

1 FIRST AMENDMENT TO AGREEMENT NO. 29264

2 **29264**

3 THIS FIRST AMENDMENT is made and entered into, in duplicate, as of
4 October 7, 2013, for reference purposes only, pursuant to a minute order of the City
5 Council of the City of Long Beach at its meeting held on June 4, 2013, by and between
6 the CITY OF LONG BEACH, a municipal corporation (hereinafter "CITY"), and AC-
7 CATALINA LANDING LLC, a Delaware limited liability company (hereinafter "AC-
8 Catalina), as successor in interest to JOHN HANCOCK LIFE INSURANCE COMPANY, a
9 Massachusetts corporation (hereinafter "John Hancock").

10 WHEREAS, the City and John Hancock executed Agreement No. 29264
11 (the "Dredge Agreement") wherein the parties clarified the responsibilities related to the
12 dredging and maintenance of the Marina basin which John Hancock leased from City
13 pursuant to Ground Lease No. 29263; and

14 WHEREAS, on or about June 25, 2002, John Hancock and AC-Catalina
15 executed an Assignment and Assumption of Lease wherein John Hancock assigned its
16 rights and responsibilities under the Ground Lease and the Dredge Agreement to AC-
17 Catalina; and

18 WHEREAS, in advance of the U.S. Army Corps of Engineers performing
19 their regularly scheduled dredging of the Federal Channel in early 2014, AC-Catalina has
20 contracted with a third-party vendor for an interim dredging project (the "Interim Dredging
21 Project"), whereby approximately eight hundred cubic yards (800 c.y.) of dredge
22 materials in shallow portions of the Channel has been relocated to deeper, adjacent
23 portions of the Channel, all in accordance with applicable permits; and

24 WHEREAS, the City has agreed to reimburse AC-Catalina for thirty percent
25 (30%) of the amounts incurred by AC-Catalina in connection with the Interim Dredge
26 Project, not to exceed Thirty Thousand Dollars (\$30,000.00); and

27 WHEREAS, AC-Catalina and City have agreed that in lieu of City making a
28 cash payment toward the reimbursement of AC-Catalina for City's share of the Interim

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 Dredging Project costs, City shall provide AC-Catalina with a credit against the next
2 parking revenue payment due to City on February 28, 2014, equal to thirty percent (30%)
3 of the actual cost incurred by AC-Catalina for the Interim Dredging Project; and

4 WHEREAS, AC-Catalina and Catalina Express both acknowledge that
5 City's agreement to reimburse AC-Catalina for a portion of the costs of the Interim
6 Dredging Project in no way legally binds City to be responsible for any future
7 maintenance in the Federal Channel;

8 NOW, THEREFORE, in consideration of the above premises and mutual
9 terms and conditions herein, the parties agree as follows:

10 1. AC-Catalina incurred Seventy-Seven Thousand Two Hundred Thirty-
11 Three Dollars (\$77,233.00) in actual costs in connection with the Interim Dredge Project.
12 City hereby agrees to issue to AC-Catalina a credit of Twenty-Three Thousand One
13 Hundred Sixty-Nine Dollars and Ninety Cents (\$23,169.90) against the next parking
14 revenue payment due to the City on February 28, 2014 (such amount being equal to 30%
15 of the actual costs incurred by AC-Catalina for the Interim Dredging Project).

16 2. Except as expressly amended in this First Amendment, the terms
17 and conditions of Agreement No. 29264 are ratified and confirmed and shall remain in full
18 force and effect.

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1 IN WITNESS WHEREOF, the parties hereto have caused this First
2 Amendment to Agreement No. 29264 to be duly executed with all the formalities required
3 by law as of the date first above written.

4 AC-CATALINA LANDING, LLC, A Delaware
5 Limited Liability Company

6 October 14, 2013

By [Signature]

7 David Siegel, Vice President
8 Type or Print Name

9 "AC-CATALINA"

10 CITY OF LONG BEACH, a municipal
11 corporation

12 10-29, 2013

By [Signature] Assistant City Manager
13 City Manager

14 "City"

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

15 This First Amendment is approved as to form this 22nd day of

16 October, 2013.

17 CHARLES PARKIN, City Attorney

18 By [Signature]
19 Gary J. Anderson, Deputy City Attorney
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