Council Meeting of
March 13, 2012

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

**SUBJECT: City Manager – Approve Ground Lease Estoppel for property located at 2700 Skypark Drive.**

**RECOMMENDATION**

Recommendation of the City Manager that City Council approve a Ground Lease Estoppel (C2004-155) to be entered into by, City of Torrance, a municipal corporation (Lessor) in favor of Wells Fargo Bank Northwest, N.A (Lender) for property located at 2700 Skypark Drive operating as Lowe's Home Improvement Center.

**FUNDING**

Funding is not required for this item.

**BACKGROUND/ANALYSIS**

The Estoppel is a standard document required by Lenders that state basic facts about the Lease such as:

- A true and correct copy of the Lease and all Amendments is attached;
- Lessor is the record owner of the fee interest in the Property, subject to the Lease;
- Rent is current and up to date;
- The current term of the Lease expires on June 30, 2054. Lessor did not grant Lessee an option or other right to extend the term of the Lease beyond June 30, 2054;
- There are no defaults against the Lease or any Amendments;
- The City holds no liens, mortgages or other instruments against the property at this time and is authorized to sign the Agreement;
- There is no current Eminent Domain action against the property;
- The Mortgage Lender will hold the Lease as security against the Loan;
- Lessor shall send all notices, statements, information and communications required under the Lease to be sent to an Approved Leasehold Mortgage to Lender at the following address: Wells Fargo Bank Northwest, N.A., as Trustee, 299 South Main Street, 12th Floor, Salt Lake City, Utah 84111 Attention: Corporate Trust Services.

All are currently true and correct and the Estoppel is recommended for signature.

Respectfully submitted,

LeROY J. JACKSON
CITY MANAGER

By _____
Brian K. Sunshine
Assistant to the City Manager

CONCUR:

_____
LeRoy J. Jackson
City Manager

Attachment: A) Estoppel – *Limited distribution*

**Attachment A**

# GROUND LEASE ESTOPPEL

THIS GROUND LEASE ESTOPPEL (this "**Estoppel**"), dated as of March 13, 2012, is entered into by **CITY OF TORRANCE**, a municipal corporation ("**Lessor**"), and certified to Wells Fargo Bank Northwest, N.A., as Trustee ("**Lender**").

RECITALS

A. Pursuant to that certain Lease (the "**Lease**") dated July 27, 2004 between Lessor and LDC Skypark, LLC, a California limited liability company ("**Original Lessee**"), as amended by that certain Amendment to Lease dated August 30, 2005 between Lessor and Skypark and that certain Second Amendment and Assignment and Assumption Agreement dated March 6, 2007 between Lessor, Original Lessee, and 6th ST. GOVERNOR, LLC, a California limited liability company ("Assignee") (Original Lessee and Assignee being hereafter collectively referred to as the "**Lessee**"), and that certain Third Amendment dated March 6, 2012 between Lessor and Lessee for certain realty property described on Exhibit A attached hereto (together with all rights of way, easements and appurtenances relating thereto, the "**Property**").

B. Lender intends to extend a loan (the "**Loan**") to Lessee to be evidenced by that certain Promissory Note made by Lessee and payable to the order of Lender (the "**Note**"), and secured by, inter alia, that certain first lien Deed of Trust, Assignment of Leases and Rents, and Security Agreement granted by Lessee in favor of Lender (the "**Security Instrument**") encumbering the Lease and Lessee's leasehold estate in the Property, all improvements thereon, and certain other property owned by Lessee (collectively the "**Mortgaged Property**"). The Note, the Security Instrument and all other documents executed in connection with the Loan are collectively referred to herein as the "**Loan Documents**". Any terms not otherwise defined herein shall have the meanings ascribed to them in the Lease. Lender understands that a condition precedent to the effectiveness of the Third Amendment dated March 6, 2012 between Lessor and Lessee is close of the Loan and satisfaction of certain payment conditions set forth in Section 6 of the Third Amendment to Ground Lease.

NOW, THEREFORE, to induce Lender to make the Loan to Lessee and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

1. Lessor's Representations and Warranties. Lessor represents and warrants to Lender and Lessee the following:

   (a) Lease. A true, correct and complete copy of the Lease is attached hereto as Exhibit B, and the Lease has not been amended except as expressly set forth in Exhibit B. The Lease is in full force and effect and constitutes the entire agreement between Lessor and Lessee with respect to the Property and the Lease. To the best of Lessor's knowledge, all improvements to the Property required under the Lease to have been performed by Lessor or Lessee have

been completed. The Lease constitutes the legal, valid and binding obligation of Lessor, enforceable against Lessor in accordance with its terms.

(b) Fee Ownership. Lessor is the record owner of the fee interest in the Property, subject to the Lease.

(c) Rent. The base rent payable under the Lease currently is $75,813.25 per month, paid in advance on the first day of each month, and such rent has been paid through the month of March, 2012. No percentage rent is payable under the Lease.

(d) Term. The current term of the Lease expires on June 30, 2054. Lessor did not grant Lessee an option or other right to extend the term of the Lease beyond June 30, 2054.

(e) Defaults; Offsets. To the best of Lessor's knowledge, neither Lessor nor Lessee is in default under the Lease, nor does Lessor have any knowledge of the existence of any event which, with the giving of notice, the passage of time, or both, would constitute a default by Lessor or Lessee under the Lease. All monetary obligations due under the Lease to date have been fully and currently paid, including the Lease Contribution Payment under Section 2 of the First Amendment to the Lease dated August 30, 2005. Lessee has no claim against Lessor for any security, rental, cleaning, or other deposits. To the best of Lessor's knowledge, no controversy presently exists between Lessor and Lessee, including any litigation or arbitration, with respect to the Lease or the Property.

(f) No Mortgages on Fee Interest. Lessor has not mortgaged its interest in the Lease, the Property, or any part thereof. No third party has any option or right of refusal to purchase Lessor's underlying fee interest. No consent or approval of any third party is required in order for Lessor to deliver this Estoppel.

(g) Eminent Domain. Lessor has not received written notice of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against Lessee's or Lessor's interest in the Property.

(h) Security Interest. The parties hereto acknowledge that Lender's security interest in the Lease shall extend to Lessee's leasehold estate in the Property, the improvements thereon, and all of Lessee's personal property located on the Property, subject to terms and conditions of the Lease, as more fully described in the Loan Documents. Lessor hereby acknowledges that the **Security Instrument** from Lessee to Lender, and its successors and assigns, constitutes an "**Approved Leasehold Mortgage**", and that Wells Fargo Bank Northwest, N.A., as Trustee, and its successors and assigns, constitute and

"**Approved Leasehold Mortgagee**" as those terms are defined in this Lease, and agrees that no further notice is required under the Lease.

(i) Lessor shall send all notices, statements, information and communications required under the Lease to be sent to an Approved Leasehold Mortgage to Lender at the following address:

Wells Fargo Bank Northwest, N.A., as Trustee
299 South Main Street, 12th Floor
Salt Lake City, Utah 84111
Attention: Corporate Trust Services

IN WITNESS WHEREOF, the parties hereto have caused this Ground Lease Estoppel to be duly executed and delivered as of the day and year first written above.

LESSOR:

**CITY OF TORRANCE,**
a municipal corporation

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

# Exhibit A

## Legal description of the Property and Leased Premises

**Exhibit A**

# CITY OF TORRANCE

CITY MANAGER'S OFFICE

LeRoy J. Jackson
City Manager

Brian Sunshine
Assistant to the City Manager
(310) 618-5880
bsunshine@torrnet.com

October 9, 2006

Norm LaCaze, President
LDC Skypark LLC
c/o La Caze Development
2601 Airport Drive, Suite 300
Torrance, CA 90505

**COPY**

**Subject: Scrivener's error Legal Description Exhibit "A" Lease Number C2004-155**

Dear Mr. LaCaze:

Please find attached a revised legal description for your Lease with the City of Torrance. The revised Exhibit "A" has a correction to a scrivener's error that does not change any of your lease area boundaries. The correction to the legal description is found as follows:

> That portion of Parcel 32 of Official Map No. 2 in the City Of Torrance, County of Los Angeles, State Of California, as Recorded in Book 5 pages 44 - 51 in the Office of Said County Recorder, Described as beginning at the Northwesterly corner of said Parcel 32, Thence South 62 Degrees 26 Minutes 06 Seconds East 938.12 along the northerly line of Parcel 32, said northerly line also being the Southerly line of Skypark Drive, Thence leaving the Northerly line of Parcel 32 South 27 degrees 33 Minutes 44 Seconds West 422.25 feet, Thence South 6 Degrees 21 Minutes 11 Seconds East 61.46, Thence South 51 Degrees 21 Minutes 11 Seconds ~~West~~ East 106.10 Feet, Thence South 38 Degrees 38 Minutes 49 Seconds West 180.61 Feet to a point on the Southerly line of Parcel 32, Thence along the Southerly line of Parcel 32 North 51 Degrees 21 Minutes 11 Seconds West 162.50 Feet, Thence Continuing along the Southerly line of Parcel 32 North 38 Degrees 38 Minutes 49 Seconds East 65.00 feet, Thence Continuing along the Southerly line of Parcel 32 North 51 Degrees 21 Minutes 11 Seconds West 911.77 Feet to the Westerly Line of Parcel 32, Thence Along the Westerly Line of Parcel 32 North 27 Degrees 33 Minutes 54 Seconds East 401.10 Feet to the Northwesterly corner of Parcel 32.

Please insert the revised Legal Description with the documents you have on file for this Lease.

If you have any questions, feel free to call me at 310-618-5887.

Sincerely,

Brian K. Sunshine
Assistant to the City Manager

Attachment:
Exhibit "A" to Lease as corrected

CC:
City Clerk
3031 Torrance Boulevard
Torrance, CA 90503

David Robert
Law Offices of David G. Robert
21250 Hawthorne Boulevard, Suite 535
Torrance, CA 90503

# EXHIBIT "A"

## LEGAL DESCRIPTION OF THE LEASED PREMISES

The real property is located in the County of Los Angeles, State of California and is more particularly described as follows:

That portion of Parcel 32 of Official Map No. 2 in the City Of Torrance, County of Los Angles, State Of California, as Recorded in Book 5 pages 44 – 51 in the Office of Said County Recorder, Described as beginning at the Northwesterly corner of said Parcel 32, Thence South 62 Degrees 26 Minutes 06 Seconds East 938.12 along the northerly line of Parcel 32, said northerly line also being the Southerly line of Skypark Drive, Thence leaving the Northerly line of Parcel 32 South 27 degrees 33 Minutes 44 Seconds West 422.25 feet, Thence South 6 Degrees 21 Minutes 11 Seconds East 61.46, Thence South 51 Degrees 21 Minutes 11 Seconds East 106.10 Feet, Thence South 38 Degrees 38 Minutes 49 Seconds West 180.61 Feet to a point on the Southerly line of Parcel 32, Thence along the Southerly line of Parcel 32 North 51 Degrees 21 Minutes 11 Seconds West 162.50 Feet, Thence Continuing along the Southerly line of Parcel 32 North 38 Degrees 38 Minutes 49 Seconds East 65.00 feet, Thence Continuing along the Southerly line of Parcel 32 North 51 Degrees 21 Minutes 11 Seconds West 911.77 Feet to the Westerly Line of Parcel 32, Thence Along the Westerly Line of Parcel 32 North 27 Degrees 33 Minutes 54 Seconds East 401.10 Feet to the Northwesterly corner of Parcel 32.

RESERVING THEREFROM, together with the right to grant and transfer the same, the above-described real property for the following (the "Remediation Easement"):

i) Vehicular and pedestrian entry on and over and access to the foregoing real property, including, without limitation, those area(s) of the foregoing real property upon which currently exist monitoring wells which sample the soil, soil vapor and/or groundwater, by Hi-Shear Corporation, its agents, consultants, attorneys, contractors, engineers, employees and other representatives ("Permittees") for the purpose of conducting any environmental tests or samples of the soil, soil vapor and/or groundwater of the foregoing real property that Hi-Shear Corporation may deem necessary or appropriate for the characterization, analysis, monitoring and/or remediation (collectively, the "Remediation") of the Leased Premises; and

ii) The Remediation of any Hazardous Material Condition (as hereinafter defined) and for the installation, inspection, use, operation, maintenance, repair and removal by Hi-Shear Corporation and its Permittees of any of Hi-Shear Corporation's "Remediation Equipment" (as hereinafter defined) which currently exists or is later installed on the Property in connection with the Remediation of any Hazardous Material Condition. As used herein, the term "Remediation Equipment" means; (a) any and all existing facilities for Remediation which are now located in, on, under or about

the Leased Premises; (b) any new facilities for Remediation that may be installed in, on, under or about the Leased Premises and/or (c) any facilities that may be required by an any governmental authority with jurisdiction over any Hazardous Material Condition and/or the Leased Premises to be installed and (d) any replacements and upgrades of the facilities described in (a)-(c) of this sentence. Remediation Equipment shall include, without limitation, monitoring, containment, extraction, treatment and discharge facilities, structures, equipment, devices, pipes, systems or other infrastructure items for Remediation. As used herein, the term "Hazardous Material Condition" means the presence on, in or under the Leased Premises and/or the Remediation Easement Area (including without limitation the soil, soil vapor and/or groundwater of same) of any Hazardous Material at levels of contamination that require Remediation under standards required by applicable Environmental Laws.

RESERVING THEREFROM, a nonexclusive easement (the "Watermain Easement") over, under, and across a 14' strip of land located along the westernmost boundary of the adjacent premises, more particularly depicted on Exhibit "B" (the "Watermain Easement Area").

TOGETHER WITH a nonexclusive easement and right-of-way (the "Road Easement") for the purposes of access over and across a 28' strip of land located along the westernmost boundary of the Leased Premises, more particularly depicted on Exhibit "B" (the "Road Easement Area").

# Exhibit B

**[Copy of Ground Lease and all amendments]**

# THIRD AMENDMENT TO GROUND LEASE

THIS THIRD AMENDMENT TO GROUND LEASE (this "Amendment") is dated for reference purposes only as of March 6, 2012, by and among LDC SKYPARK LLC, a California limited liability company ("LDC") and 6th ST. GOVERNOR, LLC, a California limited liability company ("6th St."; LDC and 6th St. are together referred to herein as "Lessee") and the CITY OF TORRANCE, a municipal corporation ("City").

## RECITALS

A. LDC, as lessee, and City, as lessor, have previously entered into that certain Lease dated July 27, 2004 (the "Original Lease"), as amended by that certain First Amendment to Lease dated August 30, 2005, by and between LDC and City (the "First Amendment"), and by that certain Second Amendment to and Assignment and Assumption of Ground Lease dated March 6, 2007, by and between LDC and 6th St. (with 6th St. assuming an undivided 20% interest in LDC's rights under the Original Lease, as amended, and becoming jointly and severally liable for LDC's obligations thereunder) (the "Second Amendment"; and, together with the Original Lease and the First Amendment, the "Ground Lease"). Capitalized terms not defined herein shall have the same meaning as set forth in the Ground Lease.

B. Lessee and City desire to make certain amendments to the Lease, pursuant to the terms and conditions hereof.

## AGREEMENT

Incorporating herein the foregoing Recitals as a part of this Agreement, and in consideration thereof, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Rent. Sections 3 ("Rent") and 4 ("Fair Rental Value") as set forth in the Original Lease, as modified by Section 1 of the First Amendment and Section 8 of the Second Amendment are hereby amended by deleting those provisions in their entirety and replacing them with the following:

> "3. RENT. On or before the tenth (10th) day of each month during the Term of the Lease, Lessee shall pay, in advance, to the City rent (together, along with any and all applicable adjustments hereinafter referred to as "Rent") pursuant to the following schedule:

| Lease Year | Date | Monthly Ground Rent |
|---|---|---|
| Lease Year 1 | July 1, 2004 - January 31, 2006 | $20,000.00 per month.** |

| Lease Year | Date | Monthly Ground Rent |
|---|---|---|
| Lease Year 2 | February 1, 2006 - January 31, 2007<br><br>**Any overpayment of Ground Rent for July 1, 2004 shall be credited against Rent otherwise payable for September 2005, October 2005 and November 2005, and thereafter until such overpayment is depleted. | $67,320.00 per month *<br><br>*As set forth in Section 2 below, on the date on which Lowe's shall first open its store for business in the Premises, <u>but in no event later than August 1, 2006</u>. Lessee shall pay, in addition to the Rent specified herein, and notwithstanding anything else in the Lease, an additional Rent amount of $1,000,000.00 to Lessor. |
| Lease Year 3 | February 1, 2007 - January 31, 2008 | $68,666.40.00 per month |
| Lease Year 4 | February 1, 2008 - January 31, 2009 | $70,039.73 per month |
| Lease Year 5 | February 1, 2009 - January 31, 2010 | $71,440.52 per month |
| Lease Year 6 | February 1, 2010 - January 31, 2011 | $72,869.33 per month |
| Lease Year 7 | February 1, 2011 - January 31, 2012 | $74,326.72 per month |
| Lease Year 8 | February 1, 2012 - January 31, 2013 | $75,813.25 per month |
| Lease Year 9 | February 1, 2013 - January 31, 2014 | $77,329.52 per month |
| Lease Year 10 | February 1, 2014- January 31, 2015 | $78,876.11 per month |
| Lease Year 11 | February 1, 2015 - January 31, 2016 | $86,763.72 per month |

| Lease Year | Date | Monthly Ground Rent |
|---|---|---|
| Lease Year 12 | February 1, 2016 - January 31, 2017 | $88,498.99 per month |
| Lease Year 13 | February 1, 2017 - January 31, 2018 | $90,268.98 per month |
| Lease Year 14 | February 1, 2018 - January 31, 2019 | $92,074.35 per month |
| Lease Year 15 | February 1, 2019 - January 31, 2020 | $93,915.84 per month |
| Lease Year 16 | February 1, 2020 - January 31, 2021 | $95,794.16 per month |
| Lease Year 17 | February 1, 2021 - January 31, 2022 | $97,710.04 per month |
| Lease Year 18 | February 1, 2022 - January 31, 2023 | $99,664.24 per month |
| Lease Year 19 | February 1, 2023 – January 31, 2024 | $101657.53 per month |
| Lease Year 20 | February 1, 2024 – January 31, 2025 | $103,690.68 per month |
| Lease Year 21 | February 1, 2025 - January 31, 2026 | $105,764.49 per month |
| Lease Year 22 | February 1, 2026 - January 31, 2027 | $107,879.78 per month |
| Lease Year 23 | February 1, 2027 - January 31, 2028 | $110,373.38 per month |
| Lease Year 24 | February 1, 2028 - January 31, 2029 | $112,238.12 per month |
| Lease Year 25 | February 1, 2029 - January 31, 2030 | $114,482.89 per month |
| Lease Year 26 | February 1, 2030 - January 31, 2031 | $116,772.54 per month |

| Lease Year | Date | Monthly Ground Rent |
|---|---|---|
| Lease Years 27-30 | February 1, 2031 - January 31, 2035 | $116,772.54 per month |
| Lease Year 31 | February 1, 2035 - January 31, 2036 | $128,449.79 per month |
| Lease Years 32-35 | February 1, 2036- January 31, 2040 | $128,449.79 per month |
| Lease Years 36-40 | February 1, 2040 - January 31, 2044 | $141,294.78 per month |
| Lease Years 41-45 | February 1, 2044 - January 31, 2049 | $155,424.25 per month |
| Lease Years 46-50, partial | February 1, 2049 - January 31, 2054 | $170,966.68 per month |
| Lease Year 50, partial | February 1, 2054 – June 30, 2054 | $170,966.68 per month |

4. FAIR RENTAL VALUE. Intentionally Deleted."

2. Payment of Taxes. The first sentence of Section 17(B) of the Original Lease is hereby amended and restated in its entirety as follows:

> "Lessee agrees to pay, as and when the same become due and payable and before any penalties or interest accrue for late payment all taxes which shall be levied against the Leased Premises and the improvements thereon, and against any buildings, structures or any improvements hereafter erected or constructed on the Leased Premises, and which become a lien against said Leased Premises and the improvements."

3. Ad Valorem Taxes. Section 17(H) of the Original Lease is hereby amended and restated in its entirety as follows:

> "If, during the Term, federal or state taxes shall be imposed, assessed or levied on the fee interest of City in the Leased Premises, or on or with respect to any real property constituting a portion of the fee interest of City in the Leased Premises, or on the rents derived by City from the Leased Premises in lieu of or in addition to such real property taxes, and such new tax would most fairly be characterized as in the nature of an ad valorem or use tax, as opposed to an income or franchise tax on City's income, Lessee shall pay all such taxes, assessments, levies or charges imposed upon City within thirty (30) days of demand therefor by City."

4. Insurance.

4.1 Liability Insurance. Notwithstanding any provision to the contrary set forth in the Ground Lease, Lessee's comprehensive (commercial) general liability insurance policy (as more particularly described in Section 19(A)(1) of the Original Lease) shall be in the amount of $5,000,000 combined single limit for any injury to persons and/or damages to property, all as more particularly required by Section 19 of the Original Lease.

4.2 Sublessee Insurance. City agrees that Lessee may satisfy Lessee's insurance requirements under the Ground Lease by delivering to City such evidence as City may approve in its sole and absolute discretion that City, the City Council and each member thereof, and every officer and employee of City, acting in due course of his employment or his official capacity (as applicable in the context provided by the Ground Lease), is an insured and/or an additional insured (as applicable in the context provided by the Ground Lease) under insurance policy(ies) that are obtained and maintained by a City-approved sublessee in strict compliance with the form and substance of all insurance coverage(s) required by the Ground Lease.

4.3 Rent Insurance. Section 19(C) of the Original Lease is hereby deleted in its entirety.

5. Maintenance.

(a) Periodic - Structures: Section 13(B) of the Original Lease is hereby amended and restated in its entirety as follows:

> "As often as reasonably necessary to properly maintain the appearance during the Term of this Lease, Lessee shall, at its own expense, paint or clean or otherwise preserve and beautify the surfaces of the interior and exterior of all buildings, structures, structural members and other improvements on said Leased Premises. The treatment applied shall restore the appearance of and act as a preservative of the building, structures, structural members and other improvements."

(b) Periodic – Pavement: Section 13(C) of the Original Lease is hereby amended and restated in its entirety as follows:

> "Lessee, at its own expense, shall as often as reasonably necessary during the Term of this Lease repair or replace any area of pavement or slabs on the Leased Premises as have spalled, weathered, alligatored, or otherwise failed, with like materials and workmanship, and shall as often as necessary promptly repair or replace any damaged areas thereof."

6. Conditions Precedent. City and Lessee acknowledge that, substantially concurrently with the execution of this Amendment, Lessee is entering into certain financing arrangements and such financing transaction is scheduled to close (the "Closing") on or before May 31, 2012.

6.1 As a condition precedent and as consideration for City's agreement to amend the Ground Lease as set forth herein, on or before the Closing but in no event later than

May 31, 2012, Lessee shall pay to City, by wire transfer in good funds, a non-refundable sum of Four Hundred Fifty Thousand and No/100 Dollars ($450,000.00) (the "Amendment Consideration"); and

6.2 As a condition precedent and as consideration for City's agreement to amend the Ground Lease as set forth herein, on or before the Closing but in no event later than May 31, 2012, Lessee shall pay to City its actual attorneys' fees in connection with the negotiation and documentation of this Amendment in an amount to be determined by City, not to exceed Four Thousand Dollars ($4,000.00) ("City's Fees").

6.3 As a condition precedent and as consideration for City's agreement to amend the Ground Lease to change the Rent payment day from the first (1st) day of each month to the tenth (10th) day of each month and to otherwise amend the Ground Lease as set forth herein, on or before the Closing but in no event later than May 31, 2012, Lessee shall pay to City by wire transfer in good funds, a non-refundable sum of Twenty Four Thousand Four Hundred Thirty Six and 18/100 ($24,436.18) (the "Rent True-Up").

6.4 In the event that Lessee fails to timely pay the Amendment Consideration, the City's Fees, and the Rent True-Up, this Amendment shall be null and void and of no force or effect whatsoever.

7. Miscellaneous.

7.1 Authority. The parties executing this Amendment on behalf of Lessee represent and warrant to City that they have full authority to execute this Amendment.

7.2 Entire Agreement. This Amendment constitutes the entire understanding and agreement of the parties and integrates all of the terms and conditions mentioned herein or incidental hereon, and supersedes all negotiations or previous agreements between the parties with respect to all or part of the subject matter hereof.

7.3 Governing Law. This Amendment shall be governed by and construed in accordance with the laws of the State of California.

7.4 Attorneys' Fees. In the event any action is brought between any of the parties hereto, seeking enforcement of any of the terms and provisions of this Amendment, the prevailing party in such action shall be entitled to have and to recover from the losing party(ies), attorneys' fees and other expenses in connection with such action or proceeding, in addition to its recoverable court costs.

7.5 Severability. If any term, provision, covenant, or condition of this Amendment is held to be invalid, void, or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Amendment shall not be affected thereby, and each term, provision, covenant, or condition of this Amendment shall be valid and enforceable to the fullest extent permitted by law.

7.6 Binding Covenants; Successors. The provisions of this Amendment shall bind and inure to the benefit of each of the parties hereto and all successors and assigns to the parties hereto.

7.7 Counterparts. This Amendment may be executed in several counterparts, and all so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all parties are not signatories to the original or the same counterpart.

7.8 Full Force and Effect. Except as modified by this Amendment, the Ground Lease, shall remain unmodified and in full force and effect.

7.9 Captions and Headings. The captions and headings used in this Amendment are used for convenience of reference only and are not to be considered in construing or interpreting this Amendment.

7.10 Time of the Essence. Time is of the essence of this Amendment and the Amendment.

7.11 Conflict. In the event of conflict or inconsistency between the provisions of this Amendment and any provisions of the Ground Lease, as modified herein, the provisions of this Amendment shall govern and control.

7.12 Amendments. This Amendment may only be amended by a further written document signed by the parties hereto except that waivers of conditions, if any, may be unilaterally signed by the party to be charged.

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK. SIGNATURES FOLLOW.]

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to Ground Lease as of the day and year first written above.

**"LESSEE"**

**LDC SKYPARK, LLC**, a California limited liability company

By:_____
Norman R. LaCaze, its Manager

**6TH STREET GOVERNOR, LLC**, a California limited liability company

By: Excell Investment Group, LLC, a California limited liability company, its Manager

By:_____
Chris J. Renard, its Manager

By: Azusa Blvd, LLC, a California limited liability company, its Manager

By:_____
Ricardo E. Macaya, its Manager

[Signatures continued on next page]

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to Ground Lease as of the day and year first written above.

**"LESSEE"**

**LDC SKYPARK, LLC**, a California limited liability company

By:_____
Norman R. LaCaze, its Manager

**6TH STREET GOVERNOR, LLC**, a California limited liability company

By: Excell Investment Group, LLC, a California limited liability company, its Manager

By:_____
Chris J. Renard, its Manager

By: Azusa Blvd, LLC, a California limited liability company, its Manager

By:_____
Ricardo E. Macaya, its Manager

[Signatures continued on next page]

[Signatures continued from previous page]

"CITY"

CITY OF TORRANCE,
a municipal corporation

By: _____
Frank Scotto, City Mayor

ATTEST:

_____
Sue Herbers, City Clerk

APPROVED AS TO FORM:

_____
John L. Fellows III, City Attorney

# SECOND AMENDMENT TO
# AND
# ASSIGNMENT AND ASSUMPTION OF
# GROUND LEASE

THIS SECOND AMENDMENT TO AND ASSIGNMENT AND ASSUMPTION OF GROUND LEASE (the "Amendment") is made this 6th day of March, 2007, by and among CITY OF TORRANCE, a municipal corporation (hereinafter referred to as the "City"), LDC SKYPARK, LLC, a California limited liability company (hereinafter referred to as the "Assignor"), and 6TH ST. GOVERNOR, LLC, a California limited liability company (hereinafter referred to as the "Assignee").

## RECITALS

A. The City and Assignor entered into that certain Lease dated for references purposes July 27, 2004 and that certain Amendment to Lease dated August 30, 2005 (collectively, the "Lease") pursuant to which the City leased to Assignor certain real property located in Los Angeles County, California, commonly known as 2700 Skypark Drive, Torrance, California, as more particularly described therein (the "Leased Premises"). All capitalized terms, unless specifically defined herein, shall have the same meaning as set forth in the Lease unless expressly superseded by the terms of this Amendment.

B. Assignor desires to assign an undivided twenty percent (20%) interest in its rights under the Lease to Assignee, and Assignee desires to accept such assignment and to assume Assignor's obligations under the Lease with respect to such undivided twenty percent (20%) interest (the "Assignment").

C. Assignor and Assignee have requested that City consent to the Assignment. City desires to consent to the Assignment in accordance with and expressly conditioned upon the terms and conditions set forth below.

COPY

D. City, Assignor and Assignee desire to amend the Lease hereinafter provided.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City, Assignor, and Assignee agree as follows:

1. Assignment. Assignor hereby transfers and assigns to Assignee, all right, title, and interest of Assignor in and to an undivided twenty percent (20%) interest in the Lease and the Leased Premises demised thereunder.

2. Assumption; Indemnity. Assignee hereby accepts the Assignment of an undivided twenty percent (20%) interest in the Lease and assumes all the obligations thereunder with respect to such undivided twenty percent (20%) interest accruing on and after the Effective Date (as defined below), and agrees to be bound by all of the terms and provisions of the Lease. It is understood and agreed that Assignor shall remain liable for all obligations under the Lease with respect to such undivided twenty percent (20%) interest accruing prior to the Effective Date, and with respect to Assignor's remaining undivided eighty percent (80%) interest accruing after the Effective Date. Assignee agrees to indemnify, hold harmless, and defend Assignor from and against: (i) any loss, liability, or damage suffered or incurred by Assignor because of any default occurring on and after the date of this Assignment in the performance, compliance with, or observance of any of the terms, covenants, or conditions to be performed, observed, or complied with by Assignee under the Lease; and (ii) all actions, suits, proceedings, demands, assessments, judgments, costs, and expenses (including reasonable attorneys' fees) incident to the foregoing.

3. Restriction on Subsequent Transfers. City hereby consents to the Assignment of an undivided twenty percent (20%) interest in the Lease by Assignor to Assignee; provided, however, that such consent shall not constitute a waiver of any of the terms and provisions of the Lease nor constitute a waiver of the right of City to approve

any further assignment, subletting or any other Transfer. Notwithstanding anything to the contrary set forth in the Lease, the term "Transfer" defined in Section 21 of the Lease shall also include the circumstances set forth below:

a) any transfer or further transfers between Assignor and Assignee of any ownership interests in the Lease and/or Leased Premises; and

b) any transfer of any membership interests in the Assignee or Assignor.

4. Definition of Lessee. Notwithstanding anything to the contrary set forth in the Lease, any and all references to "Lessee" under the Lease shall refer to both Assignor and Assignee, individually and collectively.

5. Joint and Several Liability. The parties desire to amend the Lease such that Assignor and Assignee become and remain bound under the Lease, jointly and severally with one another. Notwithstanding anything to the contrary set forth in the Lease, Assignor and Assignee hereby assume joint and several liability of all of the obligations of Lessee under the Lease accruing on or after the Effective Date and the City shall be entitled to pursue damages for breach of any such obligations against either or both Assignor and Assignee.

5. Management. Notwithstanding anything to the contrary set forth in the Lease, the parties hereby agree that City shall be entitled to deal with a single designated representative of Assignor and Assignee for all purposes pertaining to the Lease, which designee shall be LDC Skypark, LLC, until such time as Assignor and Assignee designate, in writing, another representative which must (a) meet the "Management Requirements" and (b) have been approved by the City, which approval shall not be withheld unreasonably. Any notice given by the City under the terms of the Lease to the designated representative of Assignor and Assignee shall be deemed to have been given under the Lease to both Assignor and Assignee. For purposes of this Section 5, the term "Management Requirements" shall mean that Norman R. La Caze owns at least 51% of the management company of the Leased Premises pursuant to a management agreement

reasonably satisfactory to the City or controls the day-to-day operations of the Leased Premises.

6. Event of Default. In addition to the Event of Defaults set forth in Section 23 of Lease, the following events shall each constitute an Event of Default:

(a) If either Assignor or Assignee brings a partition action with respect to the Leased Premises.

(b) If the Agreement Between Tenants-In-Common attached hereto as Exhibit "A" is amended, modified or terminated, without the City's prior written consent.

7. Execution of Documents Evidencing Assignment. Assignor agrees that it will, at any time and from time to time after the Effective Date, upon request by Assignee, do, execute, acknowledge, and deliver, or cause to be done, executed, acknowledged, and delivered, all such further acts, assignments, transfers, powers of attorney, and assurances as may be required for the better assigning, transferring, granting, assuring, and confirming to Assignee, or to its successors and assigns, Assignor's right, title, and interest in the undivided twenty percent (20%) interest in the Lease assigned to Assignee pursuant to this Assignment.

8. Rent. Notwithstanding anything to the contrary set forth in the Lease, on or before the first day of each month, commencing February 1, 2054 through June 30, 2054, Lessee shall pay monthly Rent in the same amount of monthly rent paid during Lease Year 50.

9. Authority and Capacity. Each of the persons signing this Amendment represents and warrants that (1) he/she is authorized to execute and deliver this Amendment, (2) this Amendment is binding upon the party for whom such person has signed, and (3) that the signature of no other party or person is required in order to bind such party.

10. Reaffirmation of Lease. City, Assignor, and Assignee hereby reaffirm all of the terms and provisions of the Lease and agree to be bound thereby, except as such terms are modified by this Amendment.

11. Counterparts. This Amendment may be signed by the parties in several counterparts and each of the signature pages shall be deemed to be an original copy and combined shall be a document binding on all parties.

12. Effective Date. The Effective Date of this Amendment (the "Effective Date") shall be _____, 2007. ***(Insert date of "Closing" as defined in that certain Agreement for Purchase and Sale of Property and Joint Escrow Instructions dated August 3, 2006 between Assignor and Chris Renard.)***

IN WITNESS WHEREOF, City, Assignor and Assignee have caused this Amendment to be executed on the day and year first above written.

City

CITY OF TORRANCE, a municipal corporation

By: _____
FRANK SCOTTO
City Mayor

ATTEST:

_____
SUE HERBERS
City Clerk

APPROVED AS TO FORM:

_____
JOHN L. FELLOWS III
City Attorney

Assignor

LDC SKYPARK, LLC, a California limited liability company

By:_____
Norman R. La Caze, Manager

Assignee

6TH ST. GOVERNOR, LLC, a California limited liability company

By: EXCELL INVESTMENT GROUP, LLC, a California limited liability company, Manager

By: _____
Chris J. Renard, Manager

By: AZUSA BLVD., LLC, a California limited liability company, Manager

By: _____
Ricardo E. Macaya, Manager

[ATTACH NOTARY ACKNOWLEDGEMENTS]

[SIGNATURES CONTINUED ON NEXT PAGE]

Assignor

LDC SKYPARK, LLC, a California limited liability company

By:_____ __
Norman R. La Caze, Manager

Assignee

6TH ST. GOVERNOR, LLC, a California limited liability company

By: EXCELL INVESTMENT GROUP, LLC, a California limited liability company, Manager

By: _____
Chris J. Renard, Manager

By: AZUSA BLVD., LLC, a California limited liability company, Manager

By: _____
Ricardo E. Macaya, Manager

[ATTACH NOTARY ACKNOWLEDGEMENTS]

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of LOS ANGELES } ss.

On MARCH 7, 2007 (Date), before me, A.L. MANALILI, NOTARY PUBLIC (Name and Title of Officer (e.g., "Jane Doe, Notary Public")),

personally appeared FRANK SCOTTO AND SUE HERBERS (Name(s) of Signer(s)),

☑ personally known to me
☐ 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.

A. L. MANALILI
Commission # 1473523
Notary Public - California
Los Angeles County
My Comm. Expires Mar 2, 2008

WITNESS my hand and official seal.

Signature of Notary Public

Place Notary Seal Above

## OPTIONAL

*Though the information below 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: 2ND AMENDMENT/ASSIGNMENT & ASSUMPTION OF GROUND LEASE (LDC SKYPARK, 6TH ST. GOVERNOR)

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

**Capacity(ies) Claimed by Signer**

Signer's Name: _____

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

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## ACKNOWLEDGMENT

State of California
County of Los Angeles

On 7/7/07 before me, Patricia S. Dominick,
(here insert name and title of the officer)

personally appeared Norman R. LaCaze

_____

_____,

personally known to me (or 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.

WITNESS my hand and official seal.

Signature Patricia S. Dominick

PATRICIA S. DOMINICK
Commission # 1676710
Notary Public - California
Los Angeles County
My Comm. Expires Jul 5, 2010

(Seal)

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Los Angeles } ss.

On March 6, 2007 (Date), before me, Adrienne Scott, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public")),
personally appeared Chris J. Renard and Ricardo E. Macaya (Name(s) of Signer(s))

☑ personally known to me

☐ ~~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.

ADRIENNE SCOTT
Commission # 1605511
Notary Public - California
Los Angeles County
My Comm. Expires Sep 10, 2009

Place Notary Seal Above

WITNESS my hand and official seal.

Adrienne Scott
Signature of Notary Public

### OPTIONAL

*Though the information below 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: Second Amendment + Assignment + Assumption of Ground Lease

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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EXHIBIT "A"

Exhibit A

# AGREEMENT BETWEEN TENANTS-IN-COMMON

THIS AGREEMENT BETWEEN TENANTS-IN-COMMON (this "Agreement") is entered into as of March 5, 2007, between LDC Skypark LLC, a California limited liability company ("Skypark"), and 6th ST. GOVERNOR, LLC, a California limited liability company ("6TH St."), collectively referred to as "Co-Tenants," and the whole of their ownership interests is sometimes referred to as the "Co-Tenancy".

## RECITALS

A. Pursuant to an acquisition transaction that will close concurrently with the execution and delivery of this Agreement, each of the Co-Tenants will own an undivided interest as a tenant-in-common (a "Co-Tenancy Interest") in the following leases (collectively, the "Leasehold"):

(1) That certain Lease dated July 27, 2004, between the City of Torrance, California, as ground lessor, and Skypark, as ground lessee (the "Ground Lease"), which covers an approximately 11.22 acre parcel in Torrance, Los Angeles County, California, commonly known as 2700 Skypark Drive (the "Parcel"); and

(2) That certain Amended and Restated Ground Sublease dated October 8, 2004, between Skypark, as sublessor, and Lowe's HIW, Inc., a Washington corporation ("Lowe's"), as sublessee (the "Ground Sublease"), which also covers the Parcel.

B. Co-Tenants intend to own, hold, maintain, operate, manage, sell, exchange or encumber the Leasehold as tenants-in-common.

C. Co-Tenants have discussed co-ownership of the Leasehold and have concluded that, to avoid conveyance and ownership problems created by death, dissolution, disability, bankruptcy, and disputes between the Co-Tenants, it is in the best interests of each of the Co-Tenants that the Leasehold be held pursuant to an agreement which defines the rights and obligations of each of the Co-Tenants in the form of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the conditions and covenants contained herein, Co-Tenants agree as follows:

# ARTICLE 1.

## TITLE AND INTERESTS

ARTICLE 1.1. ***Recitals.*** Recitals A. through C. above are incorporated herein by this reference.

ARTICLE 1.2. ***Co-Tenancy Interests.*** Co-Tenants hereby agree that their interests in the Leasehold shall be governed by this Agreement and that Co-Tenants shall have the following undivided percentage interests in the Leasehold ("Percentage Interests"):

| *Tenant-in-Common* | *Percentage Interest* |
|---|---|
| Skypark | 80% |
| 6th St. | 20% |
| ***Total:*** | ***100%*** |

ARTICLE 1.3. ***Title to the Leasehold.*** Title to the Leasehold shall be held in the name of Co-Tenants, as tenants-in-common.

ARTICLE 1.4. ***Principal Place of Business.*** The principal place of business for matters concerning the Leasehold shall be located at 2601 Airport Drive, Suite 300, Torrance, California 90505. The principal place of business may be changed from time to time and other places of business may be established by action taken in accordance with the provisions of this Agreement that govern management of the business of the Leasehold.

ARTICLE 1.5. ***Term.*** The term of this Agreement shall commence as of the date of this Agreement and shall continue until January 1, 2057, or until terminated by agreement of all Co-Tenants, the Leasehold is sold or as is otherwise provided in this Agreement. The term of this Agreement may be extended upon the written agreement of the Co-Tenants and upon compliance with any other requirements of law.

ARTICLE 1.6. ***Purpose.*** The purpose of this Agreement is to govern the rights and obligations of the Co-Tenants with respect to the following matters.

ARTICLE 1.6.1. Owning, holding, operating, managing, maintaining, exchanging, encumbering or selling the Leasehold;

ARTICLE 1.6.2. Producing income from and by the Leasehold and holding the Leasehold for capital appreciation and investment; and

ARTICLE 1.6.3. Conducting such other lawful activities as are reasonably necessary or appropriate to accomplish the foregoing purposes.

ARTICLE 1.7. ***Rights of Co-Tenants.*** Co-Tenants shall have all of the rights and privileges of a tenancy-in-common relationship which are provided under California law, except to the extent such rights and privileges are modified by the terms of this Agreement.

ARTICLE 1.8. ***Not a Partnership.*** Co-Tenants do not intend to create a partnership or joint venture with respect to the Leasehold, and this Agreement shall not be construed or interpreted as creating a partnership or joint venture between Co-Tenants. Notwithstanding the foregoing, in the event it is determined that a partnership exists among Co-Tenants for federal, state or local income tax purposes, each Co-Tenant hereby agrees that such organization shall be excluded from the provisions of Subchapter K of Chapter 1 of the Internal Revenue Code (the "Code") and any comparable provisions of any applicable state or local tax statues for all tax years. Each Co-Tenant further covenants and agrees to report on its federal and state income tax return its share of all items of income, deduction and credit from the Leasehold in a manner consistent with the inapplicability of Subchapter K of Chapter 1 of the Code, commencing with the first tax year during which the Leasehold is owned by the Co-Tenants.

ARTICLE 1.9. ***Partition.*** Each of the Co-Tenants irrevocably waives any right that it may have to maintain any action for equitable division or partition in kind or partition by sale with respect to the Leasehold.

ARTICLE 1.10. ***Waiver of Lien Rights.*** Subject to Article 5., Section 5.4, and except as otherwise provided in Article 2., Section 2.2.4.(i) and (ii), each of the Co-Tenants irrevocably waives any lien rights against the Leasehold or against any other Co-Tenant's interest in the Leasehold.

## ARTICLE 2.

## CONTRIBUTIONS AND ACCOUNTS

ARTICLE 2.1. ***Initial Valuation of Co-Tenancy Interests.*** Prior to the execution and delivery of this Agreement, Skypark owned the Leasehold in fee simple. Concurrently with the execution and delivery of this Agreement, 6th Street is acquiring a Co-Tenancy Interest in the Leasehold from Skypark for a purchase price of

$2,000,000.00. For purposes of this Agreement, the value of the Co-Tenancy Interest of Skypark shall be initially established as $8,000,000.00, and the value of the Co-Tenancy Interest of 6th Street shall be initially established as $2,000,000.00.

ARTICLE 2.2. ***Cash Contributions.***

ARTICLE 2.2.1. During the term of this Agreement, each of the Co-Tenants shall be required to make cash contributions ("Cash Contributions") upon the request of the Manager (as defined in Article 4., Section 4.1.), but only: (i) to the extent necessary to enable the Co-Tenancy to repay any indebtedness which may or may not be secured by the Leasehold; or (ii) to pay the Co-Tenancy's expenses or unpaid bills.

ARTICLE 2.2.2. Each Co-Tenant shall be obligated to contribute a Cash Contribution amount equal to such Co-Tenant's Percentage Interest times the total Cash Contribution amount required of all Co-Tenants.

ARTICLE 2.2.3. A Co-Tenant's Percentage Interest shall be adjusted to recognize any Co-Tenant's failure to make a requested Cash Contribution.

ARTICLE 2.2.4. If a Co-Tenant fails to make a requested Cash Contribution, or any portion thereof, such Co-Tenant shall be deemed to be in default. With respect to such defaulting Co-Tenant, the non-defaulting Co-Tenant may exercise any of the following remedies, in addition to any and all other rights or remedies available under law, in equity, or under this Agreement, by written notice to said effect to the defaulting Co-Tenant within five (5) days after the due date for the Cash Contribution not contributed by the defaulting Co-Tenant:

(i) Make for its own account the Cash Contribution requested of the defaulting Co-Tenant, thereby increasing its Percentage Interest and reducing the defaulting Co-Tenant's Percentage Interest. The change in Percentage Interest shall be equal to the product of 150% times the fraction of which the numerator is the amount the defaulting Co-Tenant did not contribute and the denominator is the total of all Cash Contributions made by all of the Co-Tenants since the inception of the Co-Tenancy. For example, if (1) the prior Cash Contributions made by all Co-Tenants total $2,500,000, (2) the new Cash Contributions requested total $1,000,000, and (3) prior to the default, the defaulting Co-Tenant had a 10% Co-Tenancy Interest, then the defaulting Co-Tenant's Co-Tenancy Interest would be reduced to 5.71% (150% x [$100,000) ($1,000,000 + $2,500,000)]). The Co-Tenant who contributes the defaulting Co-Tenant's Cash Contribution shall have its aggregate Percentage Interest increased by 4.29%.

(ii) Lend the money to the defaulting Co-Tenant (from the non-defaulting Co-Tenant's own funds or from funds borrowed by the non-defaulting Co-Tenant from a third party for that purpose), with or without a written note or the defaulting Co-Tenant's consent, to make the requested Cash Contribution for said defaulting Co-Tenant's account, which loan shall be deemed to be a loan by the non-defaulting Co-Tenant to the defaulting Co-Tenant payable by the defaulting Co-Tenant on demand, which loan shall bear interest payable monthly at prime plus five percent (5%) (but not more than permitted by law). A defaulting Co-Tenant shall be liable to the non-defaulting Co-Tenant for all costs and fees, including but not limited to drafting the note, which costs and fees shall be part of the loan principal, and collection costs incurred by the non-defaulting Co-Tenant in connection with collecting from the defaulting Co-Tenant the unpaid portion of any such loan.

ARTICLE 2.3. ***Co-Tenant Accounts.*** Manager shall establish and maintain for accounting purposes individual accounts for each of the Co-Tenants ("Co-Tenant Accounts"). Each Co-Tenant's Account shall be increased by the Cash Contributions made by such Co-Tenant, and decreased by any distributions made to such Co-Tenant.

ARTICLE 2.4. ***Withdrawal, Return, and Interest on Cash Contributions.*** Except as otherwise provided herein, no Co-Tenant shall be permitted to withdraw its Cash Contributions and no Co-Tenant is guaranteed the return of its Cash Contributions. No Co-Tenant shall be entitled to receive interest on its Cash Contributions.

## ARTICLE 3.

## ACCOUNTING AND DISTRIBUTIONS

ARTICLE 3.1. ***Accounting Year and Method.*** The accounting year of the Co-Tenancy shall be the calendar year. The Co-Tenancy books shall be kept on a cash basis.

ARTICLE 3.2. ***Books of Account.*** Manager shall cause proper and complete books of account of the Co-Tenancy's business to be kept at the principal place of business as specified in Article 1., Section 1.4. above (or at such other places as the Co-Tenants may select) and shall be open to inspection by the Co-Tenants or their designated representatives at any reasonable time during business hours. The accounting records shall be maintained in accordance with generally-accepted accounting principles.

ARTICLE 3.3. ***Annual Tax Returns.*** Within a reasonable time after the end of each calendar year, Manager shall cause such information to be provided to the Co-Tenants as they may reasonably require for preparation of their federal and state

income tax returns. There shall be no preparation of any partnership or similar return for the Co-Tenancy or any Co-Tenant.

ARTICLE 3.4. ***Distributable Funds.*** Manager shall consider, no less frequently than quarterly, whether there exist any distributable funds with respect to the Leasehold and whether any or all of such distributable funds shall be distributed to the Co-Tenants. The term "distributable funds" shall mean the amount by which the total cash on hand and in accounts owned by the Co-Tenants is in excess of reasonable working capital requirements and reserves reasonably determined by Manager as necessary with respect to the Leasehold.

ARTICLE 3.5. ***Distributions Other Than Capital Transactions.*** Other than in connection with Capital Transactions (as defined in Article 3., Section 3.6 below), distributable funds shall be distributed to the Co-Tenants pro rata in accordance with their respective Percentage Interests.

ARTICLE 3.6. ***Distributions Following Capital Transactions.*** The term "Capital Transactions" shall mean a sale or refinancing of all or any portion of the Leasehold, payment for loss under any policy of insurance (including title insurance), or an award or compensation in condemnation or other eminent domain proceedings. Distributable funds from Capital Transactions shall be distributed to the Co-Tenants pro rata in accordance with their respective Percentage Interests.

ARTICLE 3.7. ***Allocation of Loan and Payments Thereunder.*** With respect to the Loan, as defined in Article 5., Section 5.1., both the Loan and the payments made thereunder shall be allocated, for Co-Tenancy accounting and tax purposes, seventy-three percent (73%) to Skypark, and twenty-seven percent (27%) to 6th St. Distributions to the Co-Tenants shall be adjusted accordingly.

## ARTICLE 4.

## MANAGEMENT

ARTICLE 4.1. ***Manager.*** Skypark shall be the Managing Co-Tenant ("Manager") and shall have overall control, management and direction of the business of the Co-Tenancy. The Manager's duties shall specifically include, but not be limited to, the following: (i) responsibility for the day-to-day operations of the Leasehold and the Co-Tenancy; (ii) interaction with Lender in the ordinary course of business; and (iii) control over all operating and other bank accounts with respect to the Leasehold and the Co-Tenancy. The Manager shall manage or cause to be managed the affairs of the Co-Tenancy in a prudent and business-like manner, and shall devote that part of its time, attention and energies to Co-Tenancy affairs as is reasonably necessary in its discretion

for the conduct of such affairs; provided, however, that it is expressly understood and agreed that Manager shall not be required to devote its entire time, attention and energies to the business of the Co-Tenancy. Manager shall consult with the other Co-Tenant from time to time in connection with management of the Co-Tenancy.

ARTICLE 4.2. ***Cooperation.*** Co-Tenants agree to: (i) cooperate with each another; (ii) execute all documents reasonably required in connection with the Leasehold and the Co-Tenancy, and in connection with obtaining the Loan, as defined in Article 5.; (iii) obtain any governmental permits, variances, conditional use permits or tentative or final tract and/or parcel maps and any other governmental approvals reasonably necessary in connection with the Leasehold, and to sign all documents necessary to effect any action approved in accordance with this Agreement.

ARTICLE 4.3. ***Reimbursement of Expenses Incurred on Behalf of the Co-Tenancy.*** Manager shall from time to time, but not less often than monthly, reimburse itself from Co-Tenancy funds for direct costs and the general administrative overhead expenses. Direct costs shall mean all actual and necessary direct out-of-pocket expenses paid by Manager for the benefit of the Leasehold in connection with management of the Leasehold and which are directly attributable to operation of the Leasehold. General and administrative overhead expenses shall mean all customary legal, accounting and other incidental reasonable expenses necessary to operate the Leasehold.

ARTICLE 4.4. ***Insurance.*** Manager shall arrange for all necessary insurance in connection with the Leasehold, including, without limitation, public liability insurance, extended risk property insurance and such other coverages as may be required by Lender with respect to the Leasehold or as reasonably determined as necessary by Manager. As long as any portion of the Loan remains outstanding and the Deed of Trust secures the Leasehold, all such policies of insurance for the Leasehold shall name Lender as an additional insured.

ARTICLE 4.5. ***Change in Manager.*** Any replacement of Skypark as the Manager shall require the unanimous written consent of the Co-Tenants. Any management agreement entered into with a party other than a Co-Tenant to provide management services for the Leasehold shall require the unanimous written consent of the Co-Tenants and shall be for a period not to exceed one (1) year, but shall be renewed annually on the same terms and conditions as stated therein, unless written notice requesting cancellation is given by any Co-Tenant to the other Co-Tenant within thirty (30) days prior to expiration of the then-existing management agreement.

ARTICLE 4.6. ***Sale or Lease of the Leasehold.*** The Leasehold may not be exchanged, sold, or refinanced unless approved by the unanimous written consent of the Co-Tenants.

## ARTICLE 5.

## LOAN SECURED BY THE LEASEHOLD

ARTICLE 5.1. ***The Loan.*** Co-Tenants shall obtain a loan in the amount of Five Million Dollars ($5,000,000.00) from IXIS Real Estate Capital Inc. ("Lender") for the purposes of refinancing the Leasehold (the "Loan").

ARTICLE 5.2. ***Security Instruments.*** The Loan will be secured by a First Deed of Trust on the Leasehold (the "Deed of Trust"), an Assignment of Leases and Rents, a Security Agreement, and a UCC-1 Financing Statement covering all personal property used in connection with the Leasehold (collectively, the "Security Instruments").

ARTICLE 5.3. ***Loan Documents.*** Co-Tenants will sign the Security Instruments and any other documents reasonably required by Lender to secure the Loan with the Leasehold (collectively, the "Loan Documents").

ARTICLE 5.4. ***Subordination of Agreement.*** As long as any portion of the Loan is outstanding, Co-Tenants agree that this Agreement shall be subject and subordinate to the Loan Documents. Co-Tenants further agree that any rights of the Co-Tenants to place liens on the Leasehold shall be waived during the term of the Loan and subordinated to the Deed of Trust.

ARTICLE 5.5. ***Conflicts.*** In the event of any conflict or controversy arising between the terms and conditions of this Agreement and the Loan Documents, the terms and conditions of the Loan Documents shall govern and prevail.

## ARTICLE 6.

## TRANSFER OF INTERESTS

ARTICLE 6.1. ***Skypark's Right of First Refusal.*** If 6th St. receives an offer from any person or entity ("Offeror") to purchase all or any portion of its Co-Tenancy Interest ("Offer"), and if 6th St. is willing to accept the Offer, then 6th St. shall give written notice to Skypark of the offered price, all material terms of the Offer and the identity of the Offeror, and shall include in said notice a copy of the Offer. Skypark shall have the right, within fifteen (15) days after the notice is given, to agree in writing to purchase 6th St.'s Co-Tenancy Interest on the same terms as those contained in the Offer; provided, however, that if Skypark exercises such right, it shall be entitled to a

credit against the purchase price in an amount equal to seven percent (7%) of the then outstanding principal balance of the Loan, for purposes of taking into account the allocation provided for in Section 3.7. In the event Skypark fails to timely exercise its right of first refusal to purchase, then 6th St. shall be free to sell its Co-Tenancy Interest only to the Offeror and only on terms that are not materially different from those set forth in the Offer within one hundred twenty (120) days from the date of the Offer, provided that the Offeror assumes in writing the obligations of 6th Street and signs this Agreement; otherwise, any such sale shall be considered null and void.

ARTICLE 6.2. ***6th St.'s Right of First Refusal.*** If Skypark receives an offer from any person or entity ("Offeror") to purchase all or any portion of its Co-Tenancy Interest ("Offer"), and if Skypark is willing to accept the Offer, then Skypark shall give written notice to 6th St. of the offered price, all material terms of the Offer and the identity of the Offeror, and shall include in said notice a copy of the Offer. 6th St. shall have the right, within fifteen (15) days after the notice is given, to agree in writing to purchase Skypark's Co-Tenancy Interest on the same terms as those contained in the Offer. In the event 6th St. fails to timely exercise its right of first refusal to purchase, then Skypark shall be free to sell its Co-Tenancy Interest only to the Offeror and only on terms that are not materially different from those set forth in the Offer within one hundred twenty (120) days from the date of the Offer, provided that the Offeror assumes in writing the obligations of Skypark and signs this Agreement; otherwise, any such sale shall be considered null and void.

ARTICLE 6.3. ***Permitted Transfers by Skypark.*** Notwithstanding the provisions of Section 6.1, Skypark shall have the absolute right to sell, assign, or otherwise transfer all or any portion of its Co-Tenancy Interest, without first offering to sell such interest to 6th St., to any of the following: (a) an entity of which at least fifty-one percent (51%) of the equity interests are held by Skypark; (b) an entity of which at least fifty-one percent (51%) of the equity interests are held by the La Caze Family Trust, or any other trust established for the benefit of Norman R. La Caze, Carole J. La Caze, or any descendent of Norman R. La Caze or Carole J. La Caze; (c) an entity of which at least fifty-one (51%) of the equity interests are held by Norman R. La Caze, Carole J. La Caze, or any descendent of Norman R. La Caze or Carole J. La Caze; (d) a limited liability company of which Norman R. La Caze is a manager; or (e) a partnership of which Norman R. La Caze is a general partner.

## ARTICLE 7.

## DEFAULT; REMEDIES

ARTICLE 7.1. ***Events of Default.*** The following acts by a Co-Tenant shall constitute a default under this Agreement:

ARTICLE 7.1.1. Failure to perform any obligation agreed to be performed under this Agreement, if such failure remains uncured for a period of sixty (60) days after delivery of a written notice by Manager or the non-defaulting Co-Tenant; or if the defaulting Co-Tenant cannot cure a failure involving performance of an action (and not payment of money) within such sixty (60) day period, then if the defaulting Co-Tenant fails to commence curing such failure within such sixty (60) day period or thereafter fails to diligently pursue the curing of such default to completion;

ARTICLE 7.1.2. Filing any petition for any relief under any bankruptcy laws of the United States or for any relief under any other laws of the United States or any state for relief of debts or coming under the jurisdiction of any court in any involuntary proceeding or action in bankruptcy, arrangement for the benefit of creditors, receivership or other judicial or governmental action which is not dismissed within ninety (90) days;

ARTICLE 7.1.3. Permitting the Leasehold or any portion thereof or interest therein to be levied upon or otherwise be subjected to the claims of the creditor of any Co-Tenant, or come into the possession of a receiver appointed for any Co-Tenant which is not dismissed within ninety (90) days (the circumstances described in Section 7.1.2. and this Section 7.1.3. shall be collectively or alternatively referred to herein as a "Bankruptcy"); and

ARTICLE 7.1.4. Voluntarily or involuntarily selling, transferring, mortgaging, or otherwise disposing of or encumbering its Co-Tenancy Interest or any portion thereof (including under judicial order, legal process, execution, or attachment), except as expressly permitted by this Agreement.

ARTICLE 7.2. ***Remedies for Default.*** In the event of a default under Sections 7.1.1, 7.1.2, or 7.1.3, above, which default has not been corrected within any applicable cure period, or a default under Section 7.14, above, then, the defaulting Co-Tenant shall be in breach of this Agreement, and the non-defaulting Co-Tenant shall be entitled to pursue all rights and remedies afforded to such Co-Tenant by law, except as otherwise provided in this Agreement. Any sale, transfer, mortgage, or disposition in violation of Section 7.14 shall be invalid *ab initio*.

ARTICLE 7.3. ***Arbitration.*** Any controversy arising out of this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

## ARTICLE 8.

## MISCELLANEOUS

ARTICLE 8.1. ***Amendments.*** This Agreement may be amended at any time in a writing which has been agreed to and signed by fifty-one percent (51%) in interest of all Co-Tenants.

ARTICLE 8.2. ***Third Party Beneficiary.*** Lender shall be a third-party beneficiary with respect to the provisions of this Agreement intended to benefit Lender, as contained in Sections 4.1., 4.5., 5.4., 5.5., 6.1. and 7.1 of this Agreement.

ARTICLE 8.3. ***Entire Agreement.*** This Agreement contains the entire agreement of the parties relating to the rights granted and obligations assumed in connection with the Leasehold. Any oral representations or modifications concerning this Agreement shall be of no force or effect unless contained in a subsequent written modification signed by the party to be charged.

ARTICLE 8.4. ***Successors.*** Subject to the limitations contained herein, this Agreement shall be binding on and inure to the benefit of the respective successors, assigns and personal representative of the parties.

ARTICLE 8.5. ***Governing Law.*** This Agreement is executed and intended to be performed in the State of California and the laws of that state shall govern its interpretation and effect.

ARTICLE 8.6. ***Construction of Agreement.*** The covenants and provisions contained herein shall not be construed in favor of or against any of the Co-Tenants, but shall be construed as if all Co-Tenants prepared this Agreement. The covenants and provisions contained herein, to the extent that the same are necessary and applicable as shown by the context thereof, shall constitute continuing obligations of the Co-Tenants. The paragraph headings set forth herein are used only for the purpose of convenience and shall not be deemed to limit the subject matter of any paragraph hereof or to be considered in the construction thereof.

ARTICLE 8.7. ***Execution of Documents.*** Each of the Co-Tenants shall execute such additional instruments and documents as shall be reasonably necessary in order to effectuate and carry out the intentions and purposes of this Agreement.

ARTICLE 8.8. ***Severability.*** If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to other persons

or circumstances shall not be affected thereby and shall be enforceable to the greatest extent permitted by law.

ARTICLE 8.9. ***Waiver.*** No consent or waiver, expressed or implied, by Manager or any other Co-Tenant to or of any breach or default by any other Co-Tenant in the performance by the other of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any breach or default in the performance by such other party of the same or any other obligations of such Co-Tenant hereunder. Failure on the part of any Co-Tenant to complain of any act of any other Co-Tenant or to declare any other Co-Tenant in default, irrespective of how long such failure continues, shall not constitute a waiver by such Co-Tenant of its rights hereunder.

ARTICLE 8.10. ***Notice.*** All notices to be given under this Agreement shall be in writing and sent to the most recent address on the books and records for the Co-Tenant to whom notice is to be given. Notices shall be given by: (i) United States Certified Mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail; (ii) a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with the courier; or (iii) facsimile or similar means, if a copy of the notice is also sent by United States Certified Mail, in which case notice shall be deemed delivered on transmittal by facsimile or other similar means, provided that a transmission report is generated that reflects accurate transmission of the notices.

ARTICLE 8.11. ***Counterparts.*** For convenience of the parties, this Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all such counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart.

ARTICLE 8.12. ***Outside Activities.*** Any Co-Tenant may be engaged in one or more investments or businesses, other than the investment or business of the Leasehold, including businesses and investments in competition with the Leasehold, and no Co-Tenant need offer such business opportunities or investments to any other Co-Tenant, but may take advantage of those opportunities or investments for its own enterprises with which it is associated. No Co-Tenant shall have the right to any income or profit derived by a Co-Tenant from any enterprise, opportunity or investment permitted by this Section 8.12.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Co-Tenants have executed this Agreement Between Tenants-in-Common as of the date first above written.

"Skypark"

LDC SKYPARK, LLC, a California Limited Liability Company

By: _____
Norman R. La Caze, its Manager

"6th St."

6th ST. GOVERNOR, LLC, a California Limited Liability Company,

By: EXCELL INVESTMENT GROUP, LLC, a California Limited Liability Company, its Manager

By: _____
Chris J. Renard, its Manager

By: AZUSA BLVD., LLC, a California Limited Liability Company, its Manager

By: _____
Ricardo E. Macaya, its Manager

**Exhibit B**

## FIRST AMENDMENT TO LEASE

**(Lease C 2004-155)**

THIS FIRST AMENDMENT TO LEASE is dated for reference purposes only as of August 30, 2005, by and between CITY OF TORRANCE, a municipal corporation, as "City" and LDC SKYPARK LLC, a California limited liability company, as "Lessee".

### RECITALS:

A. City and Lessee are parties to that certain lease dated July 27, 2004, ("Lease") covering certain premises in Torrance, California more particularly described therein ("Premises").

B. City and Lessee desire by this First Amendment To Lease to amend the Lease as hereinafter set forth.

### TERMS:

NOW THEREFORE, for valuable consideration, receipt and adequacy of which is hereby acknowledged, City and Lessee agree as follows:

1. Rent. Sections 3 ("Rent") and 4 ("Fair Rental Value") of the Lease are amended by deleting said Sections 3 and 4 in their entirety and replacing same with new Sections 3 and 4 set forth below:

"3. RENT. On or before the first day of each month during the Term of the Lease, Lessee shall pay, in advance, to the City rent (together, along with any and all applicable adjustments hereinafter referred to as "Rent") pursuant to the following schedule:

| Lease Year | Date | Ground Rent |
|---|---|---|
| Lease Year 1 | July 1, 2004 - January 31, 2006 | $20,000.00 per month ** |
| Lease Year 2 | February 1, 2006 - January 31, 2007<br><br>**Any overpayment of Ground Rent for July 1, 2004 shall be credited against Rent otherwise payable for September 2005, October 2005 and November 2005, and thereafter until such overpayment is depleted. | $67,320.00 per month *<br><br>**As set forth in Section 2 below, on the date on which Lowe's shall first open its store for business in the Premises, but in no event later than August 1, 2006. Lessee shall pay, in addition to the Rent specified herein, and notwithstanding anything else in the Lease, an additional Rent amount of $1,000,000.00 to Lessor.* |

C2004-155

**COPY**

| Lease Year | Date | Ground Rent |
|---|---|---|
| Lease Year 3 | February 1, 2007 - January 31, 2008 | $68,666.40.00 per month |
| Lease Year 4 | February 1, 2008 - January 31, 2009 | $70,039.73 per month |
| Lease Year 5 | February 1, 2009 - January 31, 2010 | $71,440.52 per month |
| Lease Year 6 | February 1, 2010 - January 31, 2011 | $72,869.33 per month |
| Lease Year 7 | February 1, 2011 - January 31, 2012 | $74,326.72 per month |
| Lease Year 8 | February 1, 2012 - January 31, 2013 | $75,813.25 per month |
| Lease Year 9 | February 1, 2013 - January 31, 2014 | $77,329.52 per month |
| Lease Year 10 | February 1, 2014- January 31, 2015 | $78,876.11 per month |
| | | |
| Lease Year 11 | February 1, 2015 - January 31, 2016 | Monthly Rent shall be increased to the Fair Market Rental Value for the Premises, based on the Fair Market Rent Analysis as set forth in Article 4.Abelow provided that (a) in no event shall the monthly rent exceed one hundred fifty percent (150%) of the monthly rent payable during Lease Year 10 and (b) in no event shall monthly rent be less than the monthly rent payable during Lease year 10. |

| Lease Year | Date | Ground Rent |
|---|---|---|
| Lease Years 12 - 26 | February 1, 2016 - January 31, 2030 | Monthly Rent will be increased each and every February 1 by two percent (2%) of the Monthly Rent payable during the month preceding such adjustment. |
| Lease Years 27 - 30 | February 1, 2030 - January 31, 2034 | Monthly Rent will be equal to the Monthly Rent payable during Lease Year 26. |
| Lease Year 31 | February 1, 2034 - January 31, 2035 | The Monthly Rent payable during each of the sixty (60) months preceding will be increased by ten percent (10%) of the Monthly Rent payable during Lease Year 30. |
| Lease Years 32 - 35 | February 1, 2035 - January 31, 2039 | Ground Rent will be the same monthly amount as was payable during Lease Year 31. |
| Lease Years 36 - 40 | February 1, 2040 - January 31, 2044 | Monthly Rent will be one hundred ten percent (110%) of the Monthly Rent payable during the 35th Lease Year. |

| Lease Year | Date | Ground Rent |
|---|---|---|
| Lease Years 41 - 45 | February 1, 2044 - January 31, 2049 | Monthly Rent shall be equal to one hundred ten percent (110%) times the Monthly Rent payable during Lease Year 40. |
| Lease Years 46 - 50 | February 1, 2049 - January 31, 2054 | Monthly Rent will be one hundred ten percent (110%) times the Monthly Rent payable during Lease Year 45. |

4. FAIR RENTAL VALUE.

A. Adjustment

As used in this Section 4(A), the term "Fair Rental Value" shall mean the amount determined by the parties to be the fair market value of the Leased Premises, exclusive of the improvements thereon, based upon the use of the Leased Premises as a first-class retail and related service facility, as of the date that is six (6) months prior to the commencement of the Fair Rental Adjustment Date, multiplied by an eight percent (8%) annual rate of return; provided, however, in no event shall the monthly Rent adjusted for the Fair Rental Value provided by this Section 4(A)exceed one hundred fifty percent (150%) of the monthly Rent for the month immediately preceding the Fair Rental Adjustment Date. Notwithstanding the foregoing or any provision to the contrary set forth herein, in no event shall the adjustment of the monthly Rent provided by this Section 4(A) be less than the monthly Rent for the month immediately preceding the Fair Rental Adjustment Date.

B. Arbitration.

(1) If arbitration is required to fix the Fair Rental Value of the Leased Premises for the Fair Rental Adjustment Date, such arbitration shall be conducted in the following manner: On or before the date that is six (6) calendar months prior to the commencement of the Fair Rental Adjustment Date, the City shall appoint an arbitrator and give written notice thereof to Lessee, and within ten (10) days after the service of such notice, Lessee shall in like manner appoint an arbitrator and give written notice thereof to the City, or in case of the failure of either party hereto so to do, the other party shall have the right to apply to the Superior Court of Los Angeles County, California, to appoint an arbitrator to represent the defaulting party. The two arbitrators thus appointed (in either manner) shall select and appoint in writing a third arbitrator and give written notice thereof to the City and Lessee, or if within ten (10) days after the appointment of said arbitrator, the two arbitrators shall fail to appoint a third, then either party hereto shall have the right to make application to said Superior Court to appoint such third arbitrator. All such arbitrators shall have a minimum of ten (10) years

experience in shopping center matters and shall be both impartial and unrelated to either of the City or the Lessee.

(2) The three arbitrators so appointed (in either manner) shall promptly fix a convenient time and place in the County of Los Angeles for hearing the matter to be arbitrated and shall give written notice thereof to each party hereto at least five (5) days prior to the date so fixed, and said arbitrators shall with reasonable diligence hear and determine the matter in accordance with the provisions hereof and of the statutes and judicial decisions of the State of California at the time applicable thereto, and shall execute and acknowledge their award thereon in writing and cause a copy thereof to be delivered to each of the parties hereto.

(3) The award of a majority of said arbitrators shall determine the question arbitrated, and a judgment may be rendered by said Superior Court confirming said award, or the same may be vacated, modified, or corrected by said Court, at the instance of either of the parties hereto, in accordance with the then existing statutes of the State of California applicable to arbitrations, the provisions of which statutes shall apply hereto as fully as though incorporated herein.

(4) If two of the three arbitrators first appointed as aforesaid shall fail to reach an agreement in the determination of the matter in question, the same shall be decided by three new arbitrators, who shall be appointed and shall proceed in the same manner as hereinabove set forth, and said process shall be repeated until a decision is finally reached by two of the three arbitrators selected.

(5) Each of the parties hereto shall pay for the services of its appointee and one-half (1/2) of the fee charged by the arbitrator selected by their appointees and of all other proper costs of arbitration, with the exception of attorneys' fees and witness fees which shall be borne solely by the party incurring such fees."

2. Lease Contribution Payment. Upon the earlier of (i) initial opening for business of the retail center on the Leased Premises, or (ii) twelve (12) months from the full execution and delivery of this First Amendment To Lease by both City and Lessee, Lessee shall pay to City, in addition to monthly rent as additional rent hereunder, the sum of One Million Dollars ($1,000,000.00).

3. Incorporation of Prior Terms. Except as herein specifically amended, the Lease shall remain in full force and effect, and the terms, covenants and conditions set forth therein are (as modified herein) hereby incorporated by reference.

4. Successors and Assigns. The provisions contained herein shall bind and inure to the benefit of the heirs and successors of the parties hereto.

[SIGNATURE PAGE FOLLOWS]

This First Amendment To Lease has been entered into by the parties as of the date and year first above written.

"LESSEE"

LDC SKYPARK LLC,
a California limited liability company

By:_____
Norman R. La Caze, Manager

"CITY"

CITY OF TORRANCE,
a municipal corporation

By:_____
Mayor - DAN WALKER

ATTEST:

_____
City Clerk - SUE HERBERS, CMC

APPROVED AS TO FORM:

_____
City Attorney - John L. Fellows III

# LEASE

CITY OF TORRANCE,
a municipal corporation

("City")

and

LDC SKYPARK LLC,
a California limited liability company

("Lessee")

July 27, 2004

C2004-155

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EXHIBITS

Exhibit A Legal Description of Leased Premises
Exhibit B Sketch Map of Leased Premises
Exhibit C Description of the Project - Intentionally Left Blank
Exhibit D Quitclaim Deed and Release
Exhibit E FAA Provisions

# LEASE

THIS LEASE (this "Lease"), made and entered into at Torrance, California, dated for reference purposes only as of July 27, 2004, and effective as of the 1st day of August, 2004, by and between the CITY OF TORRANCE, a municipal corporation, hereinafter referred to as "City", and LDC SKYPARK LLC, a California limited liability company ("Lessee").

W I T N E S S E T H:

(a) The City is the owner in fee of the real property constituting the Leased Premises (as defined in Section 1 below), approximately 11.22 acres in size, located in the City of Torrance, California. Said Leased Premises are a part of the Torrance Municipal Airport, the boundaries of which are described in that certain Quitclaim Deed ("Quitclaim Deed") executed by the United States of America, dated March 5, 1948, recorded on May 13, 1948, in Book 27145, Page 362, of Official Records in the Office of the County Recorder of Los Angeles County (the "Official Records"), a copy of which Quitclaim Deed is attached hereto as Exhibit "D".

(b) By instrument of Release dated July 25, 1962, recorded on August 24, 1962, in Book R-1308, Page 800, of Official Records, a copy of which Release is attached hereto as Exhibit "D", the United States of America, acting by and through the Administrator of the Federal Aviation Administration, released, with certain exceptions, the Leased Premises, among other lands, from the conditions, reservations and restrictions of said Quitclaim Deed.

(c) The City previously leased to Hi-Shear Corporation, a Delaware corporation ("Hi-Shear"), or Hi-Shear's predecessors in interest, approximately 26.5 acres of real property consisting of the Leased Premises described herein and other real property (together, the "Hi-Shear Premises"), pursuant to that certain Consolidation Lease Agreement dated May 31, 1959 and that certain Lease Agreement dated May 31, 1959, as amended by that certain Amendment to Consolidation Lease Agreement dated July 1, 1960, and that certain Second Amendment to Consolidation Lease Agreement dated May 4, 1983 (collectively, with any and all other amendments, modifications, and agreements related thereto, the "Consolidated Lease Agreement"); that certain Lease dated July 1, 1960 (together with any and all other amendments, modifications, and agreements related thereto, the "7/1/1960 Lease"); that certain Lease Agreement dated November 19, 1954 (together with any and all other amendments, modifications, and agreements related thereto, the "11/19/1954 Lease"); and that certain Lease Agreement dated August 9, 1956 (together, with any and all other amendments, modifications, and agreements related thereto, the "8/9/1956 Lease") (the Consolidated Lease Agreement, the 7/1/1960 Lease, the 11/19/1954 Lease, the 8/9/1956 Lease and any and all other amendments, modifications, and agreements by and between Hi-Shear and/or Hi-Shear's predecessors in interest relating to the Leased Premises are collectively referred to herein as the "Master Lease").

(d) Pursuant to that certain Sublease and Improvement Agreement dated October 15, 2003 (the "Sublease"), by and between Hi-Shear, as sublessor, and Lessee, as sublessee, Hi-Shear sublet to Lessee a portion of the Hi-Shear Premises, which premises are described herein as the Leased Premises.

(e) As of June 30, 2004, the Consolidation Lease Agreement and the 7/1/1960 Lease have expired by their terms. The 11/19/1954 Lease and the 8/9/1956 Lease provide an expiration of November 30, 2004. Notwithstanding the foregoing or any provision in the 11/19/1954 Lease and/or the 8/9/1956 Lease to the contrary, Hi-Shear and the City are, concurrently herewith, terminating the 11/19/1954 Lease and the 8/9/1956 Lease and entering into a new lease for Hi-Shear's continued use of that portion of the Hi-Shear Premises more particularly described in said new lease.

(f) In connection with the expiration or termination, as applicable, of the Master Lease (and the concurrent expiration and termination, as applicable, of the Sublease), City and Lessee desire to enter into a direct lease. Accordingly, City desires to lease to Lessee, and Lessee desires to hire from City, the entire Leased Premises pursuant to this Lease, for Lessee's continued use of the Leased Premises for developing, constructing, leasing, operating and managing a retail shopping complex containing retail and retail-related services and such other uses as are consistent herewith, all on the terms and conditions set forth herein effective as of the Effective Date.

(g) The City will benefit from the execution of this Lease, inter alia, by reason of (i) the potential for greater rents which may flow to it as contrasted to the rents receivable under the Original Lease, (ii) the increased property taxes that will result from the reconstruction and upgrading of the structures on the Leased Premises, and (iii) the impetus to the upgrading and revitalization of the surrounding area that is expected to result therefrom.

(h) The City Council therefore declares that the Leased Premises are being leased hereby for commercial development for business purposes pursuant to the authority contained in Sections 37380 and 37395 of the California Government Code and pursuant to the powers conferred on the City by the provisions of Article XI of the Constitution of the State of California and by the Torrance Municipal Code.

(i) The City, acting by and through the City Council, has determined by Resolution Number 2004-95 adopted on July 27, 2004, that such property is not required for other City purposes and that it is in the public interest that this Lease be executed.

NOW, THEREFORE, IN CONSIDERATION OF THE LEASED PREMISES AND OF THE MUTUAL COVENANTS HEREIN CONTAINED, IT IS HEREBY AGREED AS FOLLOWS:

1. LEASED PREMISES

For and in consideration of the rents, covenants and conditions herein contained, the City does hereby lease to Lessee that certain real property located in the City of Torrance, State of California, which real property is legally described on Exhibit "A", and located as shown on Exhibit "B", attached hereto and made a part hereof, which real property is hereinafter referred to as the "Leased Premises", together with the nonexclusive easement more particularly described on Exhibit "A" and depicted on Exhibit "B" as the "Road Easement", and reserving therefrom, together with the right to grant and transfer the same, the "Remediation Easement" and the "Watermain Easement", as more particularly described on Exhibit "A" and depicted on Exhibit "B".

2. INITIAL TERM

The "Term" of this Lease shall expire at midnight June 30, 2054.

3. RENT

On or before the first day of each month during the Term of the Lease, Lessee shall pay, in advance, to the City rent (together, along with any and all applicable adjustments hereinafter referred to as "Rent") pursuant to the following schedule:

| | | |
|---|---|---|
| Lease Year 1 | July 1, 2004 - June 30, 2005 | $20,000.00 per month for the entire Leased Premises |
| Lease Year 2 | July 1, 2005 – June 30, 2006 | $6,000.00 per acre per month |
| Lease Year 3 through Lease Year 9 | July 1, 2006 - June 30, 2013 | Monthly Rent per acre, based on the Annual Adjustment Based on the Index, as set forth in this Section 3 below |
| Lease Year 10 through Lease Year 50 | July 1, 2014 – June 30, 2054 | Monthly Rent per acre, based on the Fair Market Rent Analysis, as set forth in Article 4 below, and subject to Annual Adjustment Based on the Index, as set forth in this Section 3 below |

Commencing on July 1, 2006, and the commencement of each Lease Year (as hereinafter defined) thereafter (each a "Fair Rental Adjustment Date"), the monthly Rent shall be increased by the greater of (a) two percent (2%) of the monthly Rent for the immediately preceding Lease Year, or (b) the proportionate amount of the increase, if any, in the "Consumers Price Index, All Urban Consumers", 1982-84 = 100 ("Index"), prepared by the United States Bureau of Labor Statistics, Department of Labor (the "Bureau") for the immediately preceding Lease Year; provided, however, in no event shall an adjustment to the monthly Rent for any Lease Year exceed five percent (5%) of the monthly Rent payable as of the last month of the immediately preceding Lease Year. As used herein, the term "Lease Year" shall mean each twelve (12) month period commencing on July 1, 2004. The proportionate increase in the Index for each Lease Year shall be determined by dividing the Index published for the second month preceding the last Fair Rental Adjustment Date (or for the first Fair Rental Adjustment Date, the second month preceding the commencement of the preceding Lease Year) by the Index published for the second month preceding each Fair Rental Adjustment Date. In the event the Index is not published in the requisite month, the Index utilized shall be the Index published for the month which is closest chronologically.

If the Bureau shall revise the Index, the parties shall accept the method of revision or conversion recommended by the Bureau; if the Index shall be discontinued with no recommended substitute, another index generally recognized as authoritative shall be substituted by agreement of the parties. If the parties are unable to agree upon a substitute index within thirty (30) days after demand by either party, on application of either party, then the substitute index shall be selected by the Chief Officer of the San Francisco Regional Office of the Bureau of Labor Statistics or its successor.

4. FAIR RENTAL VALUE

A. Adjustment

(1) Notwithstanding the provisions of Article 3 above, or any other provision to the contrary set forth herein, and in addition to the Index adjustments set forth in Section 3 above, on or before January 1, 2014 (the date that is six (6) calendar months prior to the commencement of the tenth (10th) Lease Year (the commencement of the 10th Lease Year hereinafter referred to as the "First Fair Rental Adjustment Date")) and on or before January 1, 2024 (the date that is six (6) calendar months prior to the commencement of the twentieth (20th) Lease Year (the commencement of the 20th Lease Year hereinafter being referred to as the "Second Fair Rental Adjustment Date")), City and Lessee shall conduct a Fair Market Rent Analysis (as hereinafter described) and, commencing on the First Fair Rental Adjustment Date and the Second Fair Rental Adjustment Date, respectively, the monthly Rent shall be adjusted to the Fair Rental Value (as hereinafter defined) in accordance with this Article 4. As used in this Section 4(A)(1), the term "Fair Rental Value" shall mean the amount determined by the parties to be the fair market value of the Leased Premises, exclusive of the improvements thereon, based upon the use of the Leased Premises as a first-class retail and related service facility, as of the date that is six (6) months prior to the commencement of the First Fair Rental Adjustment Date and the Second Fair Rental Adjustment Date, respectively, multiplied by an eight percent (8%) annual rate of return; provided, however, in no event shall the monthly Rent adjusted for the Fair Rental Value provided by this Section 4(A)(1) exceed one hundred fifty percent (150%) of the monthly Rent for the month immediately preceding the First Fair Rental Adjustment Date or the Second Fair Rental Adjustment Date, as applicable. Notwithstanding the foregoing or any provision to the contrary set forth herein, in no event shall the adjustment of the monthly Rent provided by this Section 4(A)(1) be less than the monthly Rent for the month immediately preceding the First Fair Rental Adjustment Date or the Second Fair Rental Adjustment Date, as applicable.

(2) Notwithstanding the provisions of Article 3 above, or any other provision to the contrary set forth herein, and in addition to the Index adjustments set forth in Section 3 above, on or before January 1, 2034 (the date that is six (6) calendar months prior to the commencement of the thirtieth (30th) Lease Year (the commencement of the 30th Lease Year hereinafter referred to as the "Third Fair Rental Adjustment Date")) and on or before January 1, 2044 (the date that is six (6) calendar months prior to the commencement of the fortieth (40th) Lease Year (the commencement of the 40th Lease Year hereinafter being referred to as the "Fourth Fair Rental Adjustment Date")), City and Lessee shall conduct a Fair Market Rent Analysis (as hereinafter described) and, commencing on the Third Fair Rental Adjustment Date and the Fourth Fair Rental Adjustment Date, respectively, the monthly Rent shall be adjusted to the Fair Rental Value (as hereinafter defined) in accordance with this Article 4. As used in this

Section 4(A)(2), the term "Fair Rental Value" shall mean the amount determined by the parties to be the fair market value of the Leased Premises, exclusive of the improvements thereon, based upon highest and best use of the land (irrespective of the uses permitted hereunder), as of the date that is six (6) months prior to the commencement of the Third Fair Rental Adjustment Date and the Fourth Fair Rental Adjustment Date, respectively, multiplied by an eight percent (8%) annual rate of return. Notwithstanding the foregoing or any provision to the contrary set forth herein, in no event shall the adjustment of the monthly Rent provided by this Section 4(A)(2) be less than the monthly Rent for the month immediately preceding the Third Fair Rental Adjustment Date or the Fourth Fair Rental Adjustment Date, as applicable.

(3) The calculations set forth in Sections 4(A)(1) and 4(A)(2) shall be referred to herein as the "Fair Rental Value Analysis."

(4) The parties hereto acknowledge that the Rent has not been calculated in the manner described in Sections 4(A)(1) and 4(A)(2), and that, accordingly, the Rent shall not be considered in determining the Fair Rental Value of the Leased Premises during any adjustment period for which these Fair Rental Value Analysis provisions are applicable.

(5) If the parties cannot agree on the Fair Rental Value of the Leased Premises for any given adjustment period, then such Fair Rental Value shall be determined by arbitration in accordance with Paragraph 4(B) below. Pending such determination by the arbitrators, Lessee shall continue to pay the Rent in accordance with this Lease until the Fair Rental Value of the Leased Premises has been determined by the arbitrators. The adjusted Rent determined by the arbitrators (which shall be equal to the Fair Rental Value of the Leased Premises) shall be retroactive to the First Fair Rental Adjustment Date, the Second Fair Rental Adjustment Date, the Third Fair Rental Adjustment Date, or the Fourth Fair Rental Adjustment Date (as applicable), and on the first day of the month following the date on which the arbitrators determine the Fair Rental Value of the Leased Premises, Lessee shall pay the adjusted Rent for the period from the commencement of the First Fair Rental Adjustment Date, the Second Fair Rental Adjustment Date, the Third Fair Rental Adjustment Date, or the Fourth Fair Rental Adjustment Date (as applicable) to date on which the arbitrators determined the Fair Rental Value of the Leased Premises, plus the adjusted Rent for the month commencing on the applicable adjustment date.

(6) Commencing on the date that is one year after the First Fair Rental Adjustment Date, the Second Fair Rental Adjustment Date, the Third Fair Rental Adjustment Date, or the Fourth Fair Rental Adjustment Date (as applicable), and each Lease Year thereafter, the adjusted Rent shall be increased in proportion to the increase, if any, in the Index, prepared by the Bureau (as more particularly set forth in Section 3); provided, however, notwithstanding the foregoing, in no event shall any installment of Rent adjusted in accordance with this provision be less than the Rent of the previous year.

B. Arbitration

(1) If arbitration is required to fix the Fair Rental Value of the Leased Premises, such arbitration shall be conducted in the following manner: On or before the date that is six (6) calendar months prior to the commencement of the First Fair Rental Adjustment Date, the Second Fair Rental Adjustment Date, the Third Fair Rental Adjustment Date, or the Fourth

Fair Rental Adjustment Date (as applicable), the City shall appoint an arbitrator and give written notice thereof to Lessee, and within ten (10) days after the service of such notice, Lessee shall in like manner appoint an arbitrator and give written notice thereof to the City, or in case of the failure of either party hereto so to do, the other party shall have the right to apply to the Superior Court of Los Angeles County, California, to appoint an arbitrator to represent the defaulting party. The two arbitrators thus appointed (in either manner) shall select and appoint in writing a third arbitrator and give written notice thereof to the City and Lessee, or if within ten (10) days after the appointment of said arbitrator, the two arbitrators shall fail to appoint a third, then either party hereto shall have the right to make application to said Superior Court to appoint such third arbitrator. All such arbitrators shall have a minimum of ten (10) years experience in shopping center matters and shall be both impartial and unrelated to either of the City or the Lessee.

(2) The three arbitrators so appointed (in either manner) shall promptly fix a convenient time and place in the County of Los Angeles for hearing the matter to be arbitrated and shall give written notice thereof to each party hereto at least five (5) days prior to the date so fixed, and said arbitrators shall with reasonable diligence hear and determine the matter in accordance with the provisions hereof and of the statutes and judicial decisions of the State of California at the time applicable thereto, and shall execute and acknowledge their award thereon in writing and cause a copy thereof to be delivered to each of the parties hereto.

(3) The award of a majority of said arbitrators shall determine the question arbitrated, and a judgment may be rendered by said Superior Court confirming said award, or the same may be vacated, modified, or corrected by said Court, at the instance of either of the parties hereto, in accordance with the then existing statutes of the State of California applicable to arbitrations, the provisions of which statutes shall apply hereto as fully as though incorporated herein.

(4) If two of the three arbitrators first appointed as aforesaid shall fail to reach an agreement in the determination of the matter in question, the same shall be decided by three new arbitrators, who shall be appointed and shall proceed in the same manner as hereinabove set forth, and said process shall be repeated until a decision is finally reached by two of the three arbitrators selected.

(5) Each of the parties hereto shall pay for the services of its appointee and one-half (1/2) of the fee charged by the arbitrator selected by their appointees and of all other proper costs of arbitration, with the exception of attorneys' fees and witness fees which shall be borne solely by the party incurring such fees.

5. ADDITIONAL RENT

In addition to the Rent described in Article 3 above (as such Rent may be adjusted in accordance with Article 4 above), all other charges and sums payable by Lessee hereunder shall be deemed to be additional rent ("Additional Rent") hereunder, whether or not the same be designated as such, and shall be due and payable (if payable to a third party) not later than the dates on which the same are due and payable, or (if payable to City) on demand or together with the next succeeding installment of Rent, whichever shall first occur, and City shall have the same rights and remedies upon Lessee's failure to pay the same as for the nonpayment of the Rent.

6. PLACE OF PAYMENT AND LATE PAYMENT

A. Place of Payment

All Rent and Additional Rent payments shall be paid, without deduction or offset, to the office of the Treasurer of the City at 3031 Torrance Boulevard, Torrance, California, 90503, or at such place as the City shall from time to time designate in writing.

B. Late Payment

In the event any payment required hereunder is not made within ten (10) days after the date due, the Lessee acknowledges that the amount necessary to adequately compensate the City would be impracticable and extremely difficult to calculate. Therefore, Lessee agrees that in addition to the Rent and Additional Rent, the following schedule of late charges shall be applicable to that portion which is overdue: (1) Late 10 days but under 30 days: 2% of the amount due; plus (2) For each additional 30 days or fraction thereof over 30 days: an additional 2% of the amount due for each 30 days or fraction thereof; provided, however, that in no event shall the amounts payable to the City pursuant to this Paragraph 6(B) exceed the maximum amounts allowed by law.

C. No Relief from Default

The provisions herein for payment of late charges shall not be construed to extend the date for payment of any sums required to be paid by Lessee hereunder or to relieve Lessee of its obligation pay all such sums at the time or times herein stipulated. Notwithstanding the imposition of such late charges, Lessee shall be in default under this Lease if any or all payments required to be made by Lessee are not made at the time herein stipulated, and neither the demand for, nor collection by, City of such late charges shall be construed as a curing of such default on the part of Lessee.

7. USE

Lessee's use of the Leased Premises shall be as an integrated shopping complex containing retail and related service facilities and for no other purpose or purposes, unless the prior written consent of the City Council thereto has been obtained, which consent may be given or refused in the sole discretion of the City Council.

8. TITLE AND POSSESSION

A. Possession

Possession of the Leased Premises shall be deemed to have been delivered to Lessee on the Effective Date. Lessee acknowledges and agrees that Lessee (and/or its predecessors-in-interest) has had possession of the Leased Premises since October 15, 2003 and that Lessee is and shall be responsible for the current condition of the Leased Premises and the improvements located thereon. Lessee's possession of the Leased Premises shall be on an "AS-IS," "WHERE-IS," and "WITH ALL FAULTS" basis, without representation or warranty expressed or implied by City, by operation of law, or otherwise. Lessee hereby acknowledges and agrees that City has disclosed to Lessee, and that it is Lessee's responsibility to disclose to

third parties, the existence of various monitoring wells upon the Leased Premises, which monitoring wells are the subject of the Remediation Easement more particularly defined on Exhibit "A". Lessee acknowledges that pursuant to the Remediation Easement, Hi-Shear Corporation is granted access to the Leased Premises to conduct monitoring and other activities at various locations on the Leased Premises are subject to conditions which require Hi-Shear to avoid or, to the extent possible, minimize interference with Lessee's use of the Leased Premises or the timing of when it can develop the Leased Premises. Lessee agrees that so long as Hi-Shear is acting in accordance with the Remediation Easement it will not interfere with Hi-Shear's activities pursuant to the Remediation Easement (including disturbing existing wells). Additionally, Lessee shall have no claim against the City relating to Hi-Shear's exercise of its rights under the Remediation Easement, even if the exercise of such rights delays or interferes with Lessee's use of the Leased Premises. Lessee shall be responsible for any defects in the Leased Premises, whether patent or latent, including, without limitation, the physical, environmental and geotechnical condition of the Leased Premises, and the existence of any contamination, Hazardous Materials (as hereinafter defined), vaults, debris, pipelines, or other structures located on, under or about the Leased Premises, and City makes no representation or warranty concerning the physical, environmental, geotechnical or other condition of the Leased Premises, the suitability of the Leased Premises for the uses permitted herein, and City specifically disclaims all representations or warranties of any nature concerning the Leased Premises made by it, the City and their employees, agents and representatives. The foregoing disclaimer includes, without limitation, topography, climate, air, water rights, utilities, soil, subsoil, existence of Hazardous Materials or similar substances, the purpose for which the Leased Premises is suited, or drainage.

B. Warranty of Authority

(1) The City warrants that it has full right, legal capacity and authority to enter into and perform its obligations under this Lease and that the Mayor and the City Clerk are authorized and directed to execute and attest this Lease for and on behalf of the City, and that the Charter of the City authorizes the City Attorney to approve the form of this Lease; and except as otherwise set forth in this Lease, no approval or consent not heretofore obtained is necessary in connection with its execution on behalf of the City or the performance of the City's obligations hereunder.

(2) Norman R. La Caze, as the Manager of Lessee, hereby represents and warrants to the City that he/she has the full right, legal capacity and the authority to enter into the obligations of Lessee under this Lease; that said Lessee is or shall be the sole owner of the leasehold interest under this Lease as of the instant prior to the time of effectiveness of this Lease; that no approval or consent is necessary in connection with his execution of this Lease on behalf of Lessee or the performance of Lessee's obligations hereunder; that a true and correct copy of Lessee's Certificate of Formation and Operating Agreement as filed with the California Secretary of State, have been delivered to the City, and that Lessee is a duly qualified limited liability company in good standing under the laws of the State of California and is duly qualified to transact business and in good standing under the laws of the State of California.

9. CONSTRUCTION

A. Covenant to Remodel, Upgrade, and Rebuild

(1) Subject to the conditions hereinafter provided in this Paragraph 9, Lessee agrees to grade and construct a retail shopping center on the Leased Premises by completing, at its own cost and expense, the work pursuant to plans and specifications as approved through the normal governmetal review process "Plans", which work is hereinafter called the "Project"

B. Construction Plans.

Within thirty (30) days of the Effective Date, Lessee shall prepare and submit to the Director of Community Development an application for the Director's approval of the final plans and specifications for the Project. From and after the date that the Director approves of the final plans and specifications for the Project, no revisions or modifications to such final plans shall be made unless the Lessee has obtained the prior written consent of City, which consent may be withheld in City's sole and absolute discretion.

C. Building Permits and Parcel Map

Before commencing the Project, Lessee shall obtain all applicable permit(s), including, without limitation building permits, as required by the Torrance Municipal Code (which incorporates the City's Building and Fire Codes) and any amendments thereto, or any other Applicable Laws. Lessee agrees that if, in the reasonable opinion of the City Attorney of the City, this Lease, or any transaction contemplated by this Lease, requires the filing for record, in accordance with the Torrance Municipal Code and the California Subdivision Map Act, of a parcel map with respect to this Lease, Lessee shall diligently prepare, process and file for record, or cause to be prepared, processed and filed for record, such a parcel map.

D. Completion

(1) Subject to the provisions of Paragraph 9(E) below, Lessee shall commence the Project not later than one hundred twenty (120) days after the Effective Date, shall proceed to complete the Project as expeditiously as practical, and shall complete the Project within five (5) years of the Effective Date.

(2) The Project shall be deemed to be complete when, and only when, (a) all work for the Project has been completed in accordance with the approved Plans (as set forth in Paragraph 9(B) above), (b) the City Manager or designee, in his or her reasonable discretion, has confirmed the completion of the Project in accordance with the approved Plans, (c) the Director of Building and Safety, or designee, has confirmed the completion of the Project in accordance with the approved Plans, (d) the architect for the Project has executed and delivered to Lessee the Architect's Certificate of Completion, and (e) Lessee has furnish a copy of the Architect's Certificate of Completion to the City Manager.

E. Force Majeure

The time within which Lessee is obligated hereunder to construct, repair or rebuild any building or other improvements, or cure any default on the part of Lessee hereunder shall be extended for a period of time equal in duration to, and performance in the meantime shall be excused on account of and for and during the period of, any delay caused by strikes, threats of strikes, lockouts, war, threats of war, insurrection, invasion, acts of God, calamities, violent action of the elements, fire, action or regulation of any governmental agency, law or ordinance, impossibility of obtaining materials, administrative delays by the City in the processing of governmental permits or improvements, delays directly caused by the City's changes to the Plans, or other things beyond the control of Lessee. Notwithstanding anything to the contrary set forth in this Lease, this Paragraph shall not apply to any delay resulting from Lessee's changes to the Plans.

F. FAA Filing

Prior to the commencement of any work on the Project, if applicable, Lessee shall file Form 7460-1 and receive approval thereof from the Federal Aviation Administration.

G. Interference with Aircraft

Lessee shall not light or operate, or cause or permit to be lighted or operated, any equipment which would interfere with the navigation, landing or takeoff of aircraft on the runways and in the aeronautical areas of the Airport.

H. Acoustical Treatment

(1) All buildings located upon the Leased Premises shall be designed to provide an interior noise level within a LegA weighted sound level of 50 dBA and a Lmax peak value of 60 dBA. The designer must prepare detailed plans of construction showing the sound insulation assembly to resist the airborne community noise equivalent level contours of 60 dB CNEL or greater. The contour map will be provided by the Airport Division of the City's Department of Transportation.

To the extent applicable, before commencement of the Project, Lessee shall submit to the Director an analysis of the plans by an acoustical engineer certifying that, in his opinion, such level will not be exceeded. A building permit will not be issued for any buildings unless and until the City's acoustical consultant certifies that, in his reasonable opinion, such level will not be exceeded.

(2) Definitions of standards specified in Section 1092 of Part I of Title 25 of the California State Housing Code are incorporated in this Lease as a minimum standard of compliance.

(3) Before occupancy of any part of any constructed, remodeled, or reconstructed building is permitted, the Lessee shall submit to the Department of Building and Safety a statement by an acoustical engineer certifying that said buildings have been constructed in accordance with such acoustical plans and that, in his opinion, such level has not been

exceeded. Such occupancy shall not be approved unless and until the City's acoustical consultant certifies that, in his reasonable opinion, such level has not been exceeded.

I. Liquidated Damages

If Lessee fails to comply with the timing requirements of Paragraph 9(D), as to the completion of the Project, then Lessee shall pay to the City the sum of $10,000 for each month or fraction thereof until such completion of the Project as liquidated damages for such failure to complete of the Project.

Lessee agrees and stipulates that it would be extremely difficult to fix the actual damages of City that would result from Lessee's failure to timely comply with Paragraph 9(D), and that, accordingly, the agreement of Lessee to pay the amounts specified above as liquidated damages in lieu thereof is reasonable under the circumstances existing as of the date hereof.

J. Property of Lessee

Any buildings, structure or other improvements existing as of the commencement of the Term of this Lease or which shall be constructed, remodeled, reconstructed or placed on the Leased Premises shall become the property of Lessee for the Term of this Lease, subject to the terms and conditions hereof, and shall become the property of the City upon the expiration or sooner termination of this Lease as provided herein. Lessee shall be responsible for all maintenance of all buildings and improvements thereon in accordance with the provisions of this Lease.

10. LIENS

A. Payment by Lessee

(1) Subject to Lessee's right to contest the same as hereinafter provided in Paragraph 10(D) below, Lessee agrees that it will pay as soon as due all mechanics', laborers', materialmen's, contractors', subcontractors', or similar charges, and all other charges of whatever nature which may become due, attached to or payable on said Leased Premises or any part thereof or any building, structure or other improvements thereon, from and after the date as of which this Lease is executed or as a result of any work performed on the Leased Premises by Lessee or any of Lessee's, agents, employees or contractors prior to such date. Notwithstanding the foregoing, Lessee shall not be responsible for any such-charges arising from work performed on the Leased Premises by the City's employees or agents.

(2) Nothing herein contained shall in any respect make Lessee the agent of the City, or authorize Lessee to do any act or to make any contract encumbering or in any manner affecting the title or rights of the City in or to the Leased Premises or the improvements thereon.

B. Notice

Before any buildings, structures or other improvements, repairs or additions thereto, of an aggregate cost in excess of Twenty-Five Thousand Dollars ($25,000) are

constructed, remodeled or reconstructed upon the Leased Premises, Lessee shall serve written notice upon the City, in the manner provided for in Paragraph 27 herein, twenty (20) days prior to commencement of Lessee's intention to perform such work for the purpose of enabling the City to post and record notices of nonresponsibility under the provisions of Section 3094 of the California Civil Code, or any other similar notices which may be required by law.

C. Bond

If any such mechanics' or other liens shall at any time be filed against the Leased Premises or any portion thereof or interest therein, Lessee shall cause the same to be discharged of record within thirty (30) days after the date of filing the same, or otherwise free the Leased Premises from the effect of such claim of lien any action brought to foreclose such lien, or Lessee shall promptly furnish to the City a bond in an amount and issued by a surety company satisfactory to the City, securing the City against payment of such lien and against any and all loss or damage whatsoever in any way arising from the failure of Lessee to discharge such lien.

D. Contest

Any contest by Lessee of any such liens shall be made by Lessee in good faith and with due diligence and Lessee shall fully pay and immediately discharge the amount of any final judgment rendered against the City or Lessee in any litigation involving the enforcement of such liens or the validity thereof.

E. Discharge by City

In the event of Lessee's failure to discharge of record any such uncontested lien within said thirty (30) day period or to pay and satisfy any such judgment as aforesaid, the inclusive of any interest thereon and any costs assessed against Lessee in said litigation, or may discharge such lien by contesting its validity or by any other lawful means.

F. Repayment by Lessee

Any amount paid by the City for any of the aforesaid purposes, and all reasonable legal and other expenses of the City, including reasonable counsel fees, in defending any such action or in connection with procuring the discharge of such lien, with all necessary disbursements in connection therewith, together with interest thereon at the rate of one and one-half percent (1-1/2%) per month from the date of payment, shall be repaid by Lessee to the City on demand; provided that, interest payable hereunder shall in no event exceed the maximum per annum rate permitted under applicable law. To the extent any such payment of interest hereunder would exceed such maximum rate, such payment shall be deemed to be an advance against Rent as to which Lessee shall be credited on the next installment of Rent payable hereunder.

11. OFF-STREET PARKING

Lessee shall comply with any and all off-street parking requirements of all ordinances of the City and laws of the State. This provision shall not limit the scope of the provisions of Paragraph 24 herein.

## 12. ALTERATIONS AND ADDITIONAL IMPROVEMENTS

### A. Construction Approval

Except as provided in Article 9 above, Lessee shall not construct any building, structure or other improvement on the Leased Premises unless the plan showing the location thereof and construction plans and specifications are first approved by the Director of Building and Safety and by the City Council of the City, and the giving of such consent shall be within such Director's and City Counsel's sole discretion and shall not be a waiver of any rights to object to further or future construction.

### B. Alteration Approval

Lessee shall not make any exterior changes or alterations, structural or otherwise, to any building, structure, or other improvement on the Leased Premises unless the consent of the City Manager or his designee is first obtained. Such consent shall not be unreasonably withheld, and the giving of such consent shall not be a waiver of any rights to object to further or future alterations.

### C. Provisions Governing

Following the completion of the Project, as required by Article 9 above, in the event that (and in each case that) Lessee shall construct any additional or replacement buildings, structures or other improvements (including alterations or additions to the existing buildings) on the Leased Premises, Lessee shall construct such improvements and each of them in accordance with the provisions of this Lease governing the construction contemplated by Lessee; provided, however, that:

(1) The completion date set-forth in Paragraph 9(D) shall not apply to such construction; and

(2) The other provisions of Article 9 shall apply to such construction.

### D. Demolition

Except for any demolition, reconstruction and construction as permitted by Article 9, in case any building or structure is demolished, Lessee shall erect a new building or structure within twelve (12) months following such demolition in substitution therefor in accordance with the provisions of this Article 12. Failure of Lessee to comply with the provisions of this Paragraph 12(D) shall constitute a default of this Lease.

### E. Value and Utility

All changes and alterations shall be of such a character that when completed, the value and utility of the building, structure or other improvement changed or altered by such changes or alterations shall not be less than the value and utility thereof immediately before any such change or alteration.

F. Alterations Following Commencement

All work done in connection with any changes or alterations following the commencement thereof shall be performed in a good and workmanlike manner and with due diligence.

13. MAINTENANCE

A. Lessee Maintain

Lessee, at its own expense, shall maintain said Leased Premises and all buildings, structures, roadways, landscaping, parking, sewer and other improvements thereon, and shall keep the same in good and sanitary condition and repair.

B. Periodic – Structures

As often as necessary to properly maintain the appearance and at least once each five (5) years during the Term of this Lease, Lessee shall, at its own expense, paint or clean or otherwise preserve and beautify the surfaces of the interior and exterior of all buildings, structures, structural members and other improvements on said Leased Premises. The treatment applied shall restore the appearance of and act as a preservative of the building, structures, structural members and other improvements.

C. Periodic – Pavement

Lessee, at its own expense, shall at least once each five (5) years during the Term of this Lease repair or replace any area of pavement or slabs on the Leased Premises as have spalled, weathered, alligatored, or otherwise failed, with like materials and workmanship, and shall as often as necessary promptly repair or replace any damaged areas thereof.

D. Landscaping

Lessee, at its own expense, shall maintain the landscaping on the Leased Premises in an attractive manner, all in compliance with the approved Plans.

14. SURRENDER

A. Structures

At the expiration of the Term of this Lease or upon the sooner termination thereof, this Lease shall terminate without further notice and Lessee shall surrender said Leased Premises to the City and all buildings, structures and other improvements thereon, including but not by way of limitation, any alterations, additions or improvements, shall remain for the benefit of the City. Any holding over by Lessee after expiration shall not constitute a renewal or extension or give Lessee any rights in or to the Leased Premises except as otherwise expressly provided in this Lease.

B. Removal

No buildings, structures or other improvements shall be removed from said Leased Premises or voluntarily destroyed or damaged during the Term of this Lease without the prior written consent of the City Manager.

C. Movable Structures

Machines, trade fixtures and similar installations which are installed in any building, structure or other improvement on the Leased Premises shall not be deemed to be part of the realty even though such installations are attached to the floors, walls or roofs of any building or structure or to outside pavements, so long as such installation can be removed without structural damage to any building, structure or other improvement on the Leased Premises; provided, however, that if the removal of any such installation causes non-structural damage to any part of the building, structure, other improvement, pavements or Leased Premises, Lessee shall repair such damage and restore said building, structure, other improvement, pavements or Leased Premises to the same condition as originally existed upon the completion of construction, ordinary and usual wear and tear excepted; and provided further, that no holes or apertures, or unpainted or otherwise unfinished walls shall be left by Lessee in any building, structure or other improvement at the expiration of the Term of this Lease.

D. Personal Property

Any and all personal property of every kind and nature whatsoever, not attached to or installed in any building, structure or other improvement which Lessee or its sublessees places in, upon or about the Leased Premises during the Term hereof may be removed therefrom prior to the expiration of the Term of this Lease and shall, as between the City and Lessee, be and remain the personal property of Lessee or its sublessees, as the case may be, provided that any such personal property left on the Leased Premises upon surrender to the City shall be presumed to be abandoned by Lessee.

E. Lighting, Etc.

Notwithstanding anything to the contrary contained in Paragraphs 14(C) or 14(D) above, any and all lighting, plumbing, air cooling, air conditioning, heating and ventilating equipment shall be deemed to be a part of the realty, and regardless of whether or not any such item or equipment can be removed without structural damage to the building, structure or improvement in which it is installed, it shall not be removed from such building, structure or other improvement except for repairs, alterations and replacement with newer equipment, without the consent of the City Council, and all such equipment shall remain as a part of the realty at the expiration of the Term of this Lease.

F. Removal at Expiration

Notwithstanding the above provisions of this Article 14, the City may give notice of its election, not less than one (1) year prior to the expiration of the Term of this Lease (including during any Option Period), to require the removal of any or all buildings, structures and other improvements and the restoration of the Leased Premises upon expiration of this Lease, in which event the Lessee shall remove such improvements and restore the Leased

Premises within 120 days following the expiration of the Term of this Lease. Such period shall not constitute an extension or renewal of this Lease.

15. SUBORDINATION

A. Quitclaim Deed

Lessee acknowledges that it has received a copy of the Quitclaim Deed executed by the United States of America, dated March 5, 1948, Exhibit "D" attached hereto and made a part hereof (recorded on May 13, 1948 in Book 27145, Page 362 of Official Records), upon which the City holds title to said Leased Premises and Lessee agrees to comply with the provisions thereof as amended to the date of this Lease. This Lease shall be subordinate to such provisions as amended and to any further agreements between the City and the United States of America required by such provisions as amended, and Lessee agrees to execute such additional instruments or agreement as may be required by City or the United States to confirm or effectuate such subordination.

B. FAA Provisions

Lessee acknowledges its acceptance of and its agreement to comply with the Federal Aviation Administration ("FAA") provisions shown on Exhibit "E" attached hereto and made a part hereof (the "FAA Provisions").

C. Changes in FAA Requirements

Except as otherwise provided by Paragraph 16, below, if after the Lessee completes the retail complex being constructed and remodeled upon the Leased Premises, the FAA or any other governmental entity regulating the Torrance Municipal Airport changes its requirements relating to the construction and operation of the Leased Premises (the "FAA Requirements") necessitating that the Lessee make physical changes to the Leased Premises in order to bring the Leased Premises into conformity with the FAA's revised requirements, then the City shall abate and reduce the Minimum Basic Rent and Percentage Rent payable by the Lessee in an amount equal to Lessee's direct and out-of-pocket costs incurred in connection with making such changes. Lessee shall provide the City with written statements with appropriate documentation showing the Lessee's costs before the City will be required to abate and reduce the rent. Lessee shall not be entitled to receive any reduction of rent for any changes the Lessee makes to the Leased Premises which exceed the FAA Requirements and the City shall not be obligated to the Lessee in any manner with respect to changes in the FAA Requirements except for the reduction and abatement of rent as set forth in this Paragraph. Notwithstanding the foregoing, if the Lessee has not initially constructed, remodeled, or, where applicable, reconstructed said retail complex in accordance with the FAA Requirements in effect as of the date of this Lease and through the Opening Date, or if any buildings or improvements subsequently added to the Leased Premises do not comply with FAA Requirements in effect as of the date such new buildings and improvements are first used or occupied, the Lessee shall receive no reduction of rent under the provisions of this Paragraph.

16. AVIGATION EASEMENTS

A. Interference with Navigation

Lessee agrees that:

(1) It will not erect or permit the erection or growth of any building, structure, tree or other object on said Leased Premises above any elevation above mean sea level as shown on Exhibit "E" (175 feet at the northerly boundary and 250 feet in the center); and

(2) It will not use said Leased Premises or permit said Leased Premises to be used in any manner which might interfere with the landing or taking off of aircraft from the airport, or which otherwise constitutes an air navigation obstruction, or which creates an interference; and

(3) It will not light or operate, or cause to be lighted or operated, any equipment which would interfere with the navigation, landing or takeoff of aircraft on the runways and in the aeronautical areas of the airport.

B. Avigation Easements

(1) The City reserves the following easements from the leasehold estate created hereby:

(a) The right to take any action necessary to prevent the erection or growth of any building, structure, tree or other object into the air space above those elevations shown on Exhibit "E" attached hereto, and to remove from such air space, or mark and light as obstructions to air navigation, any and all buildings, structures, trees or other objects that may at any time project or extend above the elevations shown on Exhibit "E" together with the right of ingress to, egress from, and passage over the said Leased Premises for such purposes;

(b) The right to enter onto the said Leased Premises for the purpose of causing the abatement of any interference with the landing and taking off of aircraft from said airport; and

(c) A right of flight for the passage of aircraft in the air space above the surface of the said Leased Premises, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of, or flight in the air, using said air space or landing at, or taking off from, or operating at, or on said airport.

(2) "Aircraft" as used in this Paragraph includes aircraft now or hereafter developed which utilize the airport or such air space whether similar or dissimilar to existing aircraft.

(3) "Interference" as used in this Paragraph includes without limitation any interference with radar, any electrical or other interference with radio or other communication between airport and aircraft, or any use of activity which makes it difficult for pilots to distinguish between airport and other lights, creates glare or otherwise impairs visibility

or which otherwise endangers the landing, taking off or maneuvering of aircraft or the safety of those using the airport, or is hazardous thereto.

(4) In the event that the City exercises any of its rights pursuant to the above provisions of Article 16, the City shall not be liable to the Lessee for any damage suffered as a result thereof and the Lessee shall reimburse the City for all reasonable and necessary expenses incurred by the City therefor.

17. TAXES, ASSESSMENTS AND UTILITY CHARGES

A. Net Lease

It is the intention of City and Lessee that all costs, expenses and obligations of every kind relating to the Leased Premises or the use, operation or occupancy thereof which may arise or become due during the term of this Lease shall be paid by Lessee, and that City shall be indemnified by Lessee against such costs, expenses, and obligations. Accordingly, Lessee agrees to pay before delinquent every charge, lien or expense accruing or payable during the Term (including any Option Term(s)) of this Lease in connection with the use or occupancy of said Leased Premises, including, but not by way of limitation, all taxes and assessments, insurance costs, operating costs, water, electricity, gas, telephone, utilities and all other costs for services used by Lessee, its sublessees, licensees and concessionaires on said Leased Premises.

B. Payment of Taxes

Lessee agrees to pay at least ten (10) days prior to delinquency all taxes which shall be levied against the Leased Premises and the improvements thereon, and against any buildings, structures or any improvements hereafter erected or constructed on the Leased Premises, and which become a lien against said Leased Premises and the improvements. Lessee shall provide proof of its payment of such taxes prior to any such taxes becoming delinquent. Furthermore, in accordance with California Revenue & Taxation Code § 107.6, Tenant hereby acknowledges that the possessory interest granted herein may be a taxable interest and, Tenant's obligations with respect to the payment of any and all costs associated with Tenant's use of the Leased Premises shall include, without limitation, the obligation to pay any such possessory interest tax.

C. Payment of Assessments

Lessee, at Lessee's sole cost and expense, agrees to pay before delinquent any and all assessment, tax, fee, levy or charge in addition to, or in partial or total substitution of any assessment, tax, fee, levy or charge levied against the Leased Premises or against any buildings, structures or any improvements erected or constructed by the Lessee on the Leased Premises made for maintenance purposes, such as (without limitation) lighting, water lines, sewer (wastewater facilities), fences or other utilities (even if said assessments or charges are for items that would otherwise be characterized as "capital improvements"). Tenant and Landlord acknowledge that Proposition 13 was adopted by the people of the State of California in June, 1978 and that assessments, taxes, fees, levies and charges may be imposed for such services as fire protection, street, sidewalk and road maintenance, refuse removal and for other governmental services formerly provided without charge to property owners or occupants. It is

the intention of Lessee and City that all such new and increased assessments, taxes, fees, levies and charges and all similar assessments, taxes, fees, levies and charges be included within the definition of assessments for the purposes of this Lease.

D. Valuation; Possessory Interest Tax

Lessee understands that, under the law now in effect, the Leased Premises will be valued by the City's Tax Assessor for the purpose of assessing and levying real property (possessory interest) taxes by adhering to the formula contained in the case of De Luz Homes, Inc. v. County of San Diego, 45 Cal. 2d 546, 290 P.2d 544 (1955). Lessee agrees that if at any time during the Term or Option Term(s) of this Lease the law is changed so as to require that said assessor value the interest of Lessee in the Leased Premises in a manner other than that being used by said assessor on the date of execution of this Lease as first above written, which change will result in reduction of the amount of real property (possessory interest) taxes paid by Lessee on the value of its interest in the Leased Premises as compared to the amount of said taxes which would have been paid had such change not been made, then the Lessee shall pay to the City each year on the anniversary date of this Lease for the sole use and benefit of the City a sum equal to the amount of the difference in the real property (possessory interest) taxes between (1) the amount of said taxes for the last tax year ending prior to such anniversary date which Lessee actually paid to the County of Los Angeles, the City of Torrance, the Torrance Unified School District and any other taxing district encompassing said Leased Premises, or by any governmental agency or district, or by any successor or successors thereof, and (2) the amount of such taxes that Lessee would have paid had the value of the interest of Lessee in the Leased Premises been valued in Accordance with the law and practice of said assessor as it existed on the date of execution of this Lease as first above written.

E. Sale of Fee Interest

In the event the City sells or transfers all or any portion of the Leased Premises and such sale or transfer results in an increase in the applicable real property taxes upon reappraisal of the Lease Leased Premises, the Lessee shall be obligated to pay such tax and any and all taxes, assessments, liens, charges and other similar matters applicable to the Leased Premises prior to such reappraisal and/or applicable to the Leased Premises pursuant to normal increases following such reappraisal shall remain the sole responsibility of Lessee.

F. Sales Tax Permit

If applicable, Lessee agrees that it will require all sublessees approved by City hereunder to have obtained a California State Sales and Use Tax Permit for the portion of the Leased Premises utilized by such sublessee before doing business thereon.

G. Contests

Lessee shall have the right, at the Lessee's sole cost and expense, to contest the amount or legality of any taxes, assessments or utility charges which it is obligated to pay, and make application for the reduction thereof, or of any assessments upon which the same may be based, provided that Lessee first posts a bond with the City in an amount equal to the amount of such taxes, assessments or charges contested with interest and penalties, or by paying the amounts contested under protest. Lessee agrees that it will prosecute any such contest or

application with due diligence and will within thirty (30) days after an adverse final determination thereof pay the amount of any such taxes, assessments or charges which may have been the subject of such contest or application as so determined, together with any interest, penalties, costs and charges which may be payable in connection therewith.

H. Ad Valorem Taxes

If, during the Term, federal or state taxes shall be imposed, assessed or levied on the fee interest of City in the Leased Premises, or on or with respect to any real or personal property constituting a portion of the fee interest of City in the Leased Premises, or on the rents derived by City from the Leased Premises in lieu of or in addition to such real or personal property taxes, and such new tax would most fairly be characterized as in the nature of an ad valorem or use tax, as opposed to an income or franchise tax on City's income, Lessee shall pay all such taxes, assessments, levies or charges imposed upon City within thirty (30) days of demand therefor by City.

I. Additional Rent

In addition to Rent, all taxes, charges, and sums payable by Lessee under this Paragraph 17 are acknowledged and agreed by Lessee to constitute Additional Rent under this Lease, whether or not such charges and sums be designated as such. City shall have the same rights and remedies upon Lessee's failure to pay Additional Rent, or any portion thereof, as for the nonpayment of Rent.

18. LIABILITY

(a) Lessee's Indemnification. Lessee has accepted the condition of the Leased Premises and the Road Easement, as such term is defined in Exhibit "A", and hereby releases the City from and agrees to indemnify and hold the City (with "City" being defined for purposes of this Paragraph as including City, City's Mayor, City's City Council and its members, City's boards and commissions and their respective members, and City's officers, employees and agents) free and harmless from and, at City's request, defend City against, any and all liabilities and claims for damages, losses, costs and expenses (including defense costs and reasonable attorneys' fees) relating to or arising from breach of contract, any injury or death to any persons, including, but not limited to, Lessee and its employees and agents, or damage to or loss of use of property of any kind whatsoever and to whomsoever belonging, including, but not limited to, property of Lessee, from any and all cause or causes whatsoever (except City's sole negligence or willful conduct), which occurs on or about, or is in any way connected with, the Leased Premises, any buildings or other improvements constructed thereon, or the Road Easement during the term of this Lease, or results or arises from the activities conducted by Lessee or its officers, employees, agents, contractors, subcontractors, and sublessees.

With respect to damage or injury resulting from the condition of the Leased Premises, the Road Easement, or from the Lessee's or Lessee's employees' or invitees' activities upon the Leased Premises, the Road Easement Area and, without limiting the generality of the foregoing, Lessee herby agrees that City shall not be liable for any injury to Lessee's business or any loss of income therefrom or for the damage to the goods, wares, merchandise, improvements, or other property of Lessee, Lessee's offices, agents, employees, invitees,

customers, or any other person in or about the Leased Premises, ___ the Road Easement, nor shall City be liable for injury or death to the person of Lessee, any sublessee, or any of their respective officers, employees, agents or contractors, whether such damages or injury is caused by any cause whatsoever (except City's sole negligence or willful conduct), and whether the same damage or injury results from conditions arising upon the Leased Premises, the Road Easement or from the Lessee's activities upon the Leased Premises.

It is the intention of City and Lessee that City be released from and indemnified, held harmless and (at City's option) defended against any and all injuries (including death) to persons and damage to property described in this Paragraph to the fullest extent permitted by law. If at any time during the term of this Lease, the right of City to be so released, indemnified, held harmless or (at its option) defended shall be enlarged or reduced by reason of the application of any law or legal standard, City's rights under this Paragraph shall be ipso facto enlarged or reduced to conform to such requirements such that City shall at all times during the term hereof be released form and indemnified, held harmless from and (at its option) defended against those matters to the fullest extent permitted under then applicable law.

Lessee's obligation to indemnify, defend and hold harmless under this Lease will apply even in the event of concurrent negligent on part of City; provided, however, that nothing in this Paragraph will excuse City of its responsibility for liability arising from City's sole negligence or willful misconduct. In the event of any dispute between Lessee and City as to whether liability arises from the sole negligence of City, Lessee will be obligated to pay for City's defense until such time as a final judgment has been entered adjudicating City as solely negligent. Lessee will not be entitled in the event of such a determination to any reimbursement of defense costs, including but not limited to attorneys' fees, expert witness fees, and costs of litigation.

Notwithstanding any other provision of this Lease, Lessee's indemnification as set forth in the provisions of this Section shall survive the expiration or earlier termination of this Lease and shall continue in perpetuity.

(b) Hazardous Materials; Indemnity and Release.

As between Lessee and the City, Lessee shall be fully responsible, at Lessee's sole cost and expense, for any and all Hazardous Materials (as defined below) that may have been discharged, released, placed or disposed of on, in, under, or about the Leased Premises, and/or the Improvements, during Lessee's possession of the Leased Premises, including, without limitation, during the term of this Lease (the "Lessee Contamination"). Lessee, at Lessee's sole expense, shall promptly take all investigatory and/or remedial action required or ordered by any and all governmental authorities for the clean-up of any Lessee Contamination. From and after the Effective Date, Lessee shall neither bring onto, create or dispose of, in or about the Leased Premises, any Hazardous Materials in violation of, nor engage in any activities in or about the Leased Premises that violate, any Environmental Laws (as hereinafter defined). If Lessee knows, or has reasonable cause to believe, that Hazardous Materials, or a condition involving or resulting from the same, has come to be located in, on, under or about the Leased Premises, Lessee shall immediately give written notice of such fact to City, and as required by law, to all appropriate governmental agencies. Lessee shall also immediately give City a copy of any statement, report, notice, registration, application, permit,

business plan, license, claim, action or proceeding given to, or received from any governmental agency or private party, or persons entering or occupying the Leased Premises, which concerns or in any way relates to the existence, presence, spill, release, discharge of, or exposure to any Hazardous Materials or any other contamination in, on, or about the Leased Premises.

Lessee understands and agrees that in the event Lessee incurs any loss or liability concerning Hazardous Materials not within the provision of the first paragraph of this Section 18(B), whether attributable to events occurring prior to or following the Effective Date, then Lessee shall look solely to such person(s) or entity(ies) as are responsible for the existence of the Hazardous Materials, but in no event shall Lessee look to City (City being defined for the purposes of this paragraph as City, City's Mayor, City's City Council and its members, City's boards and commissions and their respective members, and City's officers, employees and agents) for any liability or indemnification regarding Hazardous Materials. Lessee hereby waives, releases, remises, acquits and forever discharges City of and from any and all Environmental Claims, Environmental Cleanup Liability and Environmental Compliance Costs, as those terms are defined below, and from any and all actions, suits, legal or administrative orders or proceedings, demands, actual damages, punitive damages, loss, costs, liabilities and expenses, which concern or in any way relate to the physical or environmental conditions of the Leased Premises, the existence of any Hazardous Material thereon, or the release or threatened release of Hazardous Materials therefrom, whether existing prior to, at or after the Effective Date. It is the intention of the parties pursuant to this release that any and all responsibilities and obligations of City, and any and all rights, claims, rights of action, causes of action, demands or legal rights of any kind of Lessee, its successors, assigns or any affiliated entity of Lessee arising by virtue of the physical or environmental condition of the Leased Premises, the existence of any Hazardous Materials thereon, or any release or threatened release of Hazardous Material therefrom, whether existing prior to, at or after the Effective Date, are by this release provision declared null and void and of no present or future force and effect as to the parties. **IN CONNECTION THEREWITH, LESSEE EXPRESSLY AGREES TO WAIVE ANY AND ALL RIGHTS WHICH LESSEE MAY HAVE WITH RESPECT TO SUCH RELEASED CLAIMS UNDER SECTION 1542 OF THE CALIFORNIA CIVIL CODE WHICH PROVIDES AS FOLLOWS:**

> **"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."**

LESSEE'S INITIALS: _____

CITY'S INITIALS: _____

Lessee shall defend, indemnify and hold harmless City, City and their officers, directors, employees, agents and representatives (collectively, the "Indemnified Parties") from and against any and all Lessee Contamination Environmental Claims, Environmental Cleanup Liability, Environmental Compliance Costs, and any other claims, actions, suits, legal or administrative orders or proceedings, demands or other liabilities (collectively, "Claims")

resulting at any time from the physical and/or environmental conditions of the Leased Premises from and after the Effective Date or from the existence of any Lessee Contamination and/or other Hazardous Materials or the release or threatened release of any Lessee Contamination and/or other Hazardous Materials of any kind whatsoever, in, on or under the Leased Premises occurring at any time from and after the Effective Date, including, but not limited to, all foreseeable and unforeseeable damages, fees, costs, losses and expenses, including any and all attorneys' fees and environmental consultant fees and investigation costs and expenses, directly or indirectly arising therefrom, and including fines and penalties of any nature whatsoever, assessed, levied or asserted against any Indemnified Parties to the extent that the fines and/or penalties are the result of a violation or an alleged violation of any Environmental Law.

For purposes of this section, the following terms shall have the following meanings:

(a) "**Environmental Claim**" means any claim for personal injury, death and/or property damage made, asserted or prosecuted by or on behalf of any third party, including, without limitation, any governmental entity, relating to the Leased Premises or its operations and arising or alleged to arise under any Environmental Law.

(b) "**Environmental Cleanup Liability**" means any cost or expense of any nature whatsoever incurred to contain, remove, remedy, clean up, or abate any contamination or any Hazardous Materials on or under all or any part of the Leased Premises, including the ground water thereunder, including, without limitation, (A) any direct costs or expenses for investigation, study, assessment, legal representation, cost recovery by governmental agencies, or ongoing monitoring in connection therewith and (B) any cost, expense, loss or damage incurred with respect to the Leased Premises or its operation as a result of actions or measures necessary to implement or effectuate any such containment, removal, remediation, treatment, cleanup or abatement.

(c) "**Environmental Compliance Cost**" means any cost or expense of any nature whatsoever necessary to enable the Leased Premises to comply with all applicable Environmental Laws in effect. "Environmental Compliance Cost" shall include all costs necessary to demonstrate that the Leased Premises is capable of such compliance.

(d) "**Environmental Law**" means any federal, state or local statute, ordinance, rule, regulation, order, consent decree, judgment or common-law doctrine, and provisions and conditions of permits, licenses and other operating authorizations relating to (A) pollution or protection of the environment, including natural resources, (B) exposure of persons, including employees, to Hazardous Materials or other products, raw materials, chemicals or other substances, (C) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical sub-stances from industrial or commercial activities, or (D) regulation of the manufacture, use or introduction into commerce of chemical substances, including, without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

(e) "**Hazardous Material**" is defined to include any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term "Hazardous

Material" includes, without limitation, any material or substance which is: (A) petroleum or oil or gas or any direct or derivate product or byproduct thereof; (B) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (C) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (D) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Sections 25501(j) and (k) and 25501.1 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (E) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (F) "used oil" as defined under Section 25250.1 of the California Health and Safety Code; (G) asbestos; (H) listed under Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10 of Division 4.5 of Title 22 of the California Code of Regulations; (I) defined as waste or a hazardous substance pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code; (J) designated as a "toxic pollutant" pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1317; (K) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. (42 U.S.C. § 6903); (L) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601); (M) defined as "Hazardous Material" pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; or (N) defined as such or regulated by any "Superfund" or "Superlien" law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials and/or underground storage tanks, as now, or at any time here-after, in effect.

Notwithstanding any other provision of this Lease, Lessee's release and indemnification as set forth in the provisions of this Section, as well as all provisions of this Section shall survive the termination of this Lease and shall continue in perpetuity.

19. INSURANCE

A. Liability

(1) Lessee agrees that at all times during the Term of this Lease and any renewal or extension thereof, it will maintain in full force and effect at Lessee's expense a comprehensive (commercial) general liability insurance with the broad form comprehensive liability endorsement and automobile liability insurance policy which will insure and indemnify the Lessee and the City, the City Council and each member thereof, and every officer and employee of the City against liability or financial loss resulting from any suits, claims, or actions brought by any person or persons and from all costs and expenses of litigation brought against the City in the amount of $10,000,000 combined single limit for any injury to persons and/or damages to property (i) in or about said Leased Premises and any buildings or structures constructed thereon, the Road Easement or (ii) by reason of the use and occupation by Lessee or by any other person or persons of said Leased Premises the Road Easement. The City, the City Council, and every officer and employee of the City, acting in due course of his employment or his official capacity, shall be named as an additional insured on said policy.

(2) It is understood that the type of insurance and minimum limits of liability insurance required herein may become inadequate for such purposes during the Term of this Lease, and Lessee agrees that it will add such insurance coverage and increase such minimum limits at its sole expense by such amounts as may be reasonably required by the City. In the event that the Lessee objects to such increase on the grounds that it is unreasonable and the dispute-cannot be resolved by the parties, the issue shall be decided by arbitration in accordance with the rules of the American Arbitration Association.

B. Property Damage

(1) Lessee agrees that at all times during the Term of this Lease and any renewal or extension thereof, it will maintain in full force and effect at Lessee's expense an insurance policy which will insure and indemnify the Lessee and the City from loss occurring to buildings, structures, fixtures and other improvements (excluding grading and fill but including foundations) on the Leased Premises by reason of fire, extended coverage perils, and "all risk" perils, including but not by way of limitation flood, demolition, and increased cost of construction and contingent liability arising out of the operation of building codes. If required by any "Leasehold Mortgagee" (as hereinafter defined), such property damage insurance shall also cover loss resulting from earthquake, but only to the extent required by such Leasehold Mortgagee. During the period from the dates of this Lease until the completion of the Project contemplated under Paragraph 9 herein, and thereafter during any subsequent period of construction as contemplated under Paragraph 12 herein, such insurance shall include builder's risk insurance in so-called non-reporting form covering the total cost of work performed and equipment, supplies and materials furnished.

(2) The amount of such insurance shall be at least one hundred percent (100%) of the full replacement cost of the buildings, structures, fixtures, or such other improvements located on the Leased Premises with an agreed amount endorsement. The City shall be named as an additional insured on said policy, including earthquake coverage, if required.

(3) Concurrently with each Fair Market Rent Analysis described in Section 4 above, Lessee shall obtain an appraisal of the replacement cost of the buildings, structures, fixtures and other improvements as aforesaid. If the Lessee and the City cannot agree on said replacement cost, the same shall be determined by arbitration in the manner provided in Paragraph 4(B) for the fixing of the fair rental value of the Leased Premises. Lessee agrees that it will increase such minimum limits thereafter to at least equal such replacement cost.

C. Rent Insurance

(1) Lessee agrees that at all times during the Term of this Lease and any renewal or extension thereof, it will maintain in full force and effect at Lessee's expense a business interruption and/or rent or rental value insurance policy with endorsements and coverage equivalent to the fire, extended coverage and "all risk" perils policies described in Paragraph 19(B) above, in an amount not less than twelve (12) months Rent, plus the estimated annual cost of taxes and the annual premiums for such policy.

(2) All business interruption and/or rent or rental value insurance policies provided for herein shall name the City and Lessee as insureds as their respective interest may appear, but shall be deposited with the City. Such business interruption and/or rent or rental value insurance policies shall provide for payment or loss to the City to the extent of Lessee's obligations hereunder, and the difference between such payment and the amount of insurance collected shall be payable to Lessee. Any business interruption and/or rent or rental value insurance proceeds received by the City shall be applied against Lessee's rental obligations hereunder.

D. Carrier Rating and Cancellation

All policies enumerated in this Paragraph 19 shall be issued by an insurer admitted to do business in California, which qualifies as a member of the California Insurance Guaranty Fund, and which is rated in Best's Insurance Guide with a financial rating of A:XII or better, or as may be accepted in writing by the City Manager. Said policies shall provide that the insurance coverage shall not be cancelled or reduced by the insurance carrier without the City having been given sixty (60) days prior written notice thereof by such carrier. Lessee agrees that it will not cancel or reduce said insurance coverage and will replace any insurance cancelled, reduced or non-renewed by the insurance company during the Term of this Lease.

E. Copy of Policy

At all times during the Term of this Lease, Lessee shall maintain on file with the City Clerk of the City a certified copy of each insurance policy, and any and all amendments thereto, required to be maintained by Lessee pursuant to this Lease. Notwithstanding any other provisions to the contrary contained in this Lease, Lessee shall not have the right to take possession of said Leased Premises until such copies are filed with the City Clerk.

F. Failure to Provide

Lessee agrees that if it does not keep the aforesaid insurance in full force and effect, the City may obtain the necessary insurance and pay the premium thereon, and the repayment thereof shall be deemed to be Additional Rent and payable as such on the next day after notice of the payment by the City for the said insurance.

G. Lessee's Insurance Primary

The insurance provided in the policies of insurance required hereunder to be maintained by Lessee shall be primary and non-contributing with any insurance that may be carried by the City.

H. Subrogation

Lessee agrees to waive its right of subrogation against the City. Any insurance policies procured by Lessee hereunder shall provide that, to the extent that insurance is provided, the insurance carrier waives all rights of subrogation against the City and all of Lessee's subtenants and other occupants of the Leased Premises.

I. Cross Liability Endorsement

It is agreed that claims for personal injury or property damage made by an insured hereunder against another insured hereunder shall be covered in the same manner as if separate policies had been issued to each Insured. Nothing contained herein shall operate to increase the insurance company's limit of liability as provided under such policy.

20. CASUALTY: INSURANCE PROCEEDS

A. Statement of Costs

In the event of the partial or total destruction of any of the buildings, structures or other improvements on the Leased Premises where the cost of repair or replacement exceeds Ten Thousand Dollars ($10,000), as established jointly by Lessee and the Director of Building and Safety of the City, Lessee shall promptly furnish-the City with:

(1) A statement of the original cost of the damaged structures; and

(2) An itemized statement setting forth the estimated cost of reconstruction thereof or repairs thereto, prepared by a California licensed architect or engineer.

B. Duty to Repair – Where Insurance

(1) In the event of the partial or total destruction of any of the buildings, structures or other improvements on the Leased Premises by any cause which is by the terms of this Lease required to be insured against (including any partial destruction where the cost of repair is less than Ten Thousand Dollars ($10,000)), Lessee shall repair or rebuild the affected buildings, structures or other improvements to the condition existing prior to the occurrence of such destruction or damage, and shall do so even though the proceeds of the insurance policies covering the loss shall be insufficient to reimburse Lessee thereof; provided, however, that if such proceeds of insurance are more than sufficient to pay the cost of any such rebuilding, Lessee shall be entitled-to receive any surplus.

(2) Any insurance proceeds exceeding Fifty Thousand Dollars ($50,000) shall be payable to an insurance trustee, acceptable to both parties, who shall disburse the funds for construction purposes as construction progresses and with such safeguards as said trustee may deem to be desirable to assure that workmen and materialmen are paid and that no mechanics liens may be recorded. If the Approved Leasehold Mortgagee, as defined in Paragraph 22(B) of this Lease, agrees to disburse such proceeds for restoration as aforesaid, such Approved Leasehold Mortgagee shall be acceptable to the City as the insurance trustee for purposes of this provision.

C. Duty to Repair – Where No Insurance

(1) In the event of the partial or total destruction of any of the buildings, structures or other improvements on the Leased Premises by any cause which is by the terms of this Lease not required to be insured against, then:

(a) If the cost to repair or restore such buildings, structures or other improvements is reasonably estimated to be less than ten percent (10%) of the value of same immediately prior to such damage or destruction, then Lessee shall proceed to repair and replace the same at its own expense; or

(b) If the cost to restore or repair such damage or destruction is reasonably estimated to exceed ten percent (10%) of the replacement value of such buildings, structures or other improvements immediately prior to such damage, Lessee may elect to demolish those buildings, structures and improvements designated by the City as requiring demolition, restore the Leased Premises to a neat and clean condition to the reasonable satisfaction of the City and terminate this Lease by notifying the City in writing of its intent to do so within thirty (30) days of the event causing such damage or destruction.

(2) If Lessee shall elect to terminate this Lease as provided for above, it shall have no further obligation for rental or other payments hereunder from and after the date that such demolition and restoration are completed, and from and after the date that such demolition and restoration are completed, neither Lessee nor any Leasehold Mortgagee shall have any right, title, interest, lien or encumbrance in, to or upon the Leased Premises or any of the buildings, structures or other improvements located thereon.

D. Duty to Repair - Last Year of Lease Term

In the event of the partial or total destruction of any of the buildings, structures or other improvements on the Leased Premises by any cause, whether insured or uninsured, during the last year of the Term of this Lease, the Lessee may terminate this Lease by notifying the City in writing of its intent to do so within thirty (30) days of the event causing such destruction. If the Lessee shall elect to cancel this Lease pursuant to this Paragraph, it shall have no duty to repair, replace, or restore any portion of the Leased Premises and all liabilities of either party to the other party which would have accrued under this Lease from and after such date shall be cancelled; provided, however, that each party shall remain liable to the other party for any and all obligations and duties which arise or accrue under this Lease prior to such termination date. Notwithstanding anything to the contrary in this Lease, if Lessee terminates the Lease pursuant to this Paragraph, Lessee shall immediately pay over and assign to the City any insurance proceeds or other payments that may be received by Lessee as compensation or reimbursement for the damage or destruction of the Leased Premises including the buildings, structures or other improvements thereon.

E. Repair Work

Any reconstruction and repair work provided to be performed by Lessee hereunder shall be commenced and continued to completion promptly and diligently. Such reconstruction and repair work shall be performed, insofar as reasonably possible, in compliance with and pursuant to the original Plans and in compliance with the provisions of Paragraph 12 herein. The City may require a payment bond from Lessee to assure the removal or bonding of any liens.

F. Rent

In the event of destruction or damage, whether total or partial, to the buildings, structures, or other improvements on the Leased Premises, the Rent and Additional Rent provided for hereunder shall not be abated by reason of the occurrence of any such destruction or damage as long as the Term of this Lease continues and remains in existence and is not cancelled in accordance with Paragraph 20(C).

21. ASSIGNMENT AND SUBLETTING

A. Consent

(1) Lessee shall not sublet all or any part of the Leased Premises, or assign this Lease or any interest herein or in the Leased Premises (collectively, a "Transfer"), without first obtaining the written consent of the City Council, which consent shall not be unreasonably withheld. The giving of such consent shall not be a waiver of any right to object to further or future assignments or subleases and the consent to each successive assignment or sublease must be first obtained in writing from the City Council. In addition to the circumstances identified in the first Section of this Paragraph, the term "Transfer" shall also include the circumstances hereinafter set forth, and any of the following shall be deemed "Transfer" that is prohibited hereby unless the written consent of the City be first obtained thereto:

(a) If Lessee is a partnership, limited liability company, or joint venture, a withdrawal, addition or change (voluntary, involuntary, by operation of law, directly or indirectly, or otherwise) of any, of the partners, members, or venturers thereof; or

(b) If Lessee is composed of more than one person, a purported assignment or transfer (voluntary or involuntary, by operation of law, directly or indirectly, or otherwise) from one to any other or others thereof; or

(c) If Lessee is a corporation, a cumulative change in the ownership (voluntary, involuntary, by operation of law, directly or indirectly or otherwise) of thirty-three and one-third percent (33-1/3%) or more of its capital stock owned as of the date of its acquisition of this Lease; provided, however, that any such transfer as a result of the death or judicially declared incompetency of any such person may be made without the consent of the City so long as such transfer is to the immediate family, or to a trust for the benefit of the immediate family, of such deceased or incompetent person.

Lessee shall give the City prompt written notice of any such change in the ownership interests in Lessee whether or not the consent of the City is required therefor. The provisions of this Paragraph 21 [except for the notice provisions hereof] shall not be applicable to any Approved Leasehold Mortgagee (as defined below) that is a corporation, the stock of which is publicly traded on a recognized stock exchange.

(2) Without limiting the City's right of refusal to consent to any Transfer, the City's refusal to consent to any Transfer shall be considered reasonable if the Lessee cannot demonstrate to the reasonable satisfaction of the City that such proposed Transfer would not result in a partial assignment or a de facto division of the Lessee's rights or duties

hereunder. It is the City's intention that this Lease be held as an entirety by the Lessee and it may not be divided.

B. Vesting

As a condition to the vesting of any rights in this Lease or in the leasehold estate created hereby in any City-approved assignee or sublessee of the Lessee's interest hereunder, whether voluntary or involuntary, each such proposed assignee or sublessee shall first have delivered to the City Clerk of the City a written notice of such proposed assignment or sublease, which notice:

(1) Shall contain a statement that the proposed assignee or sublessee agrees to be bound by all the terms, covenants and conditions of this Lease which are to be performed by Lessee;

(2) Shall state the name and address of the proposed assignee or sublessee for the purpose of enabling notices to be given under Paragraph 27 herein; and

(3) Shall state whether the proposed assignee or sublessee is an individual, a corporation or a partnership; and if such assignee or sublessee is a corporation, the names of such corporation's principal offices and directors, its state of incorporation, the amount of capital stock authorized and the amount of capital stock outstanding at the time of the assignment, the number of shareholders and the names and address of every shareholder who directly or indirectly owns or controls five percent (5%) of more of such stock (stating the number of such shares); and if such assignee or sublessee is a partnership, the names and addresses of the members of such partnership. The provisions of this Paragraph 21(B)(3) shall not apply to any assignee of an Approved Leasehold Mortgagee (as defined below), the stock of which assignee is publicly traded on a recognized stock exchange.

C. Voidability

Any Transfer that has been made in violation of or which is not in full compliance with the provisions of this Paragraph 21 shall be voidable by the City and shall constitute a material default under this Lease.

D. Non-Disturbance and Attornment Agreements

Upon the Lessee's written request, the City shall enter into a non-disturbance and attornment agreement with the Lessee's sublessee(s) on the City's form of agreement.

22. ENCUMBRANCES

A. Right to Encumber

During the Term of this Lease and any extension or renewal thereof, Lessee may assign for security purposes only or may encumber Lessee's leasehold interest under this Lease and the leasehold estate created hereby (a "Leasehold Mortgage") in favor of an institutional lender (herein sometimes referred to as the "Leasehold Mortgagee") and in that

connection may perform any and all acts and execute any and all instruments necessary or proper to consummate any loan transaction and perfect the security therefor to be given the Leasehold Mortgagee; provided, however, that:

(1) Any such Leasehold Mortgage must constitute a first lien on Lessee's leasehold estate; and

(2) Such Leasehold Mortgage shall be an assignment or encumbrance only of the Lessee's leasehold interest under this Lease and the leasehold estate created hereby and shall not convey or be a lien upon the City's fee estate in the Leased Premises or the City's reversionary interest in all buildings and improvements located on the Leased Premises.

B. Leasehold Mortgagee Defined

The term "Leasehold Mortgagee" as used in this Paragraph 22 and elsewhere in this Lease shall mean the mortgagee under any mortgage, or the trustee and beneficiary under any deed of trust or indenture of mortgage and deed of trust encumbering the leasehold estate or Lessee's interest therein (including the assignee or successor of any such mortgagee, beneficiary or trustee and the holder of any promissory note or bond secured thereby), and executed by Lessee and delivered for the purpose of securing to such mortgagee, trustee or beneficiary payment of any indebtedness incurred by Lessee and secured by such mortgage, deed of trust or indenture of mortgage and deed of trust. The terms "Approved Leasehold Mortgagee" and "Approved Leasehold Mortgage" shall mean a Leasehold Mortgagee and a Leasehold Mortgage, respectively, complying with the requirements of Paragraph 22(A) above.

C. Agreements Regarding Leasehold Mortgagees

(1) Notices to Leasehold Mortgagee. So long as an Approved Leasehold Mortgagee notifies the City in writing of its Approved Leasehold Mortgagee status and provides City with an address for delivery of notices, copies of all notices given or documents delivered by the City to Lessee under the terms of this Lease, including without limitation notices of Lessee's default under this Lease, shall be concurrently served by the City on the Approved Leasehold Mortgagee by United States mail, postage prepaid, registered or certified mail, return receipt requested, at the address last provided to the City in writing by such Approved Leasehold Mortgagee. No notice given by the City under this Lease shall be effective unless served as provided in this Section.

(2) Approved Leasehold Mortgagee's Rights to Cure. Notwithstanding any provision to the contrary set forth in this Lease, the City shall not terminate this Lease because of any default by Lessee or on the basis of any other event or circumstance which gives the City the right to terminate this Lease if the Approved Leasehold Mortgagee, within twenty (20) days after its receipt of notice from the City of a default by the Lessee under this Lease in the case of a default which can be cured by the payment of money required to be paid by Lessee under the terms of this Lease, or within thirty (30) days after its receipt of such notice in the case of a nonmonetary default, shall at its election either:

(a) Cure such default within such twenty (20) days, if the default can be cured by the payment of money required to be paid by Lessee under the terms of

this Lease or, if the default cannot be cured in such a manner, commence to cure the default within such thirty (30) day period and thereafter diligently proceed to complete the cure; or

(b) (i) Institute a trustee's sale or judicial foreclosure proceedings under the Approved Leasehold Mortgage and thereafter diligently proceed to complete such proceedings; (ii) cure such default within such twenty (20) days if the default can be cured by the payment of money required to be paid by Lessee under the terms of this Lease; (iii) comply with all of the terms and conditions of this Lease requiring the payment or expenditure of money by Lessee (including but not limited to Paragraph 17 of this Lease) until such time (the "Foreclosure Date") as this Lease has been sold by trustee's sale, judicial foreclosure or transfer in lieu of foreclosure or reconveyed under the Approved Leasehold Mortgage; and (iv) commence to cure all non-monetary defaults within thirty (30) days following the Foreclosure Date and thereafter diligently proceed to complete the cure; provided, however, that if the Approved Leasehold Mortgagee fails to comply with any one of the conditions set forth in Paragraph 22(C)(2)(a) or 22(C)(2)(b), then the City shall be released from the covenant of forbearance contained in this subsection.

(3) Prosecution of Foreclosure. The Approved Leasehold Mortgagee shall be deemed to be diligently proceeding to complete a trustee's sale or judicial foreclosure notwithstanding the fact that such proceedings or the commencement of such proceedings are stayed by statute, rule, court order, bankruptcy stay, or other similar enactment or action, provided that, (a) such Approved Leasehold Mortgagee is at all times during such stay in compliance with the provisions of Paragraphs 22(C)(2)(b)(ii) and 22(C)(2)(b)(iii) hereof, and (b) such trustee's sale or judicial foreclosure is completed within twenty-four (24) months following the institution of such proceedings; provided that, such twenty four (24) month period shall be extended if the Approved Leasehold Mortgagee is unable to complete such proceedings within such twenty-four (24) month period so long as the Approved Leasehold Mortgagee is at all times diligently prosecuting such proceedings to conclusion.

(4) New Lease. If this Lease terminates because of a default by Lessee or any other event or circumstance which entitles the City to terminate this Lease (including, but not limited to, rejection of the Lease in a bankruptcy proceeding), the City shall provide the Approved Leasehold Mortgagee with written notice of such termination. If within thirty (30) days after receiving notice of such termination, the Approved Leasehold Mortgagee by written notice to the City requests that the City enter into a new lease for the Leased Premises, then the City shall enter into a new lease for the Leased Premises with the Approved Leasehold Mortgagee within thirty (30) days after the Approved Leasehold Mortgagee's request, provided that the Approved Leasehold Mortgagee has delivered to the City at the time of such request the Approved Leasehold Mortgagee's written agreement to cure Lessee's defaults under this Lease, and provided further that if Lessee has defaulted under Article 9 of this Lease, the Approved Leasehold Mortgagee shall have entered into a written agreement with City pursuant to which such Approved Leasehold Mortgagee has agreed to perform the remaining obligations of Lessee under said Article 9 in a manner and within a time period satisfactory to City, or obtained the agreement of a third party satisfactory to City to so perform such obligations. The new lease shall commence, and rent and all obligations of the Approved Leasehold Mortgagee shall begin to accrue, as of the date of termination of this Lease. The term of the new lease shall be for the period which would have constituted the remainder of the Term of this Lease had this Lease not been terminated, and the new lease shall be upon all of the other terms and conditions of this

Lease, as modified by all amendments, if any, entered into by City and Lessee. The new lease shall be free of all rights of Lessee. Lessee shall provide in all subleases pertaining to the Leased Premises that each subtenant of the Leased Premises shall, at the Approved Leasehold Mortgagee's option, attorn to the Approved Leasehold Mortgagee under the new lease, and the Approved Leasehold Mortgagee agrees to accept such an attornment, provided the subtenant is not in default under its sublease at the time of such attornment. Prior to or upon execution of the new lease, the Approved Leasehold Mortgagee shall (a) pay to the City all Rent, Additional Rent, and other amounts owing to the City by Lessee under this Lease as of the date of termination of this Lease; (b) shall pay to the City all rent and other amounts due under the new lease from the date of commencement of the term of the new lease to the date of execution of the new lease; (c) shall pay to the City all reasonable costs and expenses incurred by the City in connection with the new lease; and (d) shall provide in a manner satisfactory to City for the cure of all nonmonetary defaults of Lessee under this Lease.

(5) Performance by Approved Leasehold Mortgagee. The City agrees to accept performance by the Approved Leasehold Mortgagee of Lessee's obligations under this Lease with the same force and effect as if performed by Lessee; provided, however, that the Approved Leasehold Mortgagee shall not become liable for the performance of Lessee's obligations under this Lease unless and until the Approved Leasehold Mortgagee acquires title to the Lease, and provided further that, if the Approved Leasehold Mortgagee shall so acquire title to this Lease or any new Lease pursuant to Paragraph 22(C)(4) above, within sixty (60) days after such Approved Leasehold Mortgagee shall have so acquired title to this Lease or such new Lease, such Approved Leasehold Mortgagee shall have either (i) sold or otherwise transferred this Lease to a third party approved by City pursuant to Paragraph 21 of this Lease, which third party shall be financially capable and experienced in operating commercial retail shopping centers similar to the Leased Premises; or (ii) engaged the services of a management company reasonably acceptable to and approved in writing by the City which management company shall be experienced in operating commercial retail shopping centers similar to the Leased Premises and which management company shall actively operate and manage the Leased Premises until such time as such Approved Leasehold Mortgagee shall have sold or otherwise transferred this Lease to a third party as required in clause (i) of this sentence. An Approved Leasehold Mortgagee acquiring title to this Lease shall be liable for the performance of Lessee's obligations under this Lease only for so long as the Approved Leasehold Mortgagee holds title to this Lease. The City agrees that an Approved Leasehold Mortgagee may enter on the Leased Premises to perform any curative act.

Notwithstanding the provisions of this Paragraph 22(C)(5) of the Lease, (i) an Approved Leasehold Mortgagee shall not become liable for the performance of obligations of Lessee under the Lease which, by their nature, cannot be performed without such Approved Leasehold Mortgagee having possession of the Leased Premises, unless and until the Approved Leasehold Mortgagee actually acquires possession of the Leased Premises (regardless of whether, prior to obtaining such possession, such Approved Leasehold Mortgagee has title to the Lease), provided that the Approved Leasehold Mortgagee is at all times diligently taking all action required in order to obtain possession of the Leased Premises at the earliest possible date and (ii) the approval of City required under Paragraphs 22(C)(5)(i) and 21(C)(5)(ii) of the Lease shall be deemed satisfied if the third party transferee or the management company referred to therein meet the respective criteria for each set forth in Paragraph 22(C)(9) above.

(6) No Merger. Without the written consent of the Approved Leasehold Mortgagee, there shall be no merger of this Lease or of the leasehold estate created hereunder with the fee estate in the Leased Premises by reason of the fact that this Lease or the leasehold estate may be held directly or indirectly by or for the benefit of any person who owns the fee estate in the Leased Premises or any portion thereof.

(7) No Voluntary Surrender. No voluntary surrender of this Lease by Lessee or amendment or mutual termination of this Lease shall be effective without the prior written consent of the Approved Leasehold Mortgagee.

(8) Leasehold Foreclosure. The City's consent shall not be required for a transfer of this Lease to the Approved Leasehold Mortgagee by trustee's sale, judicial foreclosure or transfer in lieu of foreclosure.

(9) Approved Transfers by an Approved Leasehold Mortgagee. Notwithstanding any provision to the contrary contained in the Lease, including, without limitation, Paragraph 21 of the Lease, in the event that an Approved Leasehold Mortgagee acquires title to the Leased Premises by way of foreclosure, deed in lieu of foreclosure, or other exercise of remedies provided under its Approved Leasehold Mortgage, such Approved Leasehold Mortgagee shall thereafter have the right, with the consent of the City Council, to assign the Lease to a purchaser /assignee who proposes to assume each and all of the obligations of the Lessee under the Lease. The City Council will not withhold its consent to such a proposed transferee if the Approved Leasehold Mortgagee and the proposed transferor provide evidence to City establishing that such proposed transferee (i) has a net worth (calculated in accordance with generally accepted accounting principles) of at least Five Million Dollars ($5,000,000) as of the date of such proposed assignment, (ii) has at least five (5) years experience in the operation and management of comparable or larger properties, or will enter into a management contract for the Leased Premises with a manager having such experience for such minimum period who will actively manage the Leased Premises, (iii) has satisfied all conditions provided in Paragraph 21(B) of the Lease (except regarding shareholders owning or controlling five percent (5%) or more of the stock of a publicly held corporation), and (iv) does not have a reputation which would embarrass the City or disparage its reputation - e.g., a reputation for connections with or control by criminal elements, past criminal violations or prosecutions, or a reputation for disreputable practices.

(10) Cure of a Prohibited Junior Leasehold Mortgage. City agrees that if Lessee violates the prohibition in the Lease on creation of any junior Leasehold Mortgage, City shall give written notice to the Approved Leasehold Mortgagee. If the Approved Leasehold Mortgagee, within thirty (30) days after receipt of such notice either (i) pays and discharges the junior Leasehold Mortgagee in its entirety, or (ii) commences foreclosure proceedings, or exercises a power of sale, under a trust deed or mortgage held by the Approved Mortgagee, and thereafter diligently prosecutes such proceedings or sale to conclusion, either of such actions shall constitute a "cure" of such default by Lessee entitling the Approved Leasehold Mortgagee to obtain the new lease provided for in Paragraph 21(C)(4) of the Lease. Nothing contained herein shall alter the prohibition against creation of junior Leasehold Mortgages by the Lessee nor be construed as City's consent thereto.

## 23. BREACH OR DEFAULT

### A. Event of Default

Any of the following shall constitute an event of default ("Event of Default") by Lessee under this Lease:

(1) Failure of Lessee to pay when due the Rent, the Additional Rent or any other sums payable by Lessee under this Lease, and the continuance of such failure for ten (10) days after written notice thereof from the City that such payment is due; or

(2) The abandonment or vacation of the Leased Premises for ten (10) days after written notice thereof from the City; or

(3) The failure of Lessee to perform any other obligation hereunder which shall not be remedied to the satisfaction of City within thirty (30) days after written notice from the City specifying such failure to perform (or, if such failure cannot reasonably be remedied by Lessee within thirty (30) days, if Lessee shall not have commenced appropriate action to effect such remedy within said thirty (30) day period and thereafter prosecuted such action to completion with all due diligence); or

(4) Except as otherwise provided by paramount law, the entry of any decree or order for relief by any court with respect to Lessee in any involuntary case under the Federal Bankruptcy Code or any other applicable federal or state law; or the appointment of or taking possession by any receiver, liquidator, assignee, trustee, sequestrator or other similar official, of the Leased Premises or of Lessee or of any substantial part of the property of Lessee or the ordering or winding up or liquidating of the affairs of Lessee and the continuance of such decree or order unstayed and in effect for a period of sixty (60) days; or the commencement by Lessee of a voluntary proceeding under the Federal Bankruptcy Code or any other applicable state or federal law or consent by Lessee to the entry of an order for relief in an involuntary case under any such law, or consent by Lessee to appointment of or taking of possession by a receiver, liquidator, assignee, trustee, sequestrator or other similar official, of Lessee or of any substantial part of the property of Lessee or the making by Lessee of any general assignment for the benefit of creditors; or the failure of Lessee to operate its business for ten (10) business days when such failure is due to any financial difficulty experienced by either of the foregoing; or Lessee taking any other voluntary action related to the dissolution of Lessee or the winding up of Lessee's affairs; or

(5) Lessee shall hire an independent architect satisfactory to the City, said architect to conduct monthly reviews of the progress of the Project until the Project is completed in accordance with the terms of this Lease and to supply monthly certifications to the City and Lessee stating that: (1) the Project is proceeding in substantial compliance with Plans approved by the City; (2) completion of the Project is on schedule to meet the time requirements set forth in the Lease; and (3) the percentage of the Lessee's construction loan proceeds disbursed to date corresponds to the percentage of the value of the work completed on the Project to date. In the event that the architect is unable to certify as to any of the above in any particular month, the architect shall provide a written report to the City and Lessee stating the reasons for its inability to so certify. In the event that the Approved Leasehold Mortgagee so requests,

Lessee shall cause copies of said architect's certifications and/or written reports to be delivered to the Approved Leasehold Mortgagee.

B. City's Remedies

(1) If an Event of Default by Lessee shall occur and be continuing as aforesaid, then in addition to any other remedies available to the City at law or in equity, the City shall have the immediate option to terminate this Lease, and bring suit against Lessee or submit the issue of Lessee's default to arbitration and recover as an award in such suit or arbitration proceeding the following:

(a) The worth at the time of award of the unpaid rent and all other sums due hereunder which had been earned at the time of termination;

(b) The worth at the time of award of the amount by which the unpaid rent and all other sums due hereunder which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided;

(c) The worth at the time of award of the amount by which the unpaid rent and all other sums due hereunder for the balance of the Term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided;

(d) Any other amount necessary to compensate the City for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things could be likely to result therefrom; and

(e) Such amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable California law.

(2) The "worth at the time of award" of the amounts referred to in Paragraphs 23(B)(1)(a) and 23(B)(1)(b) above shall be computed by allowing interest at the lesser of one and one-half percent (1-1/2%) per month or the maximum allowable rate under applicable law on the date of the award. The "worth at the time of award" of the amount referred to in Paragraph 23(B)(1)(c) is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent (1%).

(3) If an Event of Default shall occur, and the City shall choose not to exercise the option to terminate this Lease as provided herein, this Lease shall continue in full force and effect for so long as the City chooses not to terminate Lessee's right to possession, and the City may enforce all its rights and remedies under this Lease, including the right to recover rent as it becomes due.

(4) For the purpose of this Paragraph 23(B), the following shall not constitute a termination of the Lessee's right to possession:

(a) Acts of maintenance or preservation or effort to relet all or any part of the Leased Premises; or

(b) The appointment of a receiver upon initiative of the City to protect the City's interest under this Lease.

(5) The City may, at any time after Lessee commits a default under this Lease, remedy such default at Lessee's expense. If the City at any time, by reason of Lessee's default, pays any sum or does any act that requires the payment of any sum, the sum paid by the City shall be due immediately from Lessee to the City at the time the sum is paid, and if paid at a later date shall bear interest at the lesser of the rate of one and one-half percent (1-1/2%) per month from the date the sum is paid by the City until the City is reimbursed by Lessee or the maximum rate allowed by law. The sum, together with interest on it, shall be Additional Rent.

C. Receipt of Rent Not Waiver of Default

The receipt by the City of Rent, Additional Rent or any other charges due to the City, with knowledge of any breach of this Lease by Lessee or of any default on the part of Lessee in the observance or performance of any of the conditions or covenants of this Lease, shall not be deemed to be a waiver of any provisions of this Lease. No acceptance by the City of a lesser sum than the Rent, Additional Rent, or any other charges then due shall be deemed to be other than on account of the earliest installment of the Rent, Additional Rent or other charges due, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as the Rent, Additional Rent or charges due be deemed an accord and satisfaction, and the City may accept such check or payment without prejudice to the City's right to recover the balance of such installment or pursue any other remedy provided in this Lease. No failure on the part of the City to enforce any covenant or provision herein contained, nor any waiver of any right hereunder by the City shall discharge or invalidate such covenant or provision or affect the right of the City to enforce the same in the event of any subsequent breach or default, unless expressly agreed to by the City Manager in writing. The receipt by the City of any of the Rent, Additional Rent or any other sum of money or any other consideration paid by Lessee after the termination in any manner of the Term, or after notice by City of such termination, shall not reinstate, continue, or extend the Term hereof, or destroy, or in any manner impair the efficacy of any such notice of termination as may have been given hereunder by the City to Lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by the City Manager. Neither acceptance of the keys nor any other act or thing done by the City or by its agents or employees during the Term shall be deemed to be an acceptance of a surrender of the Leased Premises, excepting only an agreement in writing signed by the City Manager accepting or agreeing to accept such a surrender.

24. COMPLIANCE WITH LAW

Lessee agrees to comply with, and to cause all sublessees, licensees and concessionaires to comply with, all statutes, ordinances, rules, laws or regulations of any governmental agency (including, without limitation, those of the City of Torrance) which are applicable to said Leased Premises or the operation of Lessee or such sublessees on the Leased Premises (collectively, the "Applicable Laws").

## 25. CITY'S RIGHT OF ACCESS

### A. City's Access to Leased Premises

During normal business hours, the City and the City's officers, employees and agents shall have the right to enter upon the Leased Premises or any buildings, structures or other improvements thereon for the purpose of inspecting the same and posting notices of non-responsibility or any other notices the City may reasonably deem necessary or desirable.

### B. Lessee's Access to Airport Runways

Lessee shall have no right of access for aircraft, vehicles or people to the runways, taxiways or other property or facilities on the Torrance Municipal Airport.

## 26. QUIET ENJOYMENT

Except as provided otherwise herein, the City covenants that Lessee, upon paying the Rent expressly reserved in this Lease and observing and keeping the terms, covenants, and conditions of this Lease on its part to be kept and performed, shall lawfully and quietly hold, occupy and enjoy the Leased Premises during the Term of this Lease.

## 27. NOTICES

All notices, demands, or other communications under this Lease will be in writing. Notice will be sufficiently given for all purposes as follows:

A. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.

B. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in a United States Postal Service office or mailbox.

C. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.

D. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.

E. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purposes of giving notice are as follows:

LESSEE: LDC Skypark LLC
c/o La Caze Development
2601 Airport Drive, Suite 300
Torrance, CA 90503

CITY: City of Torrance
3031 Torrance Boulevard
Torrance, California 90509-2970
Attention: City Manager
Copy To: City Attorney

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.

Either party may change its notice information by giving the other party notice of the change in any matter permitted by this Agreement.

28. AMENDMENTS AND MODIFICATIONS

This Lease shall not be amended or modified in any way, and no purported amendment or modification shall be effective, unless same has been (i) approved by the City Council and set forth in a written instrument, expressly purporting to amend this Lease, executed by the City Manager or the Mayor for the City; (ii) executed by Lessee; and (iii) approved in writing by any Approved Leasehold Mortgagee.

29. APPROVALS BY CITY; CITY ACTING IN ITS PROPRIETARY CAPACITY.

No consent, approval or satisfaction of the City provided for hereunder, and no waiver by the City of any provisions hereof, shall be effective unless given in writing specifically referring to this Lease and executed by the City Manager or the Mayor for the City; no such consent, approval, satisfaction or waiver under or with respect to this Lease shall be inferred or implied from any other act or omission of the City or any agent or employee thereof. Unless otherwise expressly provided therein, no approval, consent or other action taken by the City under or pursuant to this Lease shall be deemed to waive any other rights or authority of the City in any capacity other than as the lessor under this Lease.

Although City is a city of the State of California having regulatory powers, the execution of this Agreement and the lease of the Leased Premised as contemplated by this Agreement is undertaken by the City in its proprietary capacity and not in its regulatory capacity. Lessee agrees that City retains all of its regulatory powers and the development contemplated is subject to the applicable laws and regulations of City and other governmental agencies having jurisdiction. Nothing contained in this Lease shall in any way restrict or diminish the rights, powers or jurisdiction of the City, its City Council, Planning Commission and other agencies with respect to the governance of the Leased Premises and all buildings, improvements, business and activities located on or conducted thereon. Lessee acknowledges that it will have to apply

for land use entitlements and building permits and to comply with applicable laws and ordinances in order to implement the development of the Project. This Agreement does not and the Lease will not constitute any agreement, promise or assurance by City to grant such land use entitlements or issue building permits, or that City is obligated to obtain the agreement or assurance from such agencies that such agencies will do so, nor is City obligated to amend any of its laws or regulations regarding land use entitlements or building permits, or to grant any entitlements or building permits.

30. CONDEMNATION

A. Award

In the event that all or any part of the Leased Premises or any buildings or improvements thereon shall, during the Term of this Lease, be taken or damaged by eminent domain, the total consideration paid in connection with such taking and damage (including both amounts paid for property taken and severance or other damage to the portion of the Leased Premises not taken) shall be paid and applied in the following order of priority:

(1) First, to reimburse the City for the reasonable costs, fees and expenses incurred by the City in connection with the collection of such award.

(2) Second, but only if such taking does not result in the termination of this Lease as further provided in this Section, all remaining proceeds, if any, shall be paid to a trustee, reasonably acceptable to both the City and Lessee who shall disburse the funds for construction purposes as construction progresses to repair any and all damage to the Leased Premises or the buildings or improvements located thereon resulting from such taking, with such safeguards as said trustee may deem to be desirable to assure that workmen and materialmen are paid and that no mechanic's liens may be recorded. If the Approved Leasehold Mortgagee, as defined in Paragraph 23(B) of this Lease, agrees to disburse such proceeds for restoration as aforesaid, such Approved Leasehold Mortgagee shall be acceptable to the City as the trustee for purposes of this provision.

(3) Third, any excess proceeds held by the trustee following completion of the restoration and repair described in Paragraph 30(A) above or in the event this Lease is terminated pursuant to the provisions of this Section so that no reconstruction or repair is to be undertaken, the balance of such proceeds, if any, shall be paid and applied in the following order of priority:

(a) First, to the City to the extent of the fair market value of the land of the Leased Premises so taken (including the full amount of the award for severance damages to the land not so taken). The fair market value of the land so taken shall be the value which is established by the parties as a part of any litigation or arbitration in connection with such taking. In the event there is no such litigation or determination, the fair market value of the land so taken shall be determined by the procedure set forth in Paragraph 4(B) above.

(b) Second, after any payment to the City required by Paragraph 30(A)(3) above, Lessee shall receive the remainder of such award, if any.

(4) If any of Lessee's trade fixtures or any of Lessee's other personal property shall be so taken, and if a separate and distinct award is made in connection therewith, such separate and distinct award (including amounts paid for trade fixtures and personal property taken and severance or other damages to such of Lessee's trade fixtures and other personal property as shall not be taken) shall belong solely to Lessee. Lessee's right to such award shall, however, not diminish or detract in any way from any award or amount due to the City.

B. Settlement of Claims

Lessee shall not settle or adjust any claim for damages resulting from a taking of the Leased Premises or any buildings or improvements thereon without the City's prior written consent, which consent shall be given if, and only if, the amount of such award shall be sufficient to pay the amounts to which the City is entitled pursuant to the provisions of this Section.

C. Reconstruction and Repairs

If such taking does not result in the termination of this Lease as further provided in this Section, Lessee, whether or not damages, if any, on account of such be sufficient for such purposes, shall at its sole cost and expense, promptly commence and diligently complete the restoration of the Leased Premises and all buildings and improvements located thereon as nearly as possible to their value, condition and character immediately prior to such taking, except only for any reduction in any areas caused or necessitated by such taking; provided, however, that if the total cost to restore the Leased Premises and all buildings and improvements located thereon remaining after said taking is reasonably estimated to exceed the portion of any award made available to Lessee for that purpose by fifteen percent (15%) of the replacement value of such building, structure or other improvement immediately prior to such damage, Lessee may elect to demolish same, restore the Leased Premises to a neat and clean condition to the reasonable satisfaction of the City and terminate this Lease by notifying the City in writing of its intent to do so within thirty (30) days of the event causing such damage or destruction. If Lessee shall elect to cancel this Lease as provided for above, it shall have no further obligation for rental or other payments hereunder from and after the date that such demolition and restoration are completed.

D. Lease Termination

In the event all of the Leased Premises, or so much thereof and/or the buildings and improvements thereon are taken so that the use of the remainder, in the Lessee's reasonable judgment, is economically unfeasible, the Term of this Lease shall terminate as of, and the City and, except with respect to obligations that expressly survive the expiration or earlier termination of this Lease, Lessee shall be released of all obligations under this Lease arising subsequent to, the date of such taking. If only a part of the Leased Premises are so taken, and this Lease is not terminated as a result thereof, this Lease shall remain in full force and effect as to the portion of the Leased Premises and the buildings and improvements thereon remaining except that the Rent, then applicable shall be reduced in that proportion or percentage which the fair market value of that portion of the land of the Leased Premises so taken bears to the total fair market value of the land of the Leased Premises immediately preceding such taking. Such total

fair market value shall, for the purposes of this Paragraph, be determined in the manner set forth in Paragraph 4(B) above.

E. Approved Leasehold Mortgagee Participation

The City agrees that an Approved Leasehold Mortgagee shall have the right to participate with the City and Lessee in any condemnation proceedings affecting the Leased Premises; provided that, the Approved Leasehold Mortgagee's rights shall be limited to enforcing its rights (if any) with respect to Lessee's share (if any) of such condemnation proceeds and shall not apply to or affect City's share of any such condemnation proceeds.

31. GENERAL PROVISIONS

A. Estoppel Certificates

The City and Lessee shall at any time and from time to time upon not less than thirty (30) days prior written request by the other, deliver to the requesting party an executed and acknowledged written statement certifying that (a) this Lease is unmodified and in full force and effect (or if this Lease has been modified or if this Lease is not in full force or effect, stating the nature of the modification or the basis on which this Lease had been terminated, whichever is applicable); (b) to its knowledge, the requesting party is not in default under this Lease (or if any such default exists, stating the specific nature and extent of the default); and (c) the dates to which the monthly rent and other monetary obligations under this Lease have been paid in advance. Each certificate delivered pursuant to this Section may be relied upon by any prospective purchaser or transferee of the City's or Lessee's respective interests in the Leased Premises, including without limitation any prospective Approved Leasehold Mortgagee.

B. Remedies Cumulative

No remedy or election provided by any provisions in this Lease shall be deemed exclusive unless so indicated, but shall whenever possible be cumulative with all other remedies in law or equity except as otherwise herein specifically provided.

C. Provisions as Covenants

Each provision hereof shall be deemed both a covenant and condition and all of the conditions and covenants contained herein shall be covenants running with the land and shall be construed as such.

D. Time

Time is of the essence of this Lease.

E. Headings

The Paragraph headings in this Lease contained are for convenience and reference only, and are not intended to and shall not define, govern, limit, modify or in any manner affect the scope, meaning, or intent of any provision in this Lease contained.

F. Successors in Interest

Except as otherwise herein provided, each and every of the terms, covenants and conditions of this Lease shall inure to the benefit of and shall bind, as the case may be, not only the parties hereto but each and every of the heirs, executors, administrators, successors, assigns and legal representatives of the parties hereto.

G. Waivers

The waiver by either Lessee or the City of any breach of any of the covenants, agreements, obligations, conditions or provisions of this Lease must be in writing and shall not be construed to be a waiver of such covenant, agreement, obligation, condition, term or provision upon any subsequent breach of the same or of any other covenant, agreement, obligation, condition, term or provision herein contained.

H. Gender and Number

In this Lease, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the neuter gender includes the masculine and/or feminine, and the singular number includes the plural and the plural includes the singular.

I. Memorandum of Lease

A memorandum of this Lease, in recordable form, will be prepared, executed by both parties, and recorded in accordance with California Government Code Section 37393.

J. No Brokers

Lessee covenants and agrees that no commission or fees are due and owing to any person or entity by reason of the execution of this Lease or the payment of rent hereunder, and Lessee shall indemnify and hold the City harmless from and against any demand, liability, claim or obligation for any such fees or commissions from any person or entity claiming to have.

K. Good Faith and Reasonability

In the event any provision under this Lease shall require or anticipate that either party hereto make a judgment, give consent or approval, or exercise discretion, that party agrees to do so reasonably and in good faith, with due diligence, communicated to the other party in writing except in those instances where a Lease provision specifically sets forth a different standard of approval, in which case the specific standard of that Lease provision shall govern.

L. Incorporation of Exhibits

Exhibits "A", "B", "C", "D", and "E", each as attached to this Lease, are incorporated herein and made a part hereof.

M. Severability

If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

N. Integration

This Lease incorporates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to all or part of the subject matter hereof. Any amendment or modification to this Lease must be in writing and executed by the appropriate authorities of Lessor and Lessee.

O. Independent Review

Each party acknowledges and agrees that it has had the opportunity to thoroughly review the terms contained herein, to obtain the advice of independent legal counsel in connection therewith, and that this Lease is the product of negotiations between the parties. Consequently, the parties agree that in the event of any dispute arising out of this Lease, this instrument shall not be construed against one party, and in favor of another, based upon the fact that one party may have drafted this Lease, or a particular provision thereof.

P. Governing Law

This Agreement is made under and shall be construed pursuant to the laws of the State of California. Any suit hereon or hereunder shall be brought only in a state or federal court sitting in the City of Los Angeles, State of California, and all parties hereto hereby agree that venue shall lie therein.

Q. Attorneys' and Other Fees

All sums reasonably incurred by City in connection with an Event of Default or holding over of possession by Lessee after the expiration or termination of this Lease, including, but not limited to, all costs, expenses and actual accountants', appraisers', attorneys' and other professional fees, and any collection agency or other collection charges, shall be due and payable by Lessee to City on demand. In addition, in the event that any action shall be instituted by either of the parties hereto for the enforcement of any of its rights in and under this Lease, the party in whose favor judgment shall be rendered shall be entitled to recover from the other party all expenses reasonably incurred by the prevailing party in such action, including actual costs and reasonable attorneys' fees.

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK. SIGNATURES FOLLOW.]

IN WITNESS WHEREOF, the parties hereto have executed this Lease the date and year first above written.

"CITY"

CITY OF TORRANCE,
a municipal corporation

By:_____
Mayor, DAN WALKER

ATTEST:

_____
City Clerk, SUE HERBERS, CMC

APPROVED AS TO FORM:

_____
City Attorney

[Signatures continued on next page]

[Signatures continued from previous page]

"LESSEE"

LDC SKYPARK LLC,
a California limited liability company

By: _____
Norman R. La Caze
Its: Manager

STATE OF California )
)
COUNTY OF Los Angeles )

On May 26, 2004 before me, Jennifer Denise Brunkow, personally appeared Norman R. LaCaze ——————,
X personally known to me - OR - ___ 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.

WITNESS my hand and official seal.

JENNIFER DENISE BRUNKOW
Commission # 1324534
Notary Public - California
Los Angeles County
My Comm. Expires Oct 8, 2005

Jennifer Denise Brunkow

STATE OF CALIFORNIA )
) ss.
COUNTY OF LOS ANGELES )

On AUGUST 4, 2004, before me, A. L. MANALILI, Notary Public, personally appeared DAN WALKER and SUE HERBERS, personally known to me ~~(or 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.

Witness my hand and official seal.

Notary Public

[SEAL]

A. L. MANALILI
Commission # 1473523
Notary Public - California
Los Angeles County
My Comm. Expires Mar 2, 2008

STATE OF CALIFORNIA )
) ss.
COUNTY OF )

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or 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.

Witness my hand and official seal.

Notary Public

[SEAL]

STATE OF CALIFORNIA )
) ss.
COUNTY OF )

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or 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.

Witness my hand and official seal.

_____
Notary Public

[SEAL]

# EXHIBIT "A"

## LEGAL DESCRIPTION OF THE LEASED PREMISES

The real property is located in the County of Los Angeles, State of California and is more particularly described as follows:

That portion of Parcel 32 of Official Map No. 2 in the City Of Torrance, County of Los Angles, State Of California, as Recorded in Book 5 pages 44 – 51 in the Office of Said County Recorder, Described as beginning at the Northwesterly corner of said Parcel 32, Thence South 62 Degrees 26 Minutes 06 Seconds East 938.12 along the northerly line of Parcel 32, said northerly line also being the Southerly line of Skypark Drive, Thence leaving the Northerly line of Parcel 32 South 27 degrees 33 Minutes 44 Seconds West 422.25 feet, Thence South 6 Degrees 21 Minutes 11 Seconds East 61.46, Thence South 51 Degrees 21 Minutes 11 Seconds East 106.10 Feet, Thence South 38 Degrees 38 Minutes 49 Seconds West 180.61 Feet to a point on the Southerly line of Parcel 32, Thence along the Southerly line of Parcel 32 North 51 Degrees 21 Minutes 11 Seconds West 162.50 Feet, Thence Continuing along the Southerly line of Parcel 32 North 38 Degrees 38 Minutes 49 Seconds East 65.00 feet, Thence Continuing along the Southerly line of Parcel 32 North 51 Degrees 21 Minutes 11 Seconds West 911.77 Feet to the Westerly Line of Parcel 32, Thence Along the Westerly Line of Parcel 32 North 27 Degrees 33 Minutes 54 Seconds East 401.10 Feet to the Northwesterly corner of Parcel 32.

RESERVING THEREFROM, together with the right to grant and transfer the same, the above-described real property for the following (the "Remediation Easement"):

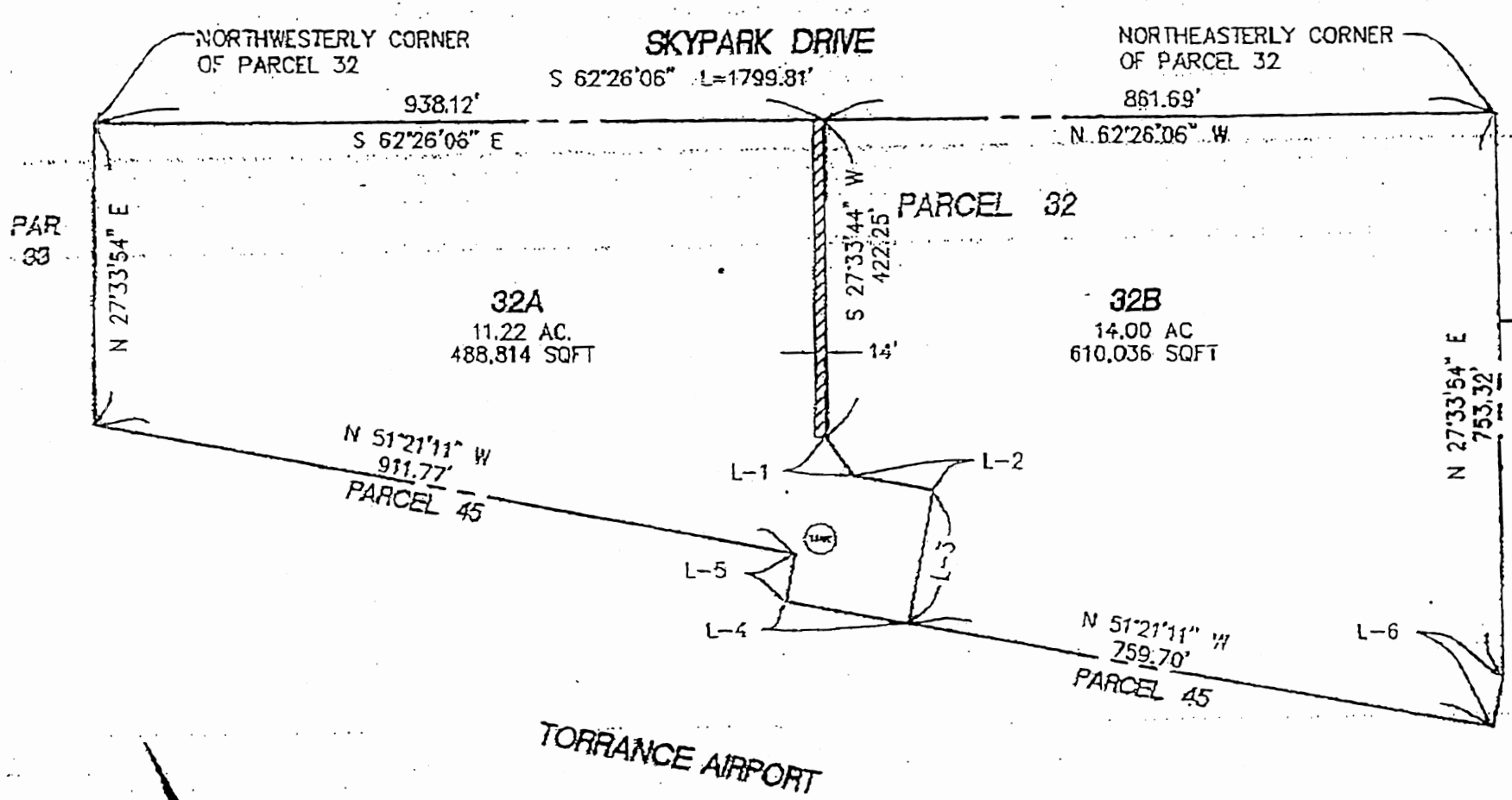
i) Vehicular and pedestrian entry on and over and access to the foregoing real property, including, without limitation, those area(s) of the foregoing real property upon which currently exist monitoring wells which sample the soil, soil vapor and/or groundwater, by Hi-Shear Corporation, its agents, consultants, attorneys, contractors, engineers, employees and other representatives ("Permittees") for the purpose of conducting any environmental tests or samples of the soil, soil vapor and/or groundwater of the foregoing real property that Hi-Shear Corporation may deem necessary or appropriate for the characterization, analysis, monitoring and/or remediation (collectively, the "Remediation") of the Leased Premises; and

ii) The Remediation of any Hazardous Material Condition (as hereinafter defined) and for the installation, inspection, use, operation, maintenance, repair and removal by Hi-Shear Corporation and its Permittees of any of Hi-Shear Corporation's "Remediation Equipment" (as hereinafter defined) which currently exists or is later installed on the Property in connection with the Remediation of any Hazardous Material Condition. As used herein, the term "Remediation Equipment" means; (a) any and all existing facilities for Remediation which are now located in, on, under or about

the Leased Premises; (b) any new facilities for Remediation that may be installed in, on, under or about the Leased Premises and/or (c) any facilities that may be required by an any governmental authority with jurisdiction over any Hazardous Material Condition and/or the Leased Premises to be installed and (d) any replacements and upgrades of the facilities described in (a)-(c) of this sentence. Remediation Equipment shall include, without limitation, monitoring, containment, extraction, treatment and discharge facilities, structures, equipment, devices, pipes, systems or other infrastructure items for Remediation. As used herein, the term "Hazardous Material Condition" means the presence on, in or under the Leased Premises and/or the Remediation Easement Area (including without limitation the soil, soil vapor and/or groundwater of same) of any Hazardous Material at levels of contamination that require Remediation under standards required by applicable Environmental Laws.

RESERVING THEREFROM, a nonexclusive easement (the "Watermain Easement") over, under, and across a 14' strip of land located along the westernmost boundary of the adjacent premises, more particularly depicted on Exhibit "B" (the "Watermain Easement Area").

TOGETHER WITH a nonexclusive easement and right-of-way (the "Road Easement") for the purposes of access over and across a 28' strip of land located along the westernmost boundary of the Leased Premises, more particularly depicted on Exhibit "B" (the "Road Easement Area").



200' 0 200'

SCALE: 1"=200'

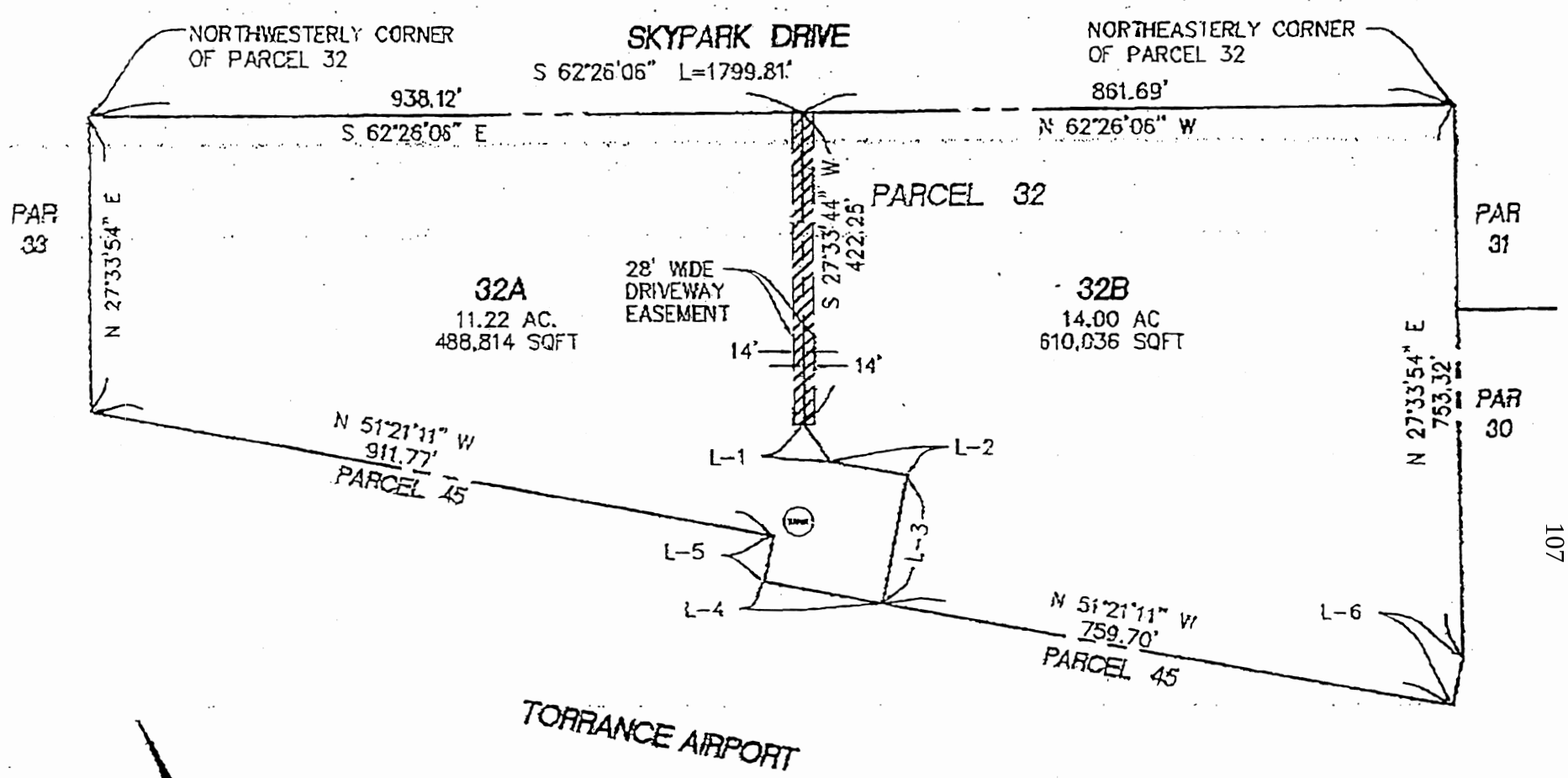
| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | DISTANCE |
| L-1 | S 6°21'11" E | 61.46' |
| L-2 | S 51°21'11" W | 106.10' |
| L-3 | S 38°38'49" W | 180.61' |
| L-4 | N 51°21'11" W | 162.50' |
| L-5 | N 38°38'49" E | 65.00' |
| L-6 | N 38°38'49" E | 65.00' |

EXHIBIT B

# WATER LINE EASEMENT

Bryant-Palmer-Soto, Inc.

DATED: 6-17-04




| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | DISTANCE |
| L-1 | S 6°21'11" E | 61.46' |
| L-2 | S 51°21'11" W | 106.10' |
| L-3 | S 38°38'49" W | 180.62' |
| L-4 | N 51°21'11" W | 162.50' |
| L-5 | N 38°38'49" E | 65.00' |
| L-6 | N 38°38'49" E | 65.00' |

EXHIBIT B

# DRIVEWAY EASEMENT

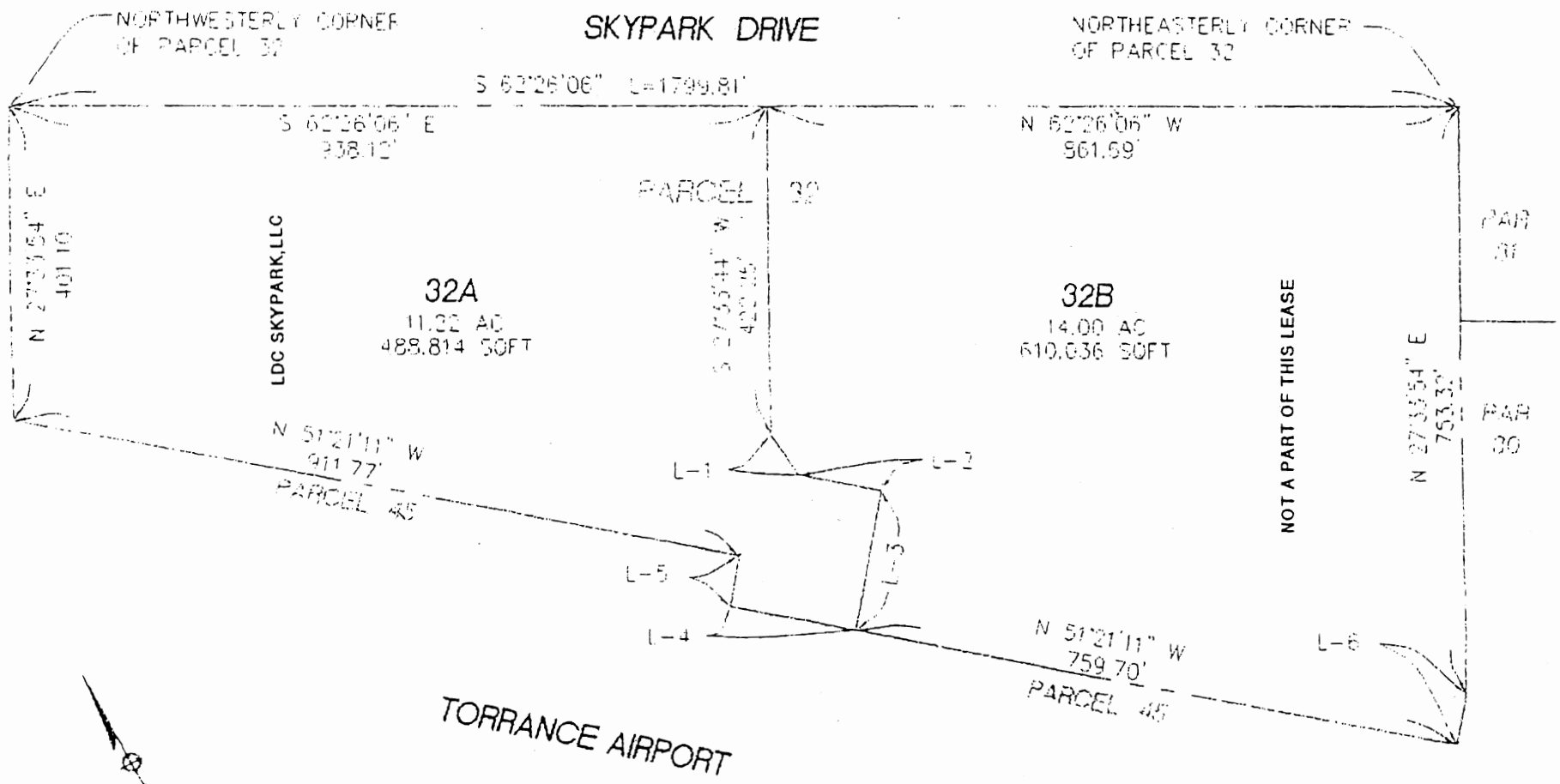
Bryant-Palmer-Soto Inc.

DATED 5-17-04

# EXHIBIT "B"

## DEPICTION OF THE LEASED PREMISES

[SEE ATTACHED]




| LINE TABLE | | |
|---|---|---|
| LINE | BEARING | DISTANCE |
| L-1 | S 6°21'11" E | 61.46' |
| L-2 | S 51°21'11" W | 106.10' |
| L-3 | S 38°38'49" W | 180.61' |
| L-4 | N 51°21'11" W | 162.50' |
| L-5 | N 38°38'49" E | 65.00' |
| L-6 | N 38°38'49" E | 65.00' |

Bryant·Palmer·Soto Inc.

DATED: 5-17-04

EXHIBIT "C"

DESCRIPTION OF THE PROJECT

[SEE ATTACHED]

THIS EXHIBIT INTENTIONALLY DELETED

EXHIBIT "D"

QUITCLAIM DEED AND RELEASE

[SEE ATTACHED]

Recorded May 13, 1948
BOOK 27145 Pages 362-368 Incl.

QUITCLAIM DEED

THIS INDENTURE, made this 5th day of March, 1948, between the United States of America, acting by and through the War Assets Administration, and pursuant to Reorganization Plan 1 of 1947 (12 F.R. 4534), and pursuant to the powers and authority contained in the provisions of the Surplus Property Act of 1944 (58 Stat. 765) as amended, and applicable rules, regulations and orders, GRANTOR and the City of Torrance, a municipal corporation under the laws of the State of California, acting by and through its City Council, GRANTEE,

WITNESSETH: That the said Grantor, for and in consideration of the assumption by the Grantee of all the obligations and its taking subject to certain reservations, restrictions, and conditions, and its covenant to abide by certain other reservations, restrictions, and conditions, all as set out hereinafter, has remised, released, and forever quitclaimed, and by these presents does remise, release, and forever quitclaim unto the said Grantee, its successors, and assigns, under and subject to the reservations, restrictions, and conditions, exceptions and rights hereinafter set out, all its right, title, and interest in the following described property situated in the County of Los Angeles, State of California, to wit:

That portion of Lot 1 of Tract No. 9765, as per map recorded in Book 170, Pages 10, 11 and 12 of Maps, in the office of the County Recorder of Los Angeles County, in the City of Torrance, County of Los Angeles, State of California, and described as follows:

Beginning at the northeasterly corner of said Lot 1; thence along the East line of said Lot 1, South 0° 03' 45" East 4302.77 feet to the center line of the Pacific Coast Highway, 100 feet wide, as described in the deed to the State of California recorded in Book 12743, Page 23 of Official Records of said county; thence along said center line as follows:

South 89° 56' 15" West 26.04 feet to the beginning of curve concave northerly and having a radius of 1146.28 feet; thence westerly along the arc of said curve 821.34 feet; thence North 49° 00' 30" West 2390.48 feet; thence North 49° 00' 56" West 11.96 feet to the beginning of a curve concave northeasterly and having a radius of 14,000 feet; thence along the arc of said curve 777.84 feet; thence North 45° 49' 56" West 3481.23 feet to the beginning of a curve concave southwesterly and having a radius of 3000 feet; thence northwesterly along the arc of said curve 400:42 feet to the intersection of said center line with the West line of said Lot 1; thence along said West line North 0° 01' 26" West 1783.98 feet; thence South 51° 45' 55" East 6984.73 feet; thence North 38° 14' 05" East, 550 feet; thence North 51° 45' 55" West 6534.21 feet to a point on the northeasterly line of said Lot 1, said last mentioned

Recorded May 13, 1948
BOOK 27145 Pages 362-368 Incl.

point being distant along said northeasterly line South 62° 50' 50" East, 780.39 feet from the most northerly corner of said Lot 1; thence South 62° 50' 50" East along the said northeasterly line of Lot 1, a distance of 5921.76 feet to the northeasterly corner of said Lot 1, the point of beginning, containing 385.463 acres, more or less;

Excepting therefrom:

PARCEL 1-A

An easement for embankment slopes upon, over and across that portion of said Lot 1 of Tract No. 9765, described as follows:

Beginning at the most northerly corner of said Lot 1; thence South 62° 50' 50" East along the northeasterly line of said Lot 1, a distance of 780.39 feet; thence South 51° 45' 55" East 3334.31 to the TRUE POINT OF BEGINNING OF PARCEL 1-A;

Thence South 54° 37' 40" East a distance of 400.50 feet more or less; thence South 51° 45' 55" East 2300 feet; thence South 46° 03' 17" East 201 feet; thence North 51° 45' 55" West 2900 feet to the true point of beginning;

and excepting therefrom:

PARCEL 1-B

An easement for road purposes upon, over and across that portion of said Lot 1 of Tract 9765, included within a strip of land 40 feet wide, being 20 feet on each side of the following described center line:

Beginning at the most northerly corner of said Lot 1; thence South 62° 50' 50" East along the northeasterly line of said Lot 1, a distance of 780.39 feet; thence South 51° 45' 55" East 6534.31 feet; thence South 38° 14' 05" West 230 feet to the TRUE POINT OF BEGINNING OF PARCEL 1-B;

Thence South 51° 45' 55" East 159.79 feet; thence southwesterly 133.72 feet along the arc of a curve concave northeasterly and having a radius of 200 feet; thence North 89° 55' 35" East 50.37 feet, to a point on the westerly prolongation of the center line of 251st Street, shown as Almond Street on map recorded in Book 17, page 125 of Maps, in the office of the County Recorde of Los Angeles County, State of California, said point being South 0° 03' 45" East, 25 feet from the southwest corner of Lot 10 of Tract No. 592 as shown on said map recorded in Book 17, page 125 of Maps;

and excepting therefrom:

Recorded May 13, 1948
BOOK 27145 Pages 362-368 Incl.

PARCEL 1-C

An easement for drainage facilities upon, over and across that portion of said Lot 1 of Tract No. 9765, included within a strip of land 52 feet wide, being 26 feet on each side of the following described center line:

Beginning at a point on the northeasterly line of said Lot 1, distant thereon, South 62° 50' 50" East 3978.62 feet from the most northerly corner of said Lot; thence South 0° 50' 55" East, 782.14 feet; thence South 15° 09' 05" West 848.57 feet;

Thence southwesterly along a curve concave northwesterly, tangent to last described line and having a radius of 520.60 feet; through an angle of 49° 30' and an arc distance of 449.77 feet; thence tangent South 64° 39' 05" West, 605 feet to a point in an existing drainage channel:

AND ALSO, an easement for drainage facilities upon, over and across that portion of said Lot 1, included within a strip of land 32 feet wide, being 16 feet on each side of the following described center line:

Beginning at the Southerly terminus of that certain course herein described as having a length of 848.57 feet; thence southeasterly along a curve concave northeasterly, tangent to said course having a length of 848.57 feet and having a radius of 550 feet, through an angle of 41° 00', an arc length of 393.57 feet; thence tangent South 25° 50' 55" East, a distance of 574.06 feet; thence southerly along a curve concave Westerly, tangent to last described course and having a radius of 500 feet, through an angle of 25° 39', an arc distance of 223.84 feet; thence tangent South 0° 11' 55" East, a distance of 200 feet to a point in an existing drainage channel.

TOGETHER WITH those certain chattel enumerated in Exhibit "B" attached hereto and made a part hereof; and TOGETHER WITH all buildings, structures, and improvements located thereon, except those thirty-four (34) structures hereinafter enumerated, and described in a certain inventory attached hereto and made a part hereof, marked Exhibit "A", and located on that portion of the demised premises more particularly described in said Exhibit "A", being a part of the same property acquired by the United States of America under proceedings in condemnation had in Case No. 2527-RH, Civil, of record in the District Court of the United States, Southern District of California, Central Division.

The above described premises are transferred subject to the following encumbrances: All existing easements for roads, highways, public utilities, railways, and pipe lines; leasehold interest executed by the Grantor as Lessor and by A.P. Wright as

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Lessee, designated as Lease No. W-04-193-Eng.-4974, dated April 17, 1945; and the right of the United States of America to occupy use, and maintain in place, together with reasonable means of ingress and egress without payment to the Grantee, its successors, or assigns, all the buildings and structures enumerated in Exhibit "A", and located on the demised premises.

EXCEPTING, HOWEVER, from this conveyance all right, title, and interest in and to all property in the nature of equipment, furnishings, and other personal property which can be removed from the land without material injury to the land or structures located thereon other than those chattels enumerated in Exhibit "B"; and reserving to the Grantor the right of removal from the premises of the personal property excepted hereby within a reasonable period of time after the date hereof, which shall not be construed to mean any period less than one (1) year after the date of this instrument.

AND FURTHER EXCEPTING, from this conveyance and reserving to the GRANTOR, in accordance with Executive Order 9908 approved December 5, 1947 (12 F.R. 8223), all uranium, thorium, and all other materials determined pursuant to section 5 (b) (1) of the Atomic Energy Act of 1946 (60 Stat. 761) to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the lands covered by this instrument, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same, making just compensation for any damage or injury occasioned thereby. However, such land may be used, and any rights otherwise acquired by this disposition may be exercised, as if no reservation of such material had been made; except that, when such use results in the extraction of any such material from the land in quantities which may not be transferred or delivered without a license under the Atomic Energy Act of 1946, as it now exists or may hereafter be amended, such material shall be the property of the United States Atomic Energy Commission, and the Commission may require delivery of such material to it by any possessor thereof after such material has been separated as such from the ores in which it was contained. If the Commission requires the delivery of such material to it, it shall pay to the person mining or extracting the same, or to such other person as the Commission determines to be entitled thereto, such sums, including profits as the Commission deems fair and reasonable for the discovery, mining, development, production, extraction and other services performed with respect to such material prior to such delivery, but such payment shall not includ any amount on account of the value of such material before removal from its place of deposit in nature. If the Commission does not require delivery of such material to it, the reservation hereby made shall be of no further force or effect.

AND FURTHER EXCEPTING from this conveyance and reservinc to the Grantor all minerals, other than those specifically mentioned in the last paragraph above, and all petroleum in the above described land, together with the exclusive right at any and all times to enter upon the lands and prospect for, mine for, and remove such minerals or petroleum, with all necessary and conven-

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ient means of working and transporting the materials and supplies; and reserving unto the Grantor the exclusive right at any time to drill from adjacent premises into and through the sub-surface of the land hereby transferred, in order to recover, remove, and transport therefrom any minerals or petroleum herein reserved. By accepting this instrument, or any rights hereunder, the said Grantee hereby releases the Grantor from any and all liability for all claims and losses or damage arising out of the exceptions and reservations above.

Said property transferred hereby was duly declared surplus and was assigned to the War Assets Administration for disposal, acting pursuant to the provisions of the above-mentioned Act, as amended, Executive Order 9689, and applicable rules, regulations, and orders.

By the acceptance of this deed or any rights hereunder, the said Grantee, for itself, its successors, and assigns agrees that transfer of the property transferred by this instrument, is accepted subject to the following restrictions set forth in subparagraphs (1) and (2) of this paragraph, which shall run with the land, imposed pursuant to the authority of Article 4, Section 3, Clause 2 of the Constitution of the United States of America, the Surplus Property Act of 1944, as amended, Reorganization Plan 1 of 1947 (12 F.R. 4534), and applicable rules, regulations, and orders:

(1) That all of the property transferred hereby, hereafter in this instrument called the "airport", shall be used for public airport purposes, and only for such purposes, on reasonable terms and without unjust discrimination and without grant or exercise of any exclusive right for use of the airport within the meaning of Section 303 of the Civil Aeronautics Act of 1938.

(2) That the entire landing area, as hereinafter defined, and all structures, improvements, facilities, and equipment of the airport shall be maintained at all times in good and serviceable condition to assure its efficient operation; provided, however, that such maintenance shall be required as to structures, improvements, facilities, and equipment only during the remainder of their estimated life, as determined by the Civil Aeronautics Administration or its successor Government agency. In the event materials are required to rehabilitate or repair certain of the aforementioned structures, improvements, facilities, or equipment they may be procured by demoliton of other structures, improvements, facilities, or equipment transferred hereby and located on the above-described premises, which have outlived their use as airport property in the opinion of the Civil Aeronautics Administration or its successor Government agency.

By the acceptance of this deed or any rights hereunder, the said Grantee for itself, its successors, and assigns, also assumes the obligations of, covenants to abide by, and agrees to, and this transfer is made subject to, the following reservations and restrictions set forth in subparagraphs (1) to (6) of this paragraph, which shall run with the land, imposed pursuant to the

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authority of Article 4, Section 3, Clause 2 of the Constitution of the United States of America, the Surplus Property Act of 1944, as amended, Reorganization Plan 1 of 1947 (12 F.R. 4534), and applicable rules, regulations and orders:

(1) That insofar as is within its power and reasonably possible, the Grantee and all subsequent transferees shall prevent any use of land either within or outside the boundaries of the airport, including the construction, erection, alteration, or growth of any structure or other object thereon, which use would be a hazard to the landing, taking-off, or maneuvering of aircraft at the airport, or otherwise limit its usefulness as an airport.

(2) That the building areas and non-aviation facilities, as such terms are hereinafter defined, of or on the airport shall be used, altered, modified, or improved only in a manner which does not interfere with the efficient operation of the landing area and of the airport facilities, as hereinafter defined.

(3) That itinerant aircraft owned by the United States of America (hereinafter sometimes referred to as the "Government") or operated by any of its employees or agents on Government business shall at all times have the right to use the airport in common with others; Provided, however, that such use may be limited as may be determined at any time by the Civil Aeronautics Administration or its successor Government agency to be necessary to prevent interference with use by other authorized aircraft, so long as such limitation does not restrict Government use to less than twenty-five (25) per centum of capacity of the landing area of the airport. Government use of the airport by virtue of the provisions of this subparagraph shall be without charge of any nature other than payment for damage caused by such itinerant aircraft.

(4) That during the existence of any emergency declared by the President of the United States of America or the Congress thereof, the Government shall have the right without charge, except as indicated below, to the full, unrestricted possession, control, and use of the landing area, building areas, and airport facilities, as such terms are hereinafter defined, or any part thereof, including any additions or improvements thereto made subsequent to the declaration of any part of the airport as surplus; Provided, however, that the Government shall be responsible during the period of such use for the entire cost of maintaining all such areas, facilities, and improvements, or the portions used, and shall pay a fair rental for the use of any installations or structures which have been added thereto without Federal aid.

(5) That no exclusive right for the use of any landing area or air navigation facilities, included in or on the airport shall be granted or exercised.

(6) That the property transferred hereby may be successively transferred only with the approval of the Civil Aeronautics Administration or its successor Government agency, and with the proviso that any such subsequent transferee assumes all the obligations imposed upon the Grantee by the provisions of this instrument.

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As used in this Quitclaim Deed, the following terms shall have the following meanings:

(a) "Landing Area" means any land, or combination of water and land, together with improvements thereon and necessary operational equipment used in connection therewith, which is used for landing, take-offs, and parking of aircraft. The term includes but is not limited to, runways, strips, taxiways, and parking aprons.

(b) "Building Area" means any Land other than a landing area, used or necessary for or in connection with the operation or maintenance of an airport.

(c) "Non-aviation facilities" means any building, structures, improvements and equipment located in a building area and used in connection with, but not required for the efficient operation and maintenance of the landing area or the airport facilities.

(d) "Airport facilities" means any buildings, structures, improvements and operational equipment other than non-aviation facilities, which are used and necessary for or in connection with the operation and maintenance of an airport.

By acceptance of this instrument or any rights hereunder, the Grantee further agrees with the Grantor as follows:

(1) That upon a breach of any of the aforesaid reservations or restrictions by the Grantee or any subsequent transferee, whether caused by the legal inability of said Grantee or subsequent transferee to perform any of the obligations herein set out, or otherwise, the title, right of possession, and all other rights transferred to the Grantee, or any portion thereof, shall at the option of the Grantor revert to and become the property of the United States of America upon demand made in writing by the War Assets Administration or its successor Government agency at least sixty (60) days prior to the date fixed for the revesting of such title, right of possession, and other rights transferred, or any portion thereof; Provided, that, as to installations or structures which have been added to the premises without Federal aid, the United States of America, shall have the option to acquire title to or use of the same at the then fair market value of the rights therein to be acquired by the United States of America.

(2) That if the construction as covenants of any of the foregoing reservations and restrictions recited herein as covenants, or the application of the same as covenants in any particular instance is held invalid, the particular reservations or restrictions in question shall be construed instead merely as conditions upon the breach of which the Grantor may exercise its option to cause the title, right of possession and all other rights transferred to the Grantee, or any portion thereof, to revert to the United States of America, and the application of such reservations or restrictions as covenants in any other instance a

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the construction of the remainder of such reservations and restrictions as covenants shall not be affected thereby.

TO HAVE AND TO HOLD the said premises, with appurtenances, except those rights excepted and reserved above, and under and subject to the aforesaid reservations, restrictions, and conditions, unto the said Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed as of the day and year first above written.

THE UNITED STATES OF AMERICA
Acting by and through
WAR ASSETS ADMINISTRATION

By s/ ROBERT P. ALFORD
DEPUTY REGIONAL DIRECTOR
For Real Property Disposal
Los Angeles Regional Office
War Assets Administration

WITNESSES:

s/ Devera L. Scholnek

s/ Doris Goodman

EXHIBIT "E"

FAA PROVISIONS

[SEE ATTACHED]

FEDERAL AVIATION ADMINISTRATION PROVISIONS

Lessee agrees to observe the following provisions required by the Federal Aviation Administration:

(a) Lessee in the operations to be conducted pursuant to the provisions of this lease and otherwise in the use of the airport, will not discriminate or permit discrimination against any person or class of persons by reason of race, color, creed or national origin in any manner prohibited by Part 15 of the Federal Aviation Regulations or any amendments thereto.

(b) Lessee shall furnish its accomodations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge fair, reasonable and not unjustly discriminatory prices for each unit of service: PROVIDED, THAT the Lessee may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

(c) Lessee shall make its accomodations and/or services available to the public on fair and reasonable terms without unjust discrimination on the basis of race, creed, color or national origin.

(d) Non-compliance with provisions (a), (b) and (c) above shall constitute a material breach thereof and in the event of such non-compliance the City shall have the right to terminate this lease and the estate hereby created without liability therefor or at the election of the City or the United States, either or both said Governments shall have the right to judicially enforce said provisions (a), (b) and (c).

(e) Lessee agrees that it shall insert the above four provisions in any lease by which said Lessee grants a right or privilege to any person, firm or corporation to render accomodations and/or services to the public on the premises herein leased.

(f) The City reserves the right to further develop or improve the landing area of the airport as it sees fit, regardless of the desires or view of the Lessee, and without interference or hindrance.

(g) The City reserves the right, but shall not be obligated to the Lessee, to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of the lessee in this regard.

(h) This lease shall be subordinate to the provisions and requirements of any existing or future agreement between the City and the United States, relative to the development, operation or maintenance of the airport.

(i) Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the leased premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the leased premises.

(j) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act.

(k) This lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said airport or the exclusive or non-exclusive use of the airport by the United States during the time of war or national emergency.

EXHIBIT "I"

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