

AGREEMENT NO. 13-3125

CONSENT TO ASSIGNMENT AND ASSUMPTION OF
AGREEMENT BETWEEN THE CITY OF LOS ANGELES
AND WESTREC MARINA MANAGEMENT, INC.

THIS CONSENT TO ASSIGNMENT AND ASSUMPTION OF AGREEMENT (hereinafter referred to as "Assignment") is entered into by and between the CITY OF LOS ANGELES, a municipal corporation ("City"), acting by and through its Board of Harbor Commissioners ("Board"), WESTREC MARINA MANAGEMENT, INC., a California corporation, 16633 Ventura Blvd., 6th Floor, Encino, CA 91436 ("Westrec Marina" or "Assignor") and WESTREC SMI OPCO, LLC, a Delaware limited liability company, 17330 Preston Road, Suite 220A, Dallas, TX 75252 ("Westrec SMI OPCO" or "Assignee").

WHEREAS, in June, 2013, City entered into Agreement No. 13-3125 ("Agreement") with Westrec Marina for the purpose of operating and managing Cabrillo Way Marina; and

WHEREAS, Westrec Marina is being sold to Suntex Marina Investors LLC ("Suntex") and effective January 1, 2023, Westrec Marina will be dissolved and the business will operate as Westrec SMI OPCO, LLC, a subsidiary of Suntex; and

WHEREAS, as a result of the sale, Westrec Marina seeks to assign Agreement No. 13-3125 to Westrec SMI OPCO, and Westrec SMI OPCO seeks to assume all rights and responsibilities pursuant to the Assignment, and the City agrees to such assignment and assumption; and

WHEREAS, as of the date of this Assignment, the Assignor is in compliance with the terms and conditions of the Agreement;

NOW THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. The Assignment and all rights, obligations, liabilities and provisions thereunder shall be subordinate to, and Assignee shall strictly comply with and not conflict with, all terms, covenants and conditions of the Agreement, or as hereinafter amended, which Assignor and Assignee agree that they have read. Assignee agrees to operate in accordance with and to assume all rights, obligations, operations, restrictions, limitations and liabilities associated with the Agreement.
2. Neither Assignor nor Assignee shall, by amendment or otherwise, alter the rights and obligations contained in the Agreement, approved by this Assignment, without the prior written consent of the City. Consent to one such change shall not be deemed to be consent to any subsequent change.
3. Assignee agrees to observe, obey and abide by the City of Los Angeles Charter and Administrative Code, and all applicable ordinances, rules and other regulations of the City.

4. This Assignment shall not be deemed to be a consent to any other subsequent transfer of any nature to any other entity. Assignee shall not assign, sell, or otherwise transfer its interest. Any such transfer shall be void.

5. Continuing Responsibility. Assignor shall remain liable in all respects for the performance of each of the terms, covenants, provisions, conditions and obligations of said Agreement and this Assignment.

6. Merger. Assignee shall provide City not less than sixty (60) days prior written notice of any merger of Assignee with or into any other entity or of any dissolution of Assignee.

7. Amendments. The Agreement, its amendments and this Assignment supersedes any and all agreements and understandings previously made between any of the parties hereto relating to the subject matter of the Agreement. The Agreement may only be modified, amended or altered in writing.

8. Successors and Assigns. The Agreement, its amendments and this Assignment shall be binding upon and inure to the benefit or detriment of Department, Assignor and Assignee, their respective successors, assigns and legal representatives.

9. Governing Law. The Agreement and this Assignment shall be construed and enforced in accordance with the laws of the State of California and venue shall lie in the appropriate U.S. Federal Court or California Superior Court located in Los Angeles County.

10. Counterparts. This Assignment may be executed in counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one instrument.

11. Notices. All notices shall be in writing and addressed as follows:

Notice to City. Written notices to City shall, until receipt of written notice otherwise from City, be given by registered or certified mail, postage prepaid, and addressed to:

City of Los Angeles Harbor Department
Director of Real Estate – Waterfront
425 S. Palos Verdes Street
San Pedro, CA 90731

Notice to Assignee. Written notices to Assignee shall, until City's receipt of written notice otherwise from Assignee, be given by registered or certified mail, postage prepaid, and addressed to:

Westrec SMI OPCO, LLC
Attn: William Anderson
16633 Ventura Blvd., 6th Floor
Encino, CA 91436

With a copy to:

Suntex Marina Investors LLC
17330 Preston Road, Suite #220A
Dallas, TX 75252
Attn: Brian DeVoss, General Counsel
Email: bdevoss@suntex.com

Notice to Assignor. Written notices to Assignor shall, until City's receipt of written notice otherwise from Assignor, be given by registered or certified mail, postage prepaid, and addressed to:

Westrec Marina Management, INC.
Attn: William Anderson
16633 Ventura Blvd., 6th Floor
Encino, CA 91436

All such notices shall be effective upon receipt.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date to the left of their signatures.

THE CITY OF LOS ANGELES, by its
Board of Harbor Commissioners

Dated: _____

By: _____
EUGENE D. SEROKA
Executive Director

Attest: _____
AMBER M. KLESGES
Board Secretary

[Signature page continued on following page]


WESTREC MARINA MANAGEMENT INC.

Dated: _____

By: 

Name: WILLIAM W. ANDERSON

Title: PRESIDENT

Attest 

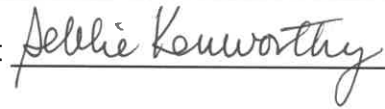
WESTREC SMI OP CO, LLC

Dated: _____

By: 

Name: WILLIAM W. ANDERSON

Title: PRESIDENT

Attest 

APPROVED AS TO FORM AND LEGALITY

_____, 2022
MICHAEL N. FEUER, City Attorney
STEVEN Y. OTERA, General Counsel

By: _____
MINAH PARK, Deputy