

**FIRST AMENDMENT OF LEASE BETWEEN THE
CITY OF SAN LEANDRO and APPLE COMPANY related to
THE MARINA INN, SAN LEANDRO, CALIFORNIA**

THIS First AMENDMENT OF LEASE is made and entered into this ____ day of September 2017, by and between the CITY OF SAN LEANDRO, a municipal corporation, hereinafter referred to as "City" or "Lessor" and the APPLE COMPANY, a California corporation, hereinafter called "Lessee." Lessee owns, maintains, and operates THE MARINA INN, at 68 Monarch Drive, San Leandro, California (the "Marina Inn Property").

RECITALS

A. Lessee owns, maintains, and operates the Marina Inn Property pursuant to a ground lease entered into between the City and the Lessee approved by the City of San Leandro City Council on April 2, 1984, and executed April 5, 1984 (the "Lease").

B. On or about July 20, 2015, the City Council adopted Resolution No. 2015-125 (the "Resolution") certifying the Environmental Impact Report (the "EIR"), adopting mitigation findings, findings concerning alternatives, a statement of overriding considerations and a mitigation monitoring program under the California Environmental Quality Act ("CEQA") for the specific activities and approvals that collectively constitute the "San Leandro Shoreline Development Project" described in Chapter 3 of the EIR (the "Project").

C. On or about August 18, 2015, the Coalition for the San Leandro Shoreline ("Petitioner") filed a verified petition for writ of mandate ("Petition") against the City entitled *Coalition for the San Leandro Shoreline, an unincorporated association v. City of San Leandro, City Council of San Leandro and Does 1 through 10*, Alameda County Superior Court Case No. RG 15782404 (the "Action"), in which it alleged that the City had violated CEQA by its actions approving the Resolution.

D. On or about June 8, 2016, the City filed an answer to the Petition in the Action, in which the City denied all of the material allegations in the Petition and asserted affirmative defenses.

E. On July 11, 2017, the City and the Marina Inn entered a settlement agreement to resolve all issues related to the Action, the Resolution, and the Project (collectively, the "Dispute"). The July 11, 2017 settlement agreement states that it resolves all issues relating to the Dispute. The fully executed July 11, 2017 settlement agreement is attached as Exhibit A to this First Amendment of Lease.

F. Petitioner dismissed the Action with prejudice, effective July 13, 2017.

G. This First Amendment of Lease executes the terms of section 2 of the July 11, 2017 settlement agreement headed "Amendment of Lease."

WHEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT TO AMEND THE LEASE

1. In accordance with Section 47 of the Lease, Section 3. TERM, is hereby amended in its entirety to read as follows:

“The term of this lease shall be FIFTY-FIVE (55) years, commencing on the first day of the twelfth month after date of approval of this lease by City or the first day of the month immediately following the date Lessee opens the leased premises for business, whichever is earlier, unless sooner terminated as hereinafter provided.”

2. In accordance with Section 47 of the Lease, a new Section 50. COMPLIANCE WITH CITY OF SAN LEANDRO LIVING WAGE ORDINANCE, is hereby added to the Lease to read as follows: ”On or before January 11, 2019, and for the remainder of the Lease, including any amendment, extension or extensions thereof, Lessee shall comply with the City of San Leandro Living Wage Ordinance, as detailed in City of San Leandro Municipal Code Chapter 1-6.”

3. Except as expressly amended above, all covenants, terms, and provisions of the Lease shall be and remain in full force and effect.

LESSOR:

CITY OF SAN LEANDRO

Chris Zapata
City Manager

Date: _____

Attest by:

Tamika Greenwood
City Clerk

LESSEE:

APPLE COMPANY

By: _____

Its: _____

Date: _____

Approved as to Form:

Richard D. Pio Roda
City Attorney
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