

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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FOURTH AMENDMENT  
TO AGREEMENT BETWEEN  
MARINA PACIFICA, LLC AND CITY OF LONG BEACH

**24440**

This Fourth Amendment to Agreement is entered into on April 10,  
2008, between MARINA PACIFICA, LLC, a California limited liability company ("Lessor")  
and the CITY OF LONG BEACH, a municipal corporation ("Lessee").

Recitals

A. On March 14, 1995, Lessor and Lessee entered into an agreement,  
which has been subsequently amended on October 29, 1996, July 10, 1997 and October  
31, 2000 (collectively referred to as the "Agreement").

B. The parties now desire to modify the terms and conditions of the  
Agreement.

THE PARTIES AGREE AS FOLLOWS:

Section 1. Section 5 of the Lease is amended to read as follows:

"5. Termination. This Lease and any obligation of City pursuant  
to this Lease shall terminate October 1, 2016; or (ii) the date that the  
"Subsequent Reimbursement Amount" has been paid, or (iii) thirty (30) days  
after an Event of Default (or ten (10) days after a financial Event of Default)  
under this Lease; provided that if such Event of Default cannot reasonably  
be cured within such thirty (30)-day or ten (10)-day cure period, as  
applicable, Owner shall not be in default of this Lease if Owner commences  
to cure the default within the cure period and diligently and in good faith  
continues to cure the default (the 'Termination Date')."

Section 2. 5.1 of the Lease is amended to read as follows:

"5.1 Reimbursement of the Reimbursement Amount.

1 Commencing upon the "Rent Commencement Date" (as that term is  
2 defined in Section 2 above) and until October 1, 2011, all amounts of Rent  
3 shall be applied towards reimbursing the Reimbursement Amount (as that  
4 term is defined below). Commencing upon October 1, 2011 and until  
5 October 1, 2016, all amounts of Rent shall be applied towards reimbursing  
6 the Subsequent Reimbursement Amount (as that term is defined below).

7 5.1.1 The Reimbursement Amount. The original principal  
8 amount of the Reimbursement Amount is the Project Costs in excess  
9 of the original principal amount of the City Note; provided, however,  
10 that the original principal amount of the Project Costs shall not  
11 exceed \$2,875,000. Commencing on the Opening Date, the  
12 unreimbursed portion of the Reimbursement Amount shall bear  
13 interest at the lower of 10% per annum simple interest, or the interest  
14 rate (the "Bank Rate") as of the Opening Date of Owner's permanent  
15 financing secured by a deed of trust encumbering the Site or the  
16 Demised Premises. If such Bank Rate is variable, the interest rate  
17 for a Rent Year shall be the Bank Rate determined as of the first day  
18 of that Rent Year. The formula for the Bank Rate shall remain  
19 constant even though Owner may have refinanced the Site or the  
20 Demised Premises, or repaid such permanent financing.

21 a. Rent is applied first against the accrued and  
22 unpaid interest on the balance of the Reimbursement Amount, then  
23 against the balance of the Reimbursement Amount as and when the  
24 Rent is paid.

25 b. In determining the remaining balance of the  
26 Reimbursement Amount, the Rent attributable to the first three Rent  
27 Years in excess of \$300,000, if any, and all Rent attributable to the  
28 fourth Rent Year through the Termination Date shall be applied first

1 to accrued and unpaid interest, then to the balance of the  
2 Reimbursement Amount.

3 c. Any interest which has not been paid as of the  
4 end of a Rent Year is to be added to the principal amount of the  
5 Reimbursement Amount.

6 d. On October 1, 2011, any unpaid Reimbursement  
7 Amount shall be waived.

8 5.1.2 The Subsequent Reimbursement Amount

9 On October 1, 2011, the Subsequent Reimbursement Amount shall  
10 be owed, in the amount of \$980,000.00.

11 a. Rent is applied to the balance of the  
12 Subsequent Reimbursement Amount as and when the Rent is  
13 paid.

14 b. On October 1, 2016, any unpaid Subsequent  
15 Reimbursement Amount shall be waived.”

16 Section 3. Except as set forth above, the terms and conditions of the  
17 Agreement shall continue in full force and effect.

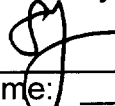
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CITY OF LONG BEACH, a municipal corporation

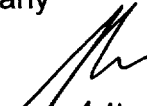
Dated: 4.10.09

By:  Assistant City Manager  
Name: Patrick H. West  
Title: City Manager

"City" AS DEFINED IN  
ARTICLE II OF  
THE CITY CHARTER.

MARINA PACIFICA, LLC, a California limited liability company

Dated: 9-8-08

By:   
Name: AVI LERNEY  
Title: Co-Chief Executive Officer

"Corporation"

This Fourth Amendment to Agreement is approved as to form on

3/19/09, 2008.

ROBERT E. SHANNON, City Attorney

By:  Assistant

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of Los Angeles

} SS.

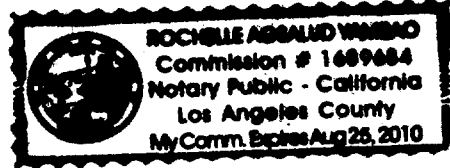
On 9/8/8 before me, Rochelle Aguilera Yambao Notary Public  
DATE Name, Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Abraham I Lerner  
NAME(S) OF SIGNER(S)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) 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]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the data is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**DESCRIPTION OF ATTACHED DOCUMENT**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**CAPACITY(IES) CLAIMED BY SIGNER**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer – Title(s): \_\_\_\_\_
- Partnership -  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

