Parcel, respectively, or (iii) third, in the event the Landside Owner and the Waterside Owner are unable to agree upon the sharing of the costs of such work and it is not practicable to determine the proportionate usage of such Common Utility Facility by the Landside Parcel and the Waterside Parcel, then the costs of such work shall be borne two-thirds (2/3) by the Landside Owner and one-third (1/3) by the Waterside Owner.

4.3.3 Common Utility Maintenance Costs. Any inspection, maintenance, repair, removal, reconstruction and replacement of any Common Utility Facility which is reasonably necessary from time to time and which is not the responsibility of a Responsible Utility Company shall be performed by the Landside Owner or its agents and contractors, and the costs of such inspection, maintenance, repair, removal, reconstruction or replacement of any such Common Utility Facility (collectively the “**Common Utility Maintenance Costs**”) shall be borne by the Landside Owner and the Waterside Owner (i) first, in proportion to the usage of that Common Utility Facility by the Landside Parcel and the Waterside Parcel, respectively, and (ii) in the event it is not practicable to determine the proportionate usage of such Common Utility Facility by the Landside Parcel and the Waterside Parcel, then the costs of such work shall be borne two-thirds (2/3) by the Landside Owner and one-third (1/3) by the Waterside Owner. In lieu of any other charge for indirect costs of inspecting, maintaining, repairing, removing, reconstructing and replacing any Common Utility Facilities (such as the costs of internal bookkeeping, operating any office, and other services not directly involved with the Common Utility Services), there shall be included in Common Utility Maintenance Costs an allowance to the Landside Owner for the Landside Owner's supervision equal to ten percent (10%) of any Common Utility Maintenance Costs payable to third parties. Any Common Utility Maintenance Costs reasonably incurred by the Landside Owner shall be due and payable from the Waterside Owner within thirty (30) days after delivery to the Waterside Owner of an invoice and any reasonable supporting documentation requested by the Waterside Owner. If the Waterside Owner fails to pay its share of any Common Utility Maintenance Costs to the Landside Owner when due, then the Landside Owner may collect such share of the Common Utility Maintenance Costs through any appropriate proceedings a law or in equity, and, in addition to and not in lieu of any other remedies at law or in equity, the Landside Owner may record a notice of lien in accordance with Section 5.10 below against the leasehold interest in the Waterside Parcel created by any Waterside Lease, whereupon such share of the Common Utility Maintenance Costs, together with any late charges or interest due thereon and reasonable attorneys' fees and costs, shall be a lien and charge upon such leasehold interest in the Waterside Parcel. Notwithstanding the foregoing, in the event County is the Waterside Owner

because the Waterside Lease has expired or otherwise terminated or is no longer in effect and County is in possession of the Waterside Parcel as fee owner free and clear of any leasehold interest in another party, there shall be no right to impose a lien on the fee interest of County on the Waterside Parcel.

4.4 Default; Right of Self-Help. In the event that (a) an Owner shall fail in such Owner's duty to perform its obligations under Section 4.1 or Section 4.2 above (as the case may be), or (b) an Owner or its Permittees shall cause damage to any portion of the Landside Easement Areas or the Waterside Easement Areas, whether on such Owner's Parcel or the other Owner's Parcel, due to any intentional or unintentional misuse of such Easement Area(s) and such Owner fails to promptly repair such damage (the Owner described in each of the foregoing clauses (a) and (b) being referred to herein as the “**Non-Performing Owner**”), then the other Owner may give the Non-Performing Owner written notice of such fact, and thereupon the Non-Performing Owner shall within ten (10) Business Days of such notice, commence the performance of the actions required to cure such failure and diligently pursue such cure to completion in a timely manner. Should the Non-Performing Owner fail to timely fulfill this duty within said ten (10) Business Day period, the other Owner shall have the right and power, but not the obligation, to perform such actions and pay any necessary costs or expenses thereof and the Non-Performing Owner shall promptly reimburse the other Owner for any costs or expenses paid or incurred by said other Owner in connection with said other Owners performance of such actions.

V **ENFORCEMENT**

5.1 Event of Default. An “**Event of Default**” means (a) any failure by an Owner to pay to the other Owner any amount due under this Declaration within ten (10) Business Days after the due date of such payment, including any failure by the Waterside Owner to pay the Expense Contribution when due, or (b) any default by either Owner in the due performance or observance of any of the covenants, conditions, restrictions, terms or provisions of this Declaration, other than a monetary default described in clause (a) above, where such default continues for more than thirty (30) days after written notice thereof from the other Owner or County, provided, that if such default cannot be cured with the exercise of diligent efforts within such thirty (30) days, the thirty (30) day period shall be extended for an additional time, not exceeding one hundred twenty (120) days in the aggregate, as shall be necessary in the exercise of diligent efforts to cure the default.

5.2 Abatement and Suit. Upon the occurrence of an Event of Default, by either Owner (“**Defaulting Owner**”), then the other Owner (“**Non-Defaulting Owner**”) or County shall be entitled to (a) take all steps permitted by Applicable Laws to cause the abatement, removal or elimination, at the expense of the Defaulting Owner, of any condition that exists contrary to the intent and meaning of the provisions hereof (by reference or otherwise), or (b) prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of the covenants, conditions, restrictions, terms or provisions of this Declaration to enjoin or prevent them from doing so, to cause the violation to be remedied or to recover damages for said violation.

5.3 Nuisances. The result of every action or omission whereby any covenant; condition, restriction term or provision contained in this Declaration, by reference or otherwise, is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against any Defaulting Owner, either in public or private, shall be applicable against every such nuisance and may be exercised by the Non-Defaulting Owner or County.

5.4 Enforcement by Owners. It is the explicit intention of Declarant and County that no person or entity other than the Owners of the Parcels and County is or shall be entitled to bring any action to enforce any provision of this Declaration against any of the parties hereto; and the covenants, conditions, restrictions, undertakings and agreements set forth in this Declaration shall be enforceable only by the Owners of the Parcels and County. No Permittee, Approved Encumbrance Holder or other third party shall be entitled to enforce any provision of this Declaration unless such Permittee or Approved Encumbrance Holder is also an Owner.

5.5 Attorneys' Fees. In any legal or equitable proceeding for the enforcement of, or to restrain the violation of, or otherwise pertaining to a dispute concerning, this Declaration or any provision hereof, by reference or otherwise; the prevailing party or parties shall also be entitled to an award of reasonable attorneys' fees, in such amount as may be fixed by the court in such proceedings; provided, however, the provisions of this Section 5.5 shall not be applicable to County.

5.6 Waiver of Default. A waiver by either Owner or by County of any default hereunder must be in writing and no such waiver shall be implied from any omission by either Owner or by County to take any action in respect of such default. No express written waiver of any default shall affect any default or cover any period of time other than the default and period of time specified in such express waiver. One or more written waivers of any default in the performance of any provision of this Declaration shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other term or provision contained herein. The consent or approval by either Owner to or of an act or request by the other Owner or any other person requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar acts or requests.

5.7 Rights and Remedies Cumulative. Unless expressly herein provided to the contrary, the rights and remedies given to an Owner and County by this Declaration shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which either Owner or County might otherwise have by virtue of Event of Default under this Declaration, and the exercise of one such right or remedy by either Owner or County shall not impair such Owner's or County's standing to exercise any other right or remedy.

5.8 Default Shall Not Permit Termination. No breach or Event of Default under this Declaration shall entitle any Owner or County to terminate, cancel or otherwise rescind this Declaration; provided, however, that this limitation shall not limit or otherwise affect any other rights or remedies that a Non-Defaulting Owner or County may have by reason of any Event of Default under this Declaration.

5.9. Right to Enjoin. In the event of any violation or threatened violation of any of the provisions of this Declaration, any Owner or County shall have the right to apply to a court of competent jurisdiction for an injunction against such violation or threatened violation and/or for a decree of specific performance. In the event such Owner or County obtains an injunction from a court of competent jurisdiction, the party enjoined shall upon demand reimburse said Owner or County for all fees, costs and expenses incurred in obtaining the injunction, including any injunction bond premium,

5.10 Delinquent Payment; Lien on Parcel. Any payment required to be made by any Owner pursuant to the terms and provisions of this Declaration (including the Expense Contributions to be paid to the Landside Owner) which is not timely made shall bear interest from the delinquency date until paid at the rate of the lesser of (i) ten percent (10%) and (ii) the maximum rate allowed by law. Each Owner hereby covenants for the benefit of the other Owner that any such delinquent amount, together with any late charges or interest due thereon, and reasonable costs shall, to the greatest extent permitted by Applicable Law, be a lien. and charge upon such Owner's Parcel. Such lien provided for in this Section 5.10 shall become effective upon the recordation in the Official Records of a notice of claim of lien signed and certified by the Non-Defaulting Owner or County, as the case may be, stating the amount due, the name of the Defaulting Owner and the legal description of the Parcel owned by such Defaulting Owner. Any such lien created pursuant to this Section 5.10 may be enforced by the Non-Defaulting Owner or County, as the case may be, in any manner permitted by Applicable Law. The total amount so due shall also remain a personal obligation of such Defaulting Owner, which obligation shall not be affected by any voluntary or involuntary transfer of such Defaulting Owner's interest in its Parcel.

Notwithstanding the foregoing, no Approved Encumbrance Holder shall be liable for the payment of liens for delinquent payments except those accruing after the Approved Encumbrance Holder obtains title to the applicable Parcel. Any such Approved Encumbrance Holder shall take title to such Parcel free and clear of any claims and liens for delinquent payments accruing prior to the Approved Encumbrance Holder obtaining title. Notwithstanding the foregoing, in the event the Waterside Lease and/or the Landside Lease have been terminated or are no longer in effect and County is in possession of the Waterside Parcel and/or the Landside Parcel as fee owner (and therefore the Waterside Owner and/or the Landside Owner), there shall be no right to impose a lien on the fee interest of County on the Waterside Parcel and/or the Landside Parcel, as applicable.

5.11 Default by Permittees. Each Owner expressly acknowledges and agrees that any violation, breach or default of any of the covenants, conditions, restrictions, terms and provisions of this Declaration by the Permittees of an Owner shall be deemed to be a default by such Owner, and the other Owner or County shall be entitled to exercise all rights and remedies hereunder by reason thereof.

VI

GENERAL COVENANTS

6.1 Dominant and Servient Tenements. Each easement and right granted pursuant to the provisions of this Declaration is expressly for the benefit of the Waterside Parcel or the Landside Parcel, as the case may be, and the Parcel so benefitted shall be the dominant tenement

and the Parcel upon which easement is located shall be the servient tenement. Notwithstanding the preceding sentence, where only a portion of a Parcel is burdened or benefitted by a particular easement, only that portion so burdened or benefitted, shall be deemed to be the servient or dominant tenement, as the case may be. All easements granted pursuant to this Declaration shall exist by virtue of this Declaration without the necessity of confirmation by any other document and shall terminate upon the expiration or termination of this Declaration. Any easement granted pursuant to the provisions of this Declaration may be abandoned or terminated by an agreement in writing executed by the Owners of the dominant and servient tenements and Ventura County.

6.2 Covenants Running with the Land. Each easement granted or described in this Declaration, and every covenant, condition and restriction of an Owner contained in this Declaration, shall be deemed to be a covenant running with the land, or in the alternative, an equitable servitude, affecting and binding the servient tenement and successive owners thereof, and inuring to the benefit of the dominant tenement and the successive owners thereof. By its acceptance of the right of possession to the Landside Parcel, each person or entity constituting the Landside Owner from time to time shall be deemed to have accepted and covenanted to perform the covenants and obligations of the Landside Owner set forth herein. By its acceptance of the right of possession to the Waterside Parcel, each person or entity constituting the Waterside Owner from time to time shall be deemed to have accepted and covenanted to perform the covenants and obligations of Waterside Owner set forth herein.

6.3 No Easement by Implication; Prevention of Prescriptive Rights. Neither the execution of this Declaration or any instrument which may be executed in connection herewith nor the granting of the easements described herein shall be deemed to grant any other easement to any third party or to establish any easement by implication. Each of the Owners and County acknowledge and agree that the only easements made and granted by the Owners and County are those easements which are expressly made and granted by this Declaration. Each Owner hereby reserves the right to eject or cause the ejection from its Parcel any person not authorized, empowered or privileged to use that Parcel. Further, each Owner reserves the right to restrict access to its Parcel for such reasonable period or periods of time as may be legally necessary to prevent the acquisition of prescriptive rights by any person; provided, however, that prior to such restriction of access the Owner exercising that right shall give written notice to the other Owner of its intention to do so and shall coordinate such restriction of access with the other Owner so that no unreasonable interference with the operation of the other Owner's Parcel shall occur. Nothing contained herein shall be deemed to be a gift or dedication of any portion of either Parcel to the general public or for the general public or for any public purpose or use whatsoever.

6.4 Description of Landside Easement Areas. It is recognized that by reason of construction, engineering or design errors, on or more of the Landside Easement Areas contemplated under this Declaration may not be precisely depicted on Exhibit C hereto. In the event it shall be disclosed by any subsequent survey or otherwise that any such Landside Easement Area(s) has/have not been precisely depicted on Exhibit C attached hereto, then promptly upon the request of either Owner, the Owners and County will join in the execution of an agreement, in recordable form, amending such Exhibit C so as to revise the description of such Landside Easement Area(s) to coincide with their actual location as disclosed by the survey. Upon the

recordation of such agreement, the applicable Laneside Easement(s) granted by this Declaration shall be deemed to refer to the Exhibit C, as so amended.

6.5 Indemnities. Each Owner who has acquired any easement rights described in this Declaration (“**Benefitted Owner**”) shall indemnify, protect, defend and hold harmless the Owner of the Parcel burdened by such easements (“**Burdened Owner**”), the Permittees of the Burdened Owner, and County from and against any loss, claims, costs, expenses, damages, liability, actions, causes of action judgments, fines, or obligations not covered by insurance (individually and collectively, “**Claims**”) arising from damage to property or injury or death to any person caused in whole or in part by (a) any negligence of such Benefitted Owner or its Permittees, or (b) any act or omission for which such Benefitted Owner or its Permittees are otherwise liable, without fault in the exercise of the rights herein granted; provided, that such Benefitted Owner shall not be obligated to indemnify such Burdened Owner from any Claims to the extent such Claims result from the negligence or willful misconduct of such Burdened Owner or its Permittees.

VII PROTECTION OF APPROVED ENCUMBRANCE HOLDERS

7.1 Condition Precedent to Approved Encumbrance Holder's Right to Receive Notices. An Approved Encumbrance Holder shall not be entitled to receive any notice which this Declaration requires to be delivered to an Approved Encumbrance Holder unless and until such Approved Encumbrance Holder, or its mortgage servicing contractor, has delivered to the Owners and County a written notice stating that such Approved Encumbrance Holder is the holder of a Mortgage encumbering a Parcel and specifying the subject Parcel. Notwithstanding the foregoing, nothing contained herein shall diminish or impair the rights of Approved Encumbrance Holders hereunder other than receipt of notice. Any notice or request delivered to the Owners and County by an Approved Encumbrance Holder shall remain effective without any further action by such Approved Encumbrance Holder for so long as the facts set forth in such notice or request remain unchanged.

7.2 No Termination of Declaration. During the continuance of any Mortgage and until such time as the lien of any Mortgage has been extinguished, the Owners and County shall not agree to any mutual termination of this Declaration, nor shall any Owner consent to any amendment or modification of this Declaration without the prior written consent of such Owner's Approved Encumbrance Holder.

7.3 Approved Encumbrance Holder's Opportunity to Cure.

7.3.1 Notice to Approved Encumbrance Holders. Notwithstanding any default by an Owner in the performance or observance of any covenant, condition, restriction, term or provision of this Declaration on its part to be performed or observed, the Non-Defaulting Owner and County shall have no right to exercise any remedies hereunder unless, subject to Section 7.1 above and the final sentence of this Section 7.3.1, the Non-Defaulting Owner or County shall have given written notice of such Event of Default to any Approved Encumbrance Holder holding a Mortgage encumbering the Defaulting Owner's Parcel, and such Approved Encumbrance Holder shall have failed to remedy such default or acquire the Defaulting Owner's Parcel, or commence

foreclosure or other appropriate proceedings in the nature thereof, all as set forth in, and within the time specified by, Section 7.3.2 below. Notwithstanding the foregoing, upon the occurrence of Event of Default by a Defaulting Owner which materially interferes with the use and enjoyment of a Parcel by the Owner thereof and/or its Permittees, the Non-Defaulting Owner or County be entitled to immediately exercise any remedies. The Non-Defaulting Owner or County shall provide notice of such Event of Default and the exercise of remedies to the Approved Encumbrance Holder of the Defaulting Owner as soon thereafter as is practicable under the circumstances.

7.3.2 Opportunity to Cure. Upon the occurrence of any Event of Default under this Declaration, any Approved Encumbrance Holder of the Defaulting Owner shall have ten (10) days after receipt of notice of a monetary Event of Default and thirty (30) days after receipt of notice of a non-monetary Event of Default within which to cure such Event of Default; provided, however, if any such non-monetary Event of Default is such that it cannot be cured within such thirty (30) day period, then the Approved Encumbrance Holder shall have longer than thirty (30) days if the Approved Encumbrance Holder commences to cure such default within such thirty (30) day period and diligently prosecutes the same to completion within a reasonable time thereafter. Any notice of a monetary Event of Default shall state the nature of the Event of Default and the sums required to be paid to cure such monetary Event of Default and any notice of a non-monetary Event of Default shall set forth the nature of such Event of Default and the action necessary to cure such non-monetary Event of Default.

7.3.3 Defaults Personal to Mortgagor. Any Event of Default under this Declaration which in the nature thereof cannot be remedied by an Approved Encumbrance Holder of the Defaulting Owner shall be deemed to be remedied if: (a) within thirty (30) days after receiving written notice from the Non-Defaulting Owner or County setting forth the nature of such Event of Default, or prior thereto, the Approved Encumbrance Holder of the Defaulting Owner shall have acquired the Defaulting Owner's Parcel or shall have commenced foreclosure or other appropriate proceedings in the nature thereof, (b) the Defaulting Owner's Approved Encumbrance Holder shall diligently prosecute any such proceedings to completion, (c) the Defaulting Owner's Approved Encumbrance Holder shall have fully cured any default in the payment of any monetary obligations of the Defaulting Owner hereunder within ten (10) days after the Approved Encumbrance Holder's receipt of notice thereof and shall thereafter continue to perform faithfully all such monetary obligation which do not require possession of the Parcel, and (d) after gaining possession of the Parcel, the Defaulting Owner's Approved Encumbrance Holder performs all other obligations of the Defaulting Owner hereunder as and when the same are due.

7.3.4 Extension of Cure Period. If the Approved Encumbrance Holder is prohibited by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving the Defaulting Owner from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof, the times specified in Section 7.3.2 and Section 7.3.3 above for commencing or prosecuting such foreclosure or other proceedings shall be extended for the period of such prohibition; provided that the Defaulting Owner's Approved Encumbrance Holder shall have fully cured any default in the payment of any monetary obligations of the Defaulting Owner under this Declaration and shall continue to pay currently such monetary obligations as and when the same fall due.

7.3.5 Multiple Mortgages. If a Defaulting Owner's Parcel is encumbered by more than one Mortgage, each and any Approved Encumbrance Holder of the Defaulting Owner's Parcel may exercise the right to cure any default and the other rights afforded to Approved Encumbrance Holders under this Section 7.3, but the time periods specified in this Section 7.3 for commencing and completing any cure or commencing or prosecuting any foreclosure or other proceedings shall run concurrently and not consecutively for all such Approved Encumbrance Holders.

7.4 No Effect Upon Mortgage Lien. No breach or violation of the covenants, conditions, restrictions, terms or provisions of this Declaration nor any lien created hereunder in connection with any such breach or violation shall defeat or render invalid the lien of any Mortgage which is then of record securing a loan made in good faith and for value, provided that all of these restrictions shall be binding upon and effective against any subsequent Owner of either Parcel or any portion thereof whose title is acquired by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise pursuant to such lien rights.

7.5 Limitation of Enforcement Against Approved Encumbrance Holder. If an Approved Encumbrance Holder takes title to the Parcel covered by its Mortgage (the **“Mortgaged Parcel”**) whether by foreclosure or by deed in lieu of foreclosure or otherwise, the Owners and County shall look only to, and their sole and exclusive recourse against such Approved Encumbrance Holder shall be against (a) the proceeds received upon execution of judgment against the Approved Encumbrance Holder's right, title and interest in and to the Mortgaged Parcel, plus (b) the amount of all rents or other income from the Mortgaged Parcel and all consideration from the sale of other disposition thereof which have been paid to or received by the Approved Encumbrance Holder, for the satisfaction of a judgment (or other judicial process) requiring the payment of money by the Approved Encumbrance Holder for any breach or default by the Approved Encumbrance Holder under this Declaration, and no other property or assets of the Approved Encumbrance Holder shall be subject to any execution or other enforcement procedure for the satisfaction of a judgment or other judicial process or an Owner's or County's remedies under or with respect to this Declaration; provided, however, that the limitations and protections afforded to Approved Encumbrance Holders in this Section 7.5 shall extend only to Approved Encumbrance Holders and shall not extend to their successors and/or assigns.

VIII

JOINDER BY COUNTY

8.1 Consent and Approval. County hereby consents to the various easements, covenants, conditions, restrictions, terms and provisions of this Declaration that are to benefit and burden the Landside Parcel and the Waterside Parcel, respectively.

8.2 County as Owner. County, on behalf of itself and each of its successors and assigns as the fee owner of each of the Waterside Parcel and the Landside Parcel, respectively, hereby acknowledges, covenants and agrees that in the event County shall acquire possession of a Parcel, whether as the result of County's acquisition of the lessee's interest under the Lease encumbering such Parcel, or in County's capacity the fee simple owner of such Parcel, then this Declaration shall continue in full force and effect with respect to such Parcel, such that the applicable Parcel shall continue to be burdened by, and shall continue to enjoy the benefits of, the various easements, covenants, conditions, restrictions, terms and provisions described and established under this Declaration.

8.3 New Leases. In the event that the Waterside Lease or the Landside Lease terminates or expires, and the other Lease still continues in effect, and County thereafter enters into a new lease (a “**New Lease**”) with respect to the Parcel that was subject to the expired or terminated Lease, then County shall cause the New Lease and the Parcel demised thereunder to be subject to the easements, covenants, conditions, restrictions, terms and provisions of this Declaration, including causing appropriate provisions to be contained in the New Lease and executing (or causing the lessee under the New Lease to execute) such further instruments and agreements as may be necessary or appropriate to evidence that the Parcel demised under such New Lease is subject to all of the burdens, and advantaged by all of the benefits, applicable to such Parcel under this Declaration.

8.4 Application to County. County has executed this Declaration as the fee owner of the Parcels for the purpose of consenting to the easements, covenants; conditions, restrictions, terms and provisions of this Declaration and subjecting thereto the fee interest of the County in the Parcels. Notwithstanding anything to the contrary contained in this Declaration, County shall not be deemed or construed to have any obligation or responsibility of an Owner under this Declaration, including any obligation of the Burdened Owner of any of the Landside Easements or the Waterside Easements, unless the Waterside Lease and/or the Landside Lease have expired or otherwise terminated and are no longer in effect and County is in possession of the Waterside Parcel and/or the Landside Parcel as fee owner (and therefore is the Waterside Owner and/or the Landside Owner).

IX

MISCELLANEOUS

9.1 Notice to Parties. All notices, statements or demands under this Declaration shall be in writing and shall be served in person, by certified mail or by overnight delivery by a nationally recognized overnight delivery firm. Service shall be deemed conclusively made: (a) at the time of service, if personally served; (b) seven (7) after deposit in the United States mail,

properly addressed and, postage prepaid, if served by express mail; (c) seven (7) days after deposit in the United States mail, properly addressed and postage prepaid, return-receipt requested, if served by certified mail; and (d) twenty-four (24) hours after delivery by the party giving the notice, statement or demand to the nationally recognized overnight delivery firm, if served by overnight delivery.

To Waterside Owner:

Oxnard Marinas, L.P.
3416 Via Lido, Suite G
Newport Beach, CA 92663
Attention: Thomas J. Hogan

With a copy to:

Buckner, Robinson & Mirkovich
3146 Red Hill Avenue, Suite 200
Costa Mesa, CA 92626
Attention: William D. Buckner, Esq.

To Landside Owner:

Channel Islands Villas, LP
11022 Santa Monica Blvd., Suite 400
Los Angeles, CA 90025

with a copy to:

To County:

County of Ventura
Channel Islands Harbor Department
3900 Pelican Way, L #5200
Oxnard, California 93035-4367
Attn: Director

with a copy to:

County of Ventura
Office of County Counsel
800 S. Victoria Avenue
Ventura, California 93009 1830
Attn: County Counsel

Notice of change of address shall be given by written notice in the manner detailed in this Section 9.1.

9.2 Amendment. The provisions of this Declaration may be modified or amended, in whole or in part, only with the consent of all Owners and County, by declaration in writing, executed and acknowledged by all of the same, duly recorded in the Official Records.

9.3 No Third-Party Beneficiaries. The provisions of this Declaration are for the exclusive benefit of the Owners and County, their respective Approved Encumbrance Holders,

and their successors and assigns, and not for the benefit of any third party(ies). This Declaration shall not be deemed to have conferred any rights, express or implied, upon any third party(ies). It is expressly understood and agreed that no modification or amendment, in whole or in part, of this Declaration shall require any consent or approval of any third party(ies).

9.4 Term of Declaration. This Declaration shall continue in full force and effect for a term of seventy-five (75) years from the Effective Date (unless sooner terminated under the provisions of this Section 9.4), after which time this Declaration shall be automatically extended for successive periods of ten (10) years each, unless any one of the Landside Owner, the Waterside Owner or County elects to record a document terminating this Declaration as of their expiration of the term or any extension thereof as set forth above. In no event shall any termination of this Declaration be effective as to any easements granted by or pursuant to this Declaration unless alternative means are provided by the person or party desiring to terminate this Declaration to provide the access, utilities, parking, and rights to encroach provided by such easements. In causing any such relocation, the person or party desiring to terminate this Declaration shall comply with Section 2:2 above. Notwithstanding anything to the contrary contained herein, this Declaration, or any easement granted herein, shall terminate in all events with the unanimous written consent of all of the Owners, County and all Approved Encumbrance Holders.

9.5 No Subordination. Except as otherwise expressly provided in Section 5.10 and Article VII of this Declaration, the easements, covenants, conditions, restrictions, terms and provisions of this Declaration shall not be subordinated to the lien of any Mortgage or any other instrument made from and after the date this Declaration is recorded in the Official Records.

9.6 Estoppel Certificate. Each Owner and County hereby severally covenants that upon written request of the other Owner or County, it will within twenty (20) days of such request, issue to such other Owner, or to County, or to any Approved Encumbrance Holder or any other party specified by such requesting Owner, an estoppel certificate stating: (a) whether the Owner to whom the request has been directed knows of any default under the Declaration, and if there are any known defaults, specifying the nature thereof; (b) whether to its knowledge the Declaration has been assigned, modified or amended in any way (or if it has, then stating the nature thereof), and (c) that to the Owner's knowledge the Declaration as of that date is in full force and effect. Such statement shall act as a waiver of any claim by the Owner or County to the extent such claim is based upon facts contrary to those asserted in the statement and to the extent the claim is asserted against a bona fide encumbrancer or purchaser for value without knowledge of facts to the contrary of those contained in the statement, and who has acted in reasonable reliance upon the statement. However, such statement shall in no event subject the Owner or County to any liability whatsoever, notwithstanding the negligence or other inadvertent failure of such Owner to disclose correct and/or relevant information.

9.7 No Partnership. Nothing contained in this Declaration, nor any acts of the Owners or County, shall be deemed or construed to create any relationship of principal and agent, or of partnership; or of joint venture, or of any association between or among the Owners and County.

9.8 Partial Invalidity. If any term, provision or condition contained in this Declaration or the application thereof to any person or circumstance shall, to any extent, be invalid or

unenforceable, the remainder of this Declaration, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Declaration shall be valid and be enforced to the fullest extent permitted by law to the extent that the benefits and burdens intended to be obtained by and imposed upon each of the Owners and County would not be inequitably or disproportionately reallocated thereby.

9.9 Successors and Assigns. This Declaration shall be binding upon and shall inure to the benefit of each of (a) the successors and assigns of the Waterside Owner and the Landside Owner, respectively, and (b) the successors and assigns of County. Notwithstanding anything contained herein to the contrary, in the event that the Landside Owner or Waterside Owner (including, County) assigns or otherwise transfers its entire interest in its Parcel, such Owner shall be relieved of any and all obligations and liabilities arising under this Declaration from and after the time of such transfer provided that the transferee of enters into an assumption agreement pursuant to which the transferee assumes each of the assigning party's obligations and liabilities hereunder that arise from and after the time of the transfer. Nothing contained herein shall be deemed or construed as approving or consenting to any transfer of the Waterside Parcel in violation of the Waterside Lease or any transfer of the Landside Parcel in violation of the Landside Lease.

9.10 Mutual Cooperation. Each Owner and County recognizes that, subject to the terms, provisions and conditions of this Declaration, each of the Owners retains the right to redevelop or further develop its respective Parcel and nothing in this Declaration is intended to limit or restrict such right so long as the Owners are in compliance with their obligations under this Declaration. The Owners and County agree that in the event either Owner elects to redevelop or further develop its respective Parcel, then the Owners and County shall cooperate with one another in all reasonable respects hereunder so as to allow for such development to occur with minimal impact to the rights of the non-developing Owner under this Declaration; provided, however, in no event shall the non-developing Owner be required to incur any material cost or expense in connection with such cooperation. In the event (a) such development cooperation causes the non-developing Owner to incur additional costs and expenses, or (b) such development prevents such non-developing Owner from fully realizing its rights under this Declaration, then the developing Owner shall reimburse the other Owner for any reasonable costs or expenses incurred by such Owner as a result of such development. Moreover, the Waterside Owner and County agree to reasonably cooperate with Landside Owner's construction and permanent lenders who are Approved Encumbrance Holders hereunder, including making such immaterial changes to this Declaration which may be requested by Landside Owner's construction and permanent Approved Encumbrance Holder lenders, so long as. such changes do not (i) increase the respective obligations of the Waterside Owner or County, as the case may be, hereunder, or (ii) adversely affect or reduce the respective rights of the Waterside Owner or County, as the case may be, hereunder. Nothing contained herein shall be deemed or construed as approving or consenting to any development or redevelopment of a Parcel in violation of the Waterside Lease or the Landside Lease, as the case may be.

9.11 Time of Essence. Each Owner and County hereby acknowledges and agrees that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or

provisions hereof by either party after any notice and cure period applicable thereto shall constitute a material breach of and a non-curable (but waivable) default under this Declaration by the party so failing to perform.

9.12 Construction and Interpretation. For purposes of this Declaration, except as otherwise expressly provided or unless the context otherwise requires: (a) defined terms include the plural as well as the singular, and the use of any gender herein shall be deemed to include the other genders; (b) references herein to "Articles," "Sections," subsection, paragraphs and other subdivisions without reference to a document are to designated Articles, Sections, subsections, paragraphs and other subdivisions of this Declaration; (c) a reference to a subsection without further reference to a Section is a reference to such subsection as contained in the same Section in which the reference appears, and this rule shall also apply to paragraphs, clauses and other subdivisions; (d) the words "hereof," "herein," "thereof," "hereunder" and other words of similar import refer to this Declaration as a whole and not to any particular provision; (e) the word "including" or "includes" means "including, but not limited to" or "includes without limitation"; (f) the words "approval," "consent" and "notice" shall be deemed to be preceded by the word "written"; (g) any reference to this Declaration or any Exhibits hereto and any other instruments, documents and agreements shall include this Declaration, Exhibits and other instruments, documents and agreements as originally executed or existing and as the same may from time to time be supplemented, modified or amended; (h) any document that is "certified" means the document has been appended to a certificate of the party certifying the document that affirms the truth and accuracy of everything in the document being certified; (i) unless otherwise specifically provided, all references in this Declaration to a number of days shall mean calendar days rather than Business Days and all references to months shall mean successive calendar months; (j) in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including," the words "to" and "until" mean "to but excluding," and the word "through" means "to and including"; (k) no inference in favor of or against any entity with respect to any provisions in this Declaration shall be drawn from the fact such entity drafted this Declaration; and (l) unless the context expressly and unambiguously indicates otherwise, the word "or" shall be used to express two or more non-exclusive alternatives, and shall not be deemed to define or express mutually exclusive alternatives.

9.13 Governing Law. This Declaration shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

[END OF TEXT; SIGNATURES APPEAR ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have executed this Declaration as of the date and year hereinabove written.

WATERSIDE OWNER:

OXNARD MARINAS, L.P., a
California limited partnership

By: OM Marinas, LLC, a
California limited liability company
General Partner

By: Pacific Marina Development, Inc., a
California corporation
Manager

By: _____
Thomas J. Hogan, President

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)
)
County of _____)

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

IN WITNESS WHEREOF, the parties hereto have executed this Declaration as of the date and year hereinabove written.

COUNTY OF VENTURA:

By: _____

Attest:

BY: _____

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____)
_____))
County of _____)

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT A
LEGAL DESCRIPTION OF LANDSIDE PARCEL

EXHIBIT A

A PORTION OF PARCEL C:
LEASEHOLD LOT LINE REVISION
BAHIA CABRILLO
CHANNEL ISLANDS DEVELOPMENT

LEGAL DESCRIPTION. (REVISED)

A PORTION OF LOTS 8 AND 9 OF THE PATTERSON RANCH SUBDIVISION, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, AS SHOWN ON THE MAP RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, IN BOOK 8 PAGE 1 OF MISCELLANEOUS RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE SOUTHERLY LINE OF THE PARCEL 2 (ALBACORE WAY) OF LAND DESCRIBED IN THE DEED RECORDED IN THE OFFICE OF SAID COUNTY RECORDER ON JULY 16, 1970, AS DOCUMENT No. 34474 IN BOOK 3691 PAGE 56 OF OFFICIAL RECORDS, THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID PARCEL 2 (ALBACORE WAY) THE FOLLOWING FOUR COURSES,

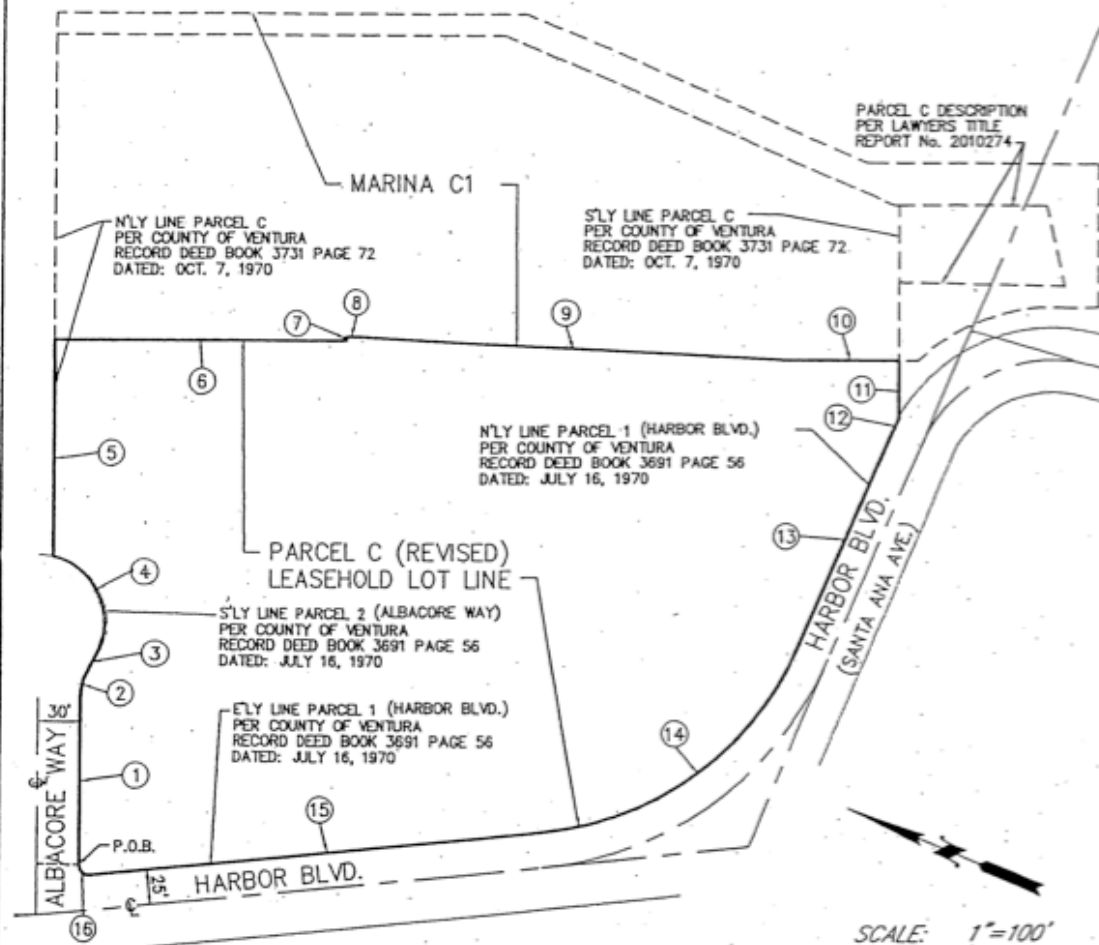
1. NORTH 68°02'08" EAST 118.35 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE,
2. NORTHEASTERLY ALONG SAID CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 41.84 FEET AND A CENTRAL ANGLE OF 30°00'00" AN ARC DISTANCE OF 21.91 FEET; THENCE,
3. SOUTH 81°57'52" EAST 11.93 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE,
4. NORTHEASTERLY ALONG SAID CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 48.00 FEET AND A CENTRAL ANGLE OF 107°58'48" AN ARC DISTANCE OF 90.46 FEET TO A POINT, A RADIAL LINE TO SAID POINT BEARS NORTH 80°03'20" EAST; SAID POINT BEING ALSO THE WESTERLY TERMINUS OF THE FIFTH (5th) COURSE OF THAT PARCEL OF LAND DESCRIBED AS PARCEL C RECITED THEREIN AS "NORTH 68°02'08" EAST 373.06 FEET" AS DESCRIBED IN THE LEASE CONTRACT AGREEMENT RECORDED OCTOBER 7, 1970 IN THE OFFICE OF SAID COUNTY RECORDER AS DOCUMENT No. 49990, IN BOOK 3731, PAGE 72 OF OFFICIAL RECORDS; THENCE EASTERLY ALONG SAID NORTHERLY LINE,
5. NORTH 68°02'08" EAST 155.90 FEET; THENCE LEAVING SAID NORTHERLY LINE
6. SOUTH 21°57'45" EAST, A DISTANCE OF 209.76 FEET; THENCE
7. NORTH 68°02'15" EAST, A DISTANCE OF 2.66 FEET; THENCE
8. SOUTH 21°57'45" EAST, A DISTANCE OF 7.01 FEET; THENCE
9. SOUTH 18°48'00" EAST, A DISTANCE OF 304.42 FEET; THENCE
10. SOUTH 21°57'45" EAST, A DISTANCE OF 83.76 FEET; THENCE
11. SOUTH 68°02'15" WEST, A DISTANCE OF 40.59 FEET, TO A POINT IN THE NORTHERLY LINE OF PARCEL 1 (HARBOR BLVD.), OF LAND DESCRIBED IN THE DEED RECORDED IN THE OFFICE OF SAID COUNTY RECORDER ON JULY 16, 1970, AS DOCUMENT No. 34474 IN BOOK 3691 PAGE 56 OF OFFICIAL RECORDS, SAID POINT BEING ON THE THIRTY SIXTH (36th) COURSE OF PARCEL 1 (HARBOR BLVD.) RECITED THEREIN AS BEING A "CURVE HAVING A RADIUS OF 127.00 FEET AND A CENTRAL ANGLE OF 82°19'04", AN ARC DISTANCE OF 182.46 FEET"; THENCE WESTERLY AND NORTHERLY ALONG THE THIRTY SIXTH (36th) THRU FORTIETH (40th) COURSES OF SAID DEED, THE FOLLOWING FIVE COURSES,
12. WESTERLY ALONG A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 127.00 FEET AND A CENTRAL ANGLE OF 06°03'20" AN ARC DISTANCE OF 13.42 FEET, HAVING A RADIAL LINE THAT BEARS SOUTH 07°16'42" WEST; THENCE,
13. NORTH 88°46'38" WEST 165.28 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE,
14. NORTHWESTERLY ALONG A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 221.13 FEET AND A CENTRAL ANGLE OF 61°08'06" AN ARC DISTANCE OF 235.95 FEET; THENCE,
15. NORTH 27°38'32" WEST 325.43 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE,
16. NORTHWESTERLY AND NORTHEASTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 7.50 FEET AND A CENTRAL ANGLE OF 95°40'40" AN ARC DISTANCE OF 12.52 FEET TO THE POINT OF BEGINNING.

6/10/03 (10-23-03 REV)



MAP TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT A (cont'd)



PREPARED BY
SOUTH BAY ENGINEERING AND CONSULTING
304 TEJON PLACE
ALOS VERDES EST., CA 90274

Michael D. Myers
MICHAEL D. MYERS R.C.E. 30702



PARCEL C LANDSIDE

BAHIA CABRILLO
LEASEHOLD LOT LINE REVISION

ACCEPTED BY:

SCALE: HORIZ. AS SHOWN

VERT. NONE

DRAWN BY: RSG

SHEET No. 1 of 2

DRAWING NUMBER

MAP TO ACCOMPANY LEGAL DESCRIPTION

EXHIBIT A (cont'd)

PARCEL-C (REV) LINE AND CURVE TABLE				
LINE	LENGTH	BEARING	RADIUS	DELTA
1	118.35	N68°02'08"E		
2	21.91		41.84	30°00'00"
3	11.93	S81°57'52"E		
4	90.46		48.00	107°58'48"
5	155.90	N68°02'08"E		
6	209.76	S21°57'45"E		
7	2.66	N68°02'15"E		
8	7.01	S21°57'45"E		
9	304.42	S18°48'00"E		
10	83.76	S21°57'45"E		
11	40.59	S68°02'15"W		
12	13.42		127.00	6°03'30"
13	165.28	N88°46'38"W		
14	235.95		221.13	61°08'06"
15	325.43	N27°38'32"W		
16	12.52		7.50	95°40'40"

PREPARED BY
SOUTH BAY ENGINEERING AND CONSULTING
304 TEJON PLACE
LOS VERDES EST, CA 90274

Michael D. Myers
MICHAEL D. MYERS R.C.E. 30702



PARCEL C LANDSIDE

BAHIA CARRILLO
LEASEHOLD LOT LINE REVISION

ACCEPTED BY:

SCALE: HORIZ. - AS SHOWN

VERT. - NONE

DRAWN BY: RSG

SHEET No. 2 of 2

DRAWING NUMBER

EXHIBIT B
LEGAL DESCRIPTION OF WATERSIDE PARCEL

EXHIBIT "A"
(LEASEHOLD C WATERSIDE)

A portion of lot 8 of the Patterson Ranch Subdivision, in the City of Oxnard and in the unincorporated territory, both in the County of Ventura, State of California, as shown on the map recorded in Book 8, at Page 1 of Miscellaneous Records (Maps) and a portion of Parcel A, Subdivision 87, Rancho El Rio De Santa Clara O'la Colonia as shown on a map recorded in Book 3 at Page 13 of Miscellaneous Records (Maps) of said county, described as follows:

Commencing at a point in the southerly line of the Parcel 2 (Albacore Way) of the land described in the deed recorded July 16, 1970, as document no. 34474 in book 3691 page 56 of Official Records of said county, thence easterly along the southerly line of said parcel 2 (Albacore Way) the following five courses, North 68°02'08" east 118.35 feet to the beginning of a tangent curve concave southeasterly having a radius of 41.84 feet; thence along said curve concave northeasterly through a central angle of 30°00'00" an arc distance of 21.91 feet; thence, South 81°57'52" East 11.93 feet to the beginning of a tangent curve concave northeasterly having a radius of 48.00; thence along said curve, northeasterly through a central angle of 107°58'48" an arc distance 90.46 feet to a point, a radial line to said point bears North 80°03'20" East; said point being also the westerly terminus of the fifth (5th) course of that parcel of land described as Parcel C recited therein as "North 68°02'08" East 373.06" described in the lease contract agreement recorded October 7, 1970 in the office of said county recorder as document no. 49990, in Book 3731, at Page 72 of Official Records; thence easterly along said northerly line, North 68°02'08" East 155.90 feet, to the northwesterly corner of Parcel C Marina described in the lease recorded December 29, 2006 as Instrument No. 20061229-272901 of Official Records of said County said northwesterly corner being the **Point of Beginning**; thence along the westerly line of said lease the following seven courses,

- 1st South 21°57'45" East, a distance of 209.76 feet; thence at right angles,
- 2nd North 68°02'15" East, a distance of 2.66 feet; thence at right angles,
- 3rd South 21°57'45" East, a distance of 7.01 feet; thence,
- 4th South 18°48'00" East, a distance of 304.42 feet; thence,
- 5th South 21°57'45" East, a distance of 96.97 feet to the beginning of a non-tangent curve concave right having a radius of 141.15 feet, a radial line to said point bears South 24°22'50" West; thence along said curve,
- 6th Southeasterly arc distance of 115.44 feet through a central angle of 46°51'28"; thence,

12/1/2010
K:\ELM140731\Survey\4073 C MARINA EXH A.doc

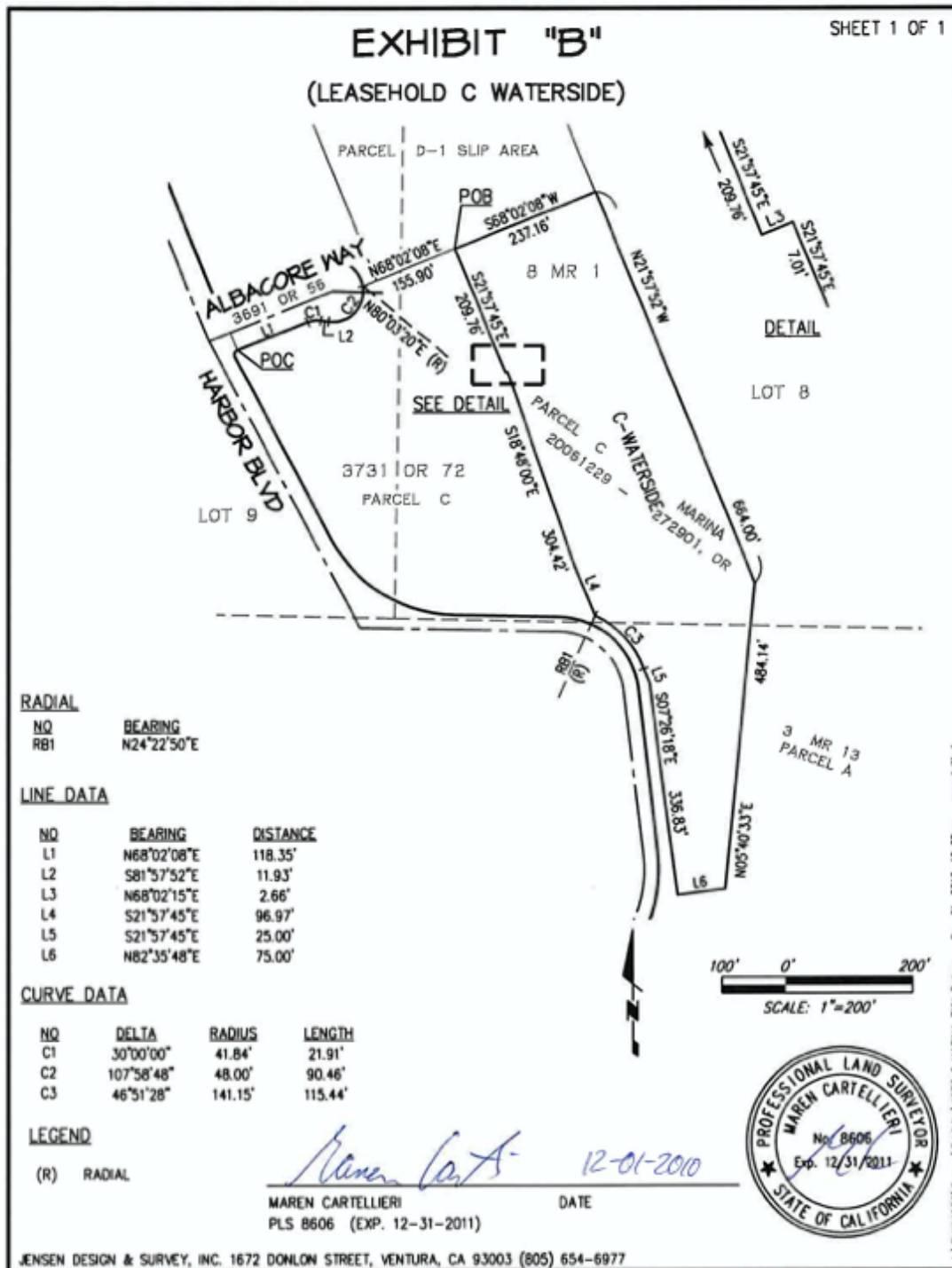
- 7th South 21°57'45" East, a distance of 25.00 feet; thence leaving said westerly line,
- 8th South 07°24'12" East, a distance of 336.83 feet; thence at right angles,
- 9th North 82°35'48" East, a distance of 75.00 feet; thence
- 10th North 05°40'33" East, a distance of 484.14 feet to the southeasterly prolongation of the northeasterly line of Parcel D-1 Slip Area described in the lease recorded _____, _____ as Instrument No. _____ of Official Records of said County; thence along said southeasterly prolongation,
- 11th North 21°57'52" West, a distance of 664.00 feet to the southeasterly corner of said Parcel D-1 Slip Area; thence along the southeasterly line of said Parcel D-1 Slip Area,
- 12th South 68°02'08" West, a distance of 237.16 feet to the **Point of Beginning**.

The above described parcel of land is delineated on the attached Exhibit "B".


Maren Cartellieri
PLS 8606 (Exp. 12/31/2011)

12-01-2010
Date





SITE PLAN SHOWING MARINA REMODELING

PRELIMINARY - NOT FOR CONSTRUCTION

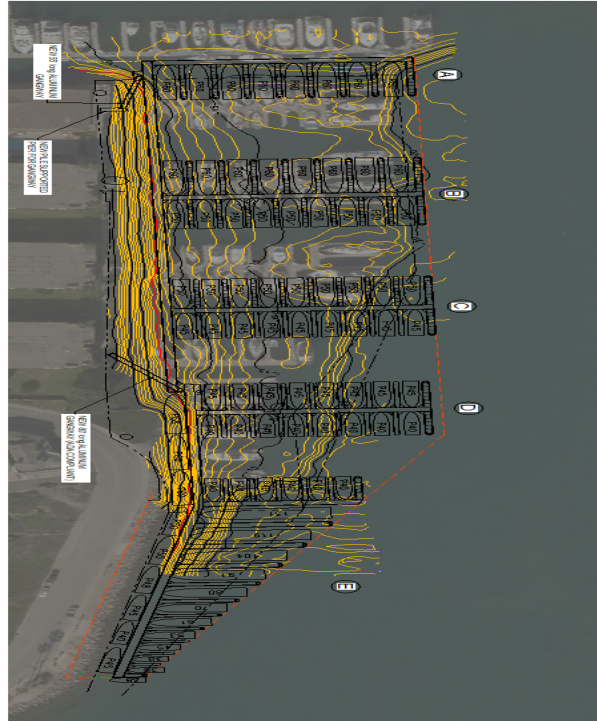
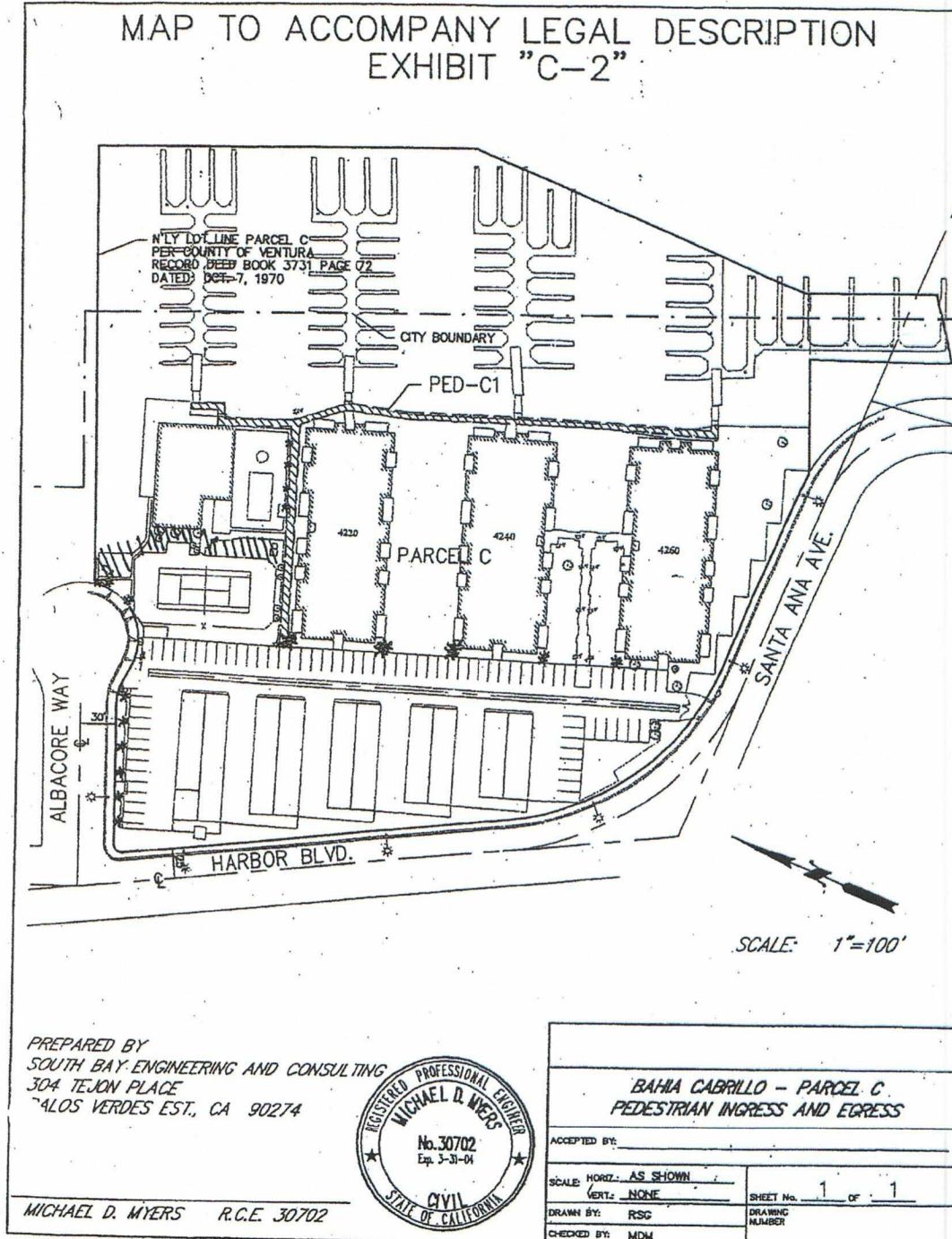
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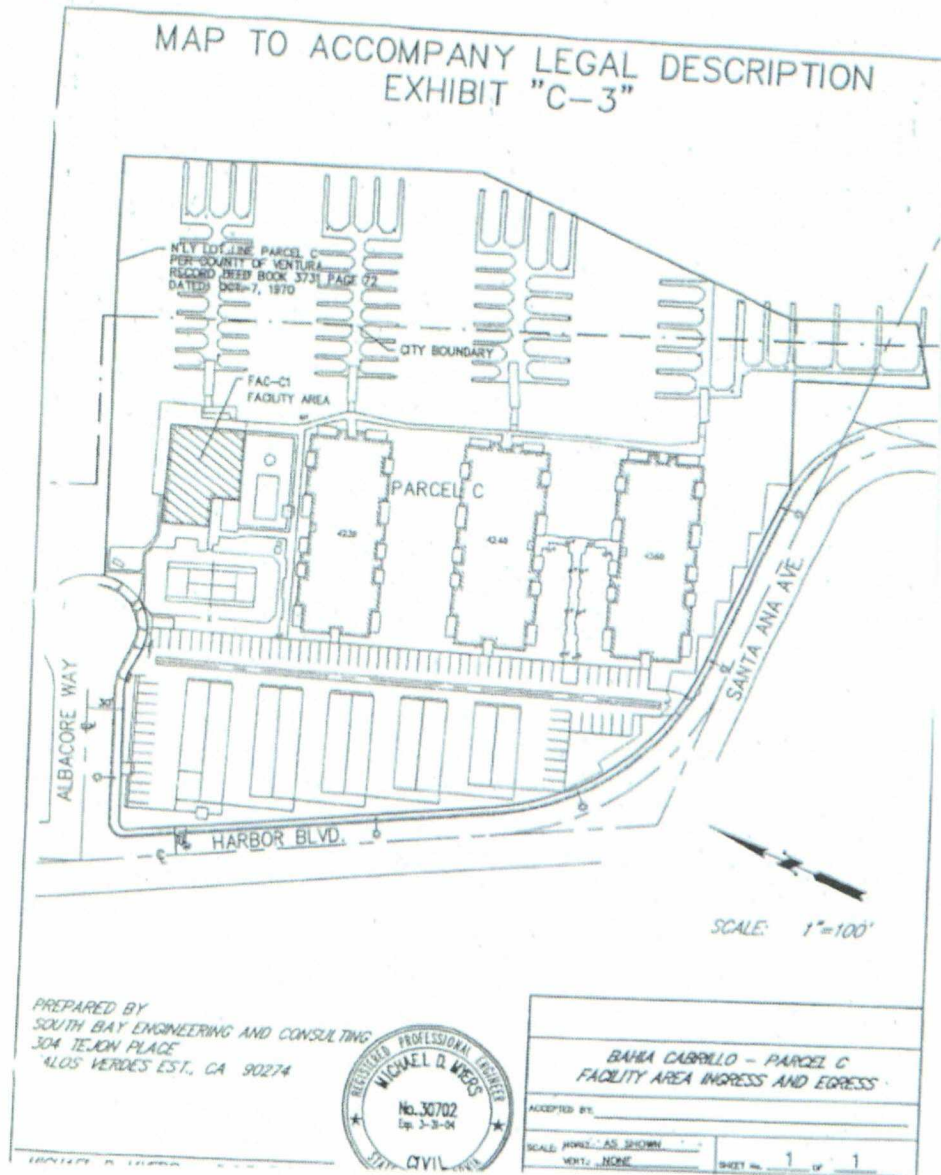
EXHIBIT C-1

INTENTIONALLY OMITTED

**EXHIBIT C-2
PEDESTRIAN EASEMENT AREA**



**EXHIBIT C-3
FACILITY AREA EASEMENT**



MARINA REMODELING SEPARATE UTILITIES EASEMENT AREAS

