

Council Meeting of
March 6, 2007

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

Members of the Council:

SUBJECT: City Manager – Approve a Second Amendment to Lease and Assignment and Assumption of Ground Lease; and Ground Lease Estoppel for City Lease C2004-155 located at 2700 Skypark Drive operating as a Lowe’s Home Improvement Center.

RECOMMENDATION

The City Manager recommends that City Council authorize the Mayor to Execute and the City Clerk to Attest to:

- A Second Amendment to Lease and Assignment and Assumption Agreement for City Lease C2004-155 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”) and;
- A GROUND LEASE ESTOPPEL is entered into by, CITY OF TORRANCE, in favor of IXIS REAL ESTATE CAPITAL INC., a New York corporation (“Lender”).

FUNDING

Funding is not required for this item.

BACKGROUND

The subject Lease was first entered into on July 27, 2004 and was amended by the First Amendment to Lease dated August 30, 2005. The Lease is for City-owned land located at 2700 Skypark Drive, Torrance, California. The Lease termination is June 30, 2054. Annual rent is currently \$823,997. The parcel size is 11.22 acres and the current sub-tenant is a Lowe’s Home Improvement Center.

The Assignment and Assumption Agreement and Estoppel were originally brought before Your Honorable Body on January 9, 2007 and were approved. The documents have not been executed and since the approval there have been changes to the make-up of the partnership as well as the nature of the Assignment. Due to the requested modifications, the item is being brought back and the action being requested would supersede the transaction approved on January 9, 2007, if approved.

ANALYSIS**SECOND AMENDMENT TO LEASE and ASSIGNMENT AND ASSUMPTION AGREEMENT**

The current Master Tenant, LDC Skypark, LLC originally entered into an Agreement to sell the Leasehold in its entirety, which was approved on January 9, 2007. The transaction involved selling the Leasehold to a Tenants-In-Common(TIC) group. The transaction was approved by the City Council but the deal was not consummated and the documents were never executed.

The Master Tenant, LDC Skypark, LLC has developed a new transaction that creates a Tenants-In-Common ownership of the Leasehold that will be owned eighty percent by LDC Skypark, LLC and twenty percent by 6th St. Governor, LLC. The twenty percent interest is to two individuals who made up of a portion of the original Tenants-In-Common involved in the January 9, 2007 transaction. As stated in the January 9, 2007 Council transmittal, staff is comfortable with the financial data shared regarding the group buying the twenty percent interest in the Leasehold. Further, LDC Skypark, LLC will continue to be the principal owner of the Leasehold and will manage the property.

As was noted at the January 9, 2007 City Council meeting, the area of concern over TIC type groups is their ability to sell their shares without consent by the owner. This type of situation conflicts with the City's normal Assignment language and the Amendment to Lease includes a restriction on any subsequent transfers without the City's consent; the Agreement also requires one point of contact for the Lease.

The TIC formation documents are included as an Exhibit to the Second Amendment and Assignment and Assumption of Lease. The document shows LDC Skypark, LLC as an eighty percent owner and 6th St. Governor, LLC as a twenty percent owner. The financial contribution for the twenty percent purchase of Leasehold is \$2 million.

The Agreement does not modify the material terms of the Lease; it does add certain protections to the City to alleviate concerns that staff had with regard to the managing of the property and transfers associated with Tenants-In-Common.

Included in the Second Amendment is a clarification to the rent period. The Second Amendment to Lease shows a final rent period of February 1, 2049 to January 31, 2054; however, the Lease terminates June 30, 2054. The clarification matches Section 3 "Rent" with Section 2 "Initial Term" with both concluding on June 30, 2054.

Staff recommends execution of the Second Amendment To Lease and Assignment And Assumption Agreement.

ESTOPPEL

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

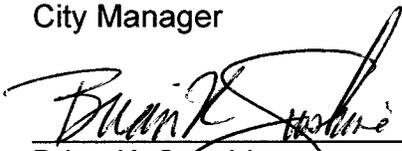
- A true and correct copy of the Lease and all Amendments is attached;

- 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: IXIS Real Estate Capital Inc., 9 West 57th Street, New York, New York 10019, Attn: Andrew Levine

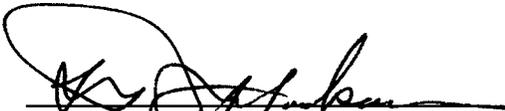
All are currently true and correct and the Estoppel is recommended for signature.

Respectfully submitted,

LeROY J. JACKSON
City Manager


By: Brian K. Sunshine
Assistant to the City Manager

CONCUR:


LeRoy J. Jackson
City Manager

Attachments:

- A. Second Amendment and Assignment and Assumption
- B. Estoppel – *Limited distribution*
- C. Council Item dated January 9, 2007

**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.

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: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

[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]

EXHIBIT "A"

AGREEMENT BETWEEN TENANTS-IN-COMMON

THIS AGREEMENT BETWEEN TENANTS-IN-COMMON (this "Agreement") is entered into as of February 27, 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"):

| <i>Tenant-in-Common</i> | <i>Percentage Interest</i> |
|-------------------------|----------------------------|
| Skypark | 80% |
| 6 th 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 statutes 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% ($150\% \times [\$100,000 / (\$1,000,000 + \$2,500,000)]$). 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

Attachment C

Council Meeting of
January 9, 2007

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

Members of the Council:

SUBJECT: City Manager – Approve a Second Amendment to Lease and Assignment and Assumption of Ground Lease; and Ground Lease Estoppel for City Lease C2004-155 located at 2700 Skypark operating as a Lowe’s Home Improvement Center.

RECOMMENDATION

The City Manager recommends that City Council authorize the Mayor to Execute and the City Clerk to Attest to:

- A Second Amendment to Lease and Assignment and Assumption Agreement for City Lease C2004-155 from LDC SKYPARK, LLC, a California limited liability company (Assignor), to EXCELL INVESTMENT GROUP, LLC, a California limited liability company, 6TH ST. GOVERNOR, LLC, a California limited liability company, SKYPARK EQUITY, LLC, a California limited liability company, CT-1 CAPITAL, LLC, a California limited liability company and TR-1 CAPITAL, LLC, a California limited liability company, as tenants-in-common (collectively referred to as the Assignees and each of whom is hereinafter sometimes individually referred to as an “Assignee”) and;
- A GROUND LEASE ESTOPPEL is entered into by, CITY OF TORRANCE, in favor of IXIS REAL ESTATE CAPITAL INC., a New York corporation (“Lender”).

FUNDING

Funding is not required for this item.

BACKGROUND

The subject Lease was first entered into on July 27, 2004 and was Amended by the First Amendment to Lease dated August 30, 2005. The Lease is for City-owned land located at 2700 Skypark Drive, Torrance, California. The Lease termination is June 30, 2054. Annual rent is \$807,840 and will increase to \$823,997 beginning February 2007. The parcel size is 11.22 acres and the current sub-tenant is a Lowe’s Home Improvement Center.

ANALYSIS**SECOND AMENDMENT TO LEASE and ASSIGNMENT AND ASSUMPTION AGREEMENT**

The current Master Tenant, LDC Skypark, LLC desires to sell the Leasehold. The proposed new Master Tenant is a group being set up as Tenants-In-Common or TIC.

TIC agreements set up a group or partnerships of groups as individual shareholders of a property of a Leasehold, the City has another such group that purchased the Madison Park development on Pacific Coast Highway and Madison.

City staff has met with the principal manager of the group, as well as have reviewed the financial background of the largest investors and find the group to have both the experience and financial resources to take over the Leasehold. The area of concern over TIC type groups is their ability to sell their shares without consent by the owner. This type of situation conflicts with the City's normal Assignment language and the Amendment to Lease covers that concern by restricting subsequent transfers without the City's consent, the Agreement also requires one point of contact for the Lease.

The TIC formation documents are attached; however, the actual ownership percentages and financial contribution amounts are blank as the actual amounts for the TIC formation have not been finalized. The group will final those percentages and the individual contribution amounts based on actual loan amount. The capital call will be in the \$2 million to \$2.1 million range and the amount of contribution will be based on the actual percentage of ownership. The ranges of percentages of ownership are as follows:

| | |
|------------------------------|---------|
| 6 th Street, LLC: | 28 -38% |
| Excell Investment Group, LLC | 15-25% |
| Skypark Equity, LLC | 26-36% |
| CT-1 Capital, LLC | 3-13% |
| TR-1 Capital, LLC | 3-13% |

Prior to finalizing the executable documents, the correct percentages will be included for the City's files, the percentages will not be any greater or less than those listed above. The contribution amounts will also be inserted into the final document.

The Agreement does not modify the material terms of the Lease; it does add certain protections to the City to alleviate concerns that staff had with regard to the managing of the property and transfers associated with Tenants-In-Common.

Included in the Second Amendment is a clarification to the rent period. The Second Amendment to Lease shows a final rent period of February 1, 2049 to January 31, 2054; however, the Lease terminates June 30, 2054. The clarification matches Section 3 "Rent" with Section 2 "Initial Term" with both concluding on June 30, 2054.

Staff recommends execution of the Second Amendment To Lease and Assignment And Assumption Agreement.

ESTOPPEL

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: IXIS Real Estate Capital Inc., 9 West 57th Street, New York, New York 10019, Attn: Andrew Levine

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

for

Attachments:

- A. Second Amendment and Assignment and Assumption
- B. Estoppel – *Limited distribution*
- C. Purchase and Sale Agreement

**SECOND AMENDMENT
AND
ASSIGNMENT AND ASSUMPTION OF GROUND LEASE**

THIS SECOND AMENDMENT AND ASSIGNMENT AND ASSUMPTION OF GROUND LEASE (the "Amendment") is made this 9th day of January, 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 EXCELL INVESTMENT GROUP, LLC, a California limited liability company, 6TH ST. GOVERNOR, LLC, a California limited liability company, SKYPARK EQUITY, LLC, a California limited liability company, CT-1 CAPITAL, LLC, a California limited liability company and TR-1 CAPITAL, LLC, a California limited liability company, as tenants-in-common (all of whom are hereinafter collectively referred to as the "Assignees," and each of whom is hereinafter sometimes individually referred to as an "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 all of its rights under the Lease to Assignees and Assignees desire to accept such assignment and to assume Assignor's obligations under the Lease ("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.

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 Assignees agree as follows:

1. Assignment. Assignor hereby transfers and assigns to Assignees, all right, title, and interest of Assignor in and to the Lease and the Leased Premises demised thereunder.

2. Assumption; Indemnity. Assignees hereby accept the Assignment of the Lease and assume all the obligations thereunder accruing on and after the date hereof, and agree 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 accruing prior to the Effective Date. Assignees, jointly and severally, agree 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 Assignees under the Ground 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 the Lease by Assignor to Assignees; 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 by an Assignee to one or more Assignees of any ownership interest in the Leased Premises.

(b) any transfer of any membership interests of any Assignee.

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 each Assignee individually and all Assignees collectively.

5. Joint and Several Liability. The parties desire to amend the Lease such that each Assignee becomes and remains bound under the Lease, jointly and severally with all of the other Assignees. Notwithstanding anything to the contrary set forth in the Lease, each Assignee hereby assumes 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 any or all of the Assignees.

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 all of the Assignees for all purposes pertaining to the Lease, which designee shall be Excell Investment Group, LLC, until such time as the Assignees 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 the Assignees shall be deemed to have been given under the Lease to each and all of the Assignees. For purposes of this Section 5, the term "Management Requirements" shall mean that Chris Renard 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 an 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 Assignees, do, execute, acknowledge, and deliver, or will 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 Assignees, or to their successors and assigns, Assignor's right, title, and interest in the Lease assigned to Assignees 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. Landlord and Tenant 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 shall be _____, 20__ (**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 Assignees have caused this Amendment to be executed on the day and year first above written.

City

CITY OF TORRANCE, a municipal corporation

By: _____
Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Assignor

LDC SKYPARK, LLC, a California limited liability company

By: _____
Norman R. La Caze, Manager

[SIGNATURES CONTINUE ON NEXT PAGE]

Assignees

EXCELL INVESTMENT GROUP, LLC, a California limited liability company

By: _____
_____, Its Manager

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

By: _____
Chris Renard, Its Manager

SKYPARK EQUITY, LLC, a California limited liability company

By: _____
_____, Its Manager

TR-1 CAPITAL, LLC, a California limited liability company

By: _____
_____, Its Manager

CT-1 CAPITAL, LLC, a California limited liability company

By: _____
_____, Its Manager

[ATTACH NOTARY ACKNOWLEDGEMENTS]

EXHIBIT "A"

AGREEMENT BETWEEN TENANTS-IN-COMMON

THIS AGREEMENT BETWEEN TENANTS-IN-COMMON (this "Agreement") is entered into as of 1/1/07, between EXCELL INVESTMENT GROUP, LLC, a California Limited Liability Company ("Excell"); 6th ST. GOVERNOR, LLC, a California Limited Liability Company ("6TH St"); SKYPARK EQUITY, LLC, a California Limited Liability Company ("Skypark"); CT-1 CAPITAL, LLC, a California Limited Liability Company ("CT-1"); TR-1 CAPITAL, LLC, a California Limited Liability, collectively referred to as "Co-Tenants" and the whole of their ownership interests is sometimes referred to as the "Co-Tenancy".

RECITALS

A. Each of the Co-Tenants shall acquire an undivided interest as tenants-in-common in the leasehold interest commonly known as 2700 Skypark Drive, Torrance, CA, (the "property"), as more particularly described as Exhibit "A" attached hereto.

B. Co-Tenants intend to purchase, own, hold, maintain, repair, lease, operate, manage, renovate, modify, sell or exchange or encumber the Property as tenants-in-common.

C. Co-Tenants have discussed co-ownership of the Property and have concluded that, to avoid conveyance and ownership problems created by death, dissolution, disability, bankruptcy, disputes and the like, it is in the best interests of each of the Co-Tenants that the Property 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

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

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

| Tenant-in-Common | Percentage Interest |
|-------------------------|----------------------------|
| Excell | |
| 6 th St. | |
| Skypark | |
| CT-1 | |
| TR-1 | |

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

1.4. **Principal Place of Business.** The principal place of business for matters concerning the Property shall be located at 23586 Calabasas Road, Suite 100, Calabasas, California 91302. 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 Property.

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 Property 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.

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.

1.6.1. Purchasing, owning, holding, leasing, operating, managing, renovating, modifying, maintaining, repairing, exchanging, encumbering or selling the Property;

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

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

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.

1.8. **Not a Partnership.** Co-Tenants do not intend to create a partnership or joint venture with respect to the Property; 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 statutes 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 Property 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 Property is owned by the Co-Tenants.

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 with respect to the Property

ARTICLE 2.

CONTRIBUTIONS AND ACCOUNTS

2.1. **Initial Contributions.** The Co-Tenants have contributed the following amounts for acquisition of the Property:

| <i>Tenant-in-Common</i> | <i>Initial Capital Contribution</i> |
|--------------------------------|--|
| Excell | |
| 6 th Street | |
| Skypark | |
| CT-1 | |
| TR-1 | |
| <i>Total:</i> | |

2.2. Additional Capital Contributions.

2.2.1. During the term of this Agreement, each of the Co-Tenants shall be required to make Additional Capital Contributions upon the request of the Manager, as specified in Article 4., 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 Property; or, (ii) to pay the Co-Tenancy's expenses or unpaid bills.

2.2.2. Each Co-Tenant shall be obligated to contribute an amount of additional capital equal to such Co-Tenant's Percentage Interest times the total Additional Capital Contribution amount required of all Co-Tenants.

2.2.3. A Co-Tenant's Percentage Interest shall be adjusted to recognize any Co-Tenant's failure to make the required Additional Capital Contribution.

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

(i) Make for their own account the Additional Capital Contribution requested of the Defaulting Co-Tenant, thereby increasing their 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-Tenants did not contribute and the denominator is the total of all Capital Contributions made by all of the Co-Tenants since the inception of the Co-Tenancy. For example, if (1) the prior Capital Contributions of all Co-Tenants is \$2,500,000, (2) the Additional Capital Contribution is \$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% ($150\% \times [\$100,000 \div (\$1,000,000 + \$2,500,000)]$). The Co-Tenants who contribute the Defaulting Co-Tenant's Additional Capital Contribution shall have their aggregate Percentage Interest increased by 4.29%.

(ii) Borrow the amount of the required Additional Capital Contribution of the Defaulting Co-Tenant from any lender, including the non-defaulting Co-Tenants, and lend the money to the Defaulting Co-Tenant with or without a written note or the Defaulting Co-Tenant's consent to make the required Additional Capital Contribution for said Defaulting Co-Tenant's account, which loan shall be deemed to be a loan by the lender to the Defaulting Co-Tenant payable by the Defaulting Co-Tenant to the lender on demand, which loan shall bear interest payable monthly at prime plus five percent (5%) (but not more than permitted by law) if made by a Co-Tenant, and at a commercially reasonable rate if made by a third party. A Defaulting Co-Tenant shall be liable to the non-defaulting Co-Tenant or other lender 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 them in connection with collecting from the Defaulting Co-Tenant the unpaid portion of any such loan.

(iii) If neither of the remedies as provided in (i) and/or (ii) above is sufficient to raise all the Additional Capital Contribution requested of the Defaulting Co-Tenant, the Company may take immediate legal action against the Defaulting Co-Tenant to collect such deficiency. A Defaulting Co-Tenant shall be liable to the Company for all costs and fees, including but not limited to collection costs incurred by it in connection with collecting from the Defaulting Co-Tenant the unpaid portion of any such loan.

(iv) If more than one non-defaulting Co-Tenant desires to exercise one of the options in (i) or (ii) above, it shall be in proportion to their Percentage Interest.

2.3. **Property Accounts.** Manager shall establish and maintain individual property accounts for each of the Co-Tenants ("Property Accounts"). The Property Accounts shall consist of each of the Co-Tenant's Initial Capital Contribution increased by any Additional Capital Contributions made by such Co-Tenant and decreased by any distributions made to such Co-Tenant.

2.4. **Withdrawal, Interest, Return and Interest on Capital Contributions.** Except as otherwise provided herein, no Co-Tenant shall be permitted to withdraw its Capital Contributions and no Co-Tenant is guaranteed the return of its Capital Contribution.

ARTICLE 3.

ACCOUNTING AND DISTRIBUTIONS

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

3.2. **Books of Account.** Manager shall cause proper and complete books of account of the Property's business to be kept at the principal place of business as specified in Article 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.

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.

3.4. **Distributable Funds.** Manager shall consider, no less frequently than quarterly, whether there exist any distributable funds with respect to the Property 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 Property.

3.5. **Distributions Other Than Capital Transactions.** Other than in connection with Capital Transactions (as defined in Section 3.6 below),

distributable funds shall be distributed to the Co-Tenants pro rata in accordance with their respective Co-Tenancy Interests.

3.6. ***Distributions Following Capital Transactions.*** The term "Capital Transactions" shall mean a sale or refinancing of all or any portion of the Property, 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 Co-Tenancy Interests.

ARTICLE 4.

MANAGEMENT

4.1. ***Manager.*** Excell shall be the Managing Co-Tenant and shall have overall control, management and direction of the business of the Property. 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-Tenants from time to time in connection with management of the Co-Tenancy.

4.2. ***Management Fees.*** Manager shall receive a management fee in the amount of five percent (5%) of the gross collected rentals received from the Property. Manager may hire a third-party property manager to manage the Property, but all fees of the third-party property manager will be paid by Manager.

4.3. ***Cooperation.*** Co-Tenants agree to: (i) cooperate with Manager and each another; (ii) execute all documents reasonably required in connection with acquisition of the Property and 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 for the contemplated use of the Property, and to sign all documents necessary to effect any action approved in accordance with this Agreement.

4.4. ***Reimbursement of Expenses Incurred on Behalf of the Co-Tenancy.*** Manager shall from time to time, but not less often than monthly, reimburse Manager 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 Property in connection with management of the Property and which are directly attributable to operation of the Property. General and administrative overhead expenses shall mean all customary legal, accounting and other incidental reasonable expenses necessary to operate the Property.

4.5. **Insurance.** Manager shall arrange for necessary insurance for the Property, including, without limitation, public liability insurance, extended risk property insurance and such other coverages as may be required by Lender with respect to the Property or as reasonably determined as necessary by Manager.

ARTICLE 5.

LOAN SECURED BY THE PROPERTY

5.1. A loan in the amount of Eight Million Dollars (\$8,000,000.00) will be obtained from IXIS Real Estate Capital Inc. ("Lender") for part of the purchase price for the Property (the "Loan").

5.2. The Loan will be secured by a first deed of trust on the Property, an Assignment of Leases and Rents, a Security Agreement and a UCC-1 Financing Statement covering all personal property acquired by Co-Tenants in purchasing the Property (collectively, the "Security Instruments").

5.3. Co-Tenants will sign the Security Instruments and any other documents reasonably required by Lender to secure the Loan with the Property.

ARTICLE 6.

TRANSFERS OF CO-TENANCY INTERESTS

6.1. ***Right of First Refusal.*** If any of the Co-Tenants receives an offer, whether or not solicited by it from a person or entity who is or is not then a Co-Tenant ("Offeror") to purchase all or any portion of its Co-Tenancy Interest ("Offer"), and if the Co-Tenant receiving the Offer ("Selling Co-Tenant") is willing to accept the Offer, the Selling Co-Tenant shall give written notice to Manager 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. Manager shall have the right, within thirty (30) days after the notice is given, to agree in writing to purchase the Selling Co-Tenant's Co-Tenancy Interest on the same terms as those contained in the Offer. In the event Manager fails to timely exercise its right of first refusal to purchase, the Selling Co-Tenant shall be free to sell its Co-Tenancy Interest only to the Offeror and only on the terms 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 the Selling Co-Tenant and signs this Agreement; otherwise, any such sale shall be considered null and void.

ARTICLE 7.

DEFAULT; REMEDIES

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

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 any 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;

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;

7.1.3. Permitting the Property 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

7.1.4. Transferring its Co-Tenancy Interest or any portion thereof in violation of this Agreement.

7.2. **Remedies for Default.** In the event of a default under this Agreement which has not been corrected within the applicable cure periods set forth in Sections 7.1.1., 7.1.2. and 7.1.3. above, Manager or, if Manager is the Defaulting Co-Tenant, the non-defaulting Co-Tenants may elect by written notice to the Defaulting Co-Tenant ("Election Notice"), delivered within thirty (30) days following expiration of such cure period, to purchase the Defaulting Co-Tenant's Co-Tenancy Interest for a purchase price equal to ninety percent (90%) of its fair market value as of the date of the Election Notice, as determined in the manner provided in Section 8.1. below.

ARTICLE 8.

ELECTION TO PURCHASE

8.1. Determination of Value.

8.1.1. In the event that Manager or one or more non-defaulting Co-Tenants have delivered an Election Notice to purchase the Co-Tenancy Interest of a Defaulting Co-Tenant pursuant to Section 7.2. above, Manager or, if Manager is the Defaulting Co-Tenant, the non-defaulting Co-Tenants and the Defaulting Co-Tenant shall use their respective best efforts to mutually agree upon the fair market value of the Co-Tenancy Interest of the Defaulting Co-Tenant. In the event no agreement is reached within sixty (60) days after delivery of the Election Notice, the fair market value of the Defaulting Co-Tenant's Co-Tenancy Interest shall be determined by appraisal, as hereinafter provided.

8.1.2. Following the failure to mutually agree within the sixty (60) day negotiation period set forth in Section 8.1.1. above, any Co-Tenant may designate in writing to the other Co-Tenants an appraiser meeting the qualifications stated below. The other Co-Tenants may then designate an appraiser by written notice delivered within ten (10) days of the first Co-Tenant's designation. Failure of the Co-Tenants to designate an appraiser within such ten (10) day period shall conclusively be deemed approval of the first appraiser

designated. The two (2) appraisers so designated shall then select a third appraiser. The figures obtained from each appraiser shall be compared and the two (2) closest in value shall be mathematically averaged with the other figure to be disregarded. The result of such averaging shall be the appraised fair market value of the Co-Tenancy Interest being sold. Should a single appraiser determine the value of the Co-Tenancy Interest, such appraiser's determination shall be conclusive. All such appraisers designated to serve in accordance with the provisions of this Agreement shall be: (i) impartial and disinterested; (ii) qualified to appraise real estate and other assets of the type covered by this Agreement; (iii) a member of the American Institute of Real Estate Appraisers (or any successor or association or body of comparable standing if such institute is not then in existence); and (iv) shall have been actively engaged in the appraisal of real estate in the Los Angeles, California, area for a period of not less than five (5) years immediately preceding their appointment.

8.1.3. The appraiser(s) shall thereafter promptly conduct an independent appraisal of the fair market value of the Defaulting Co-Tenant's Co-Tenancy Interest based upon the amount which would be distributed to the Defaulting Co-Tenant should the Property be sold at its fair market value as of the date of delivery of the Election Notice.

8.1.4. In arriving at the fair market value, the appraiser(s) shall use the going concern concept and observe the following basis for valuation, but shall not be limited to them, in computing the fair market value of one hundred percent (100%) of the Co-Tenancy Interests:

(a) Buildings and interests in land shall be valued at fair market value;

(b) In determining fair market value, the existence of a willing purchaser shall be assumed;

(c) Past, present and prospective earnings and market conditions, including existing and prospective economic conditions in the industry, the highest and best use of the Property in light of existing and reasonably available land entitlements, and matters affecting title to the Property shall be considered in arriving at a valuation;

(d) Consideration shall be given to the liabilities of the Co-Tenants in connection with the Property; and

(e) There shall be deducted from such fair market value standard costs of sale, including commissions, and all other amounts payable by the Defaulting Co-Tenant prior to its withdrawal.

8.2. **Completion of Purchase.** After determination of the appraised value of one hundred percent (100%) of the Co-Tenancy Interest, Manager or, if Manager is the Defaulting Co-Tenant, the non-defaulting Co-Tenants shall purchase the Co-Tenancy Interest of the Defaulting Co-Tenant; and the Defaulting Co-Tenant shall sell its Co-Tenancy Interest to Manager or, if Manager is the Defaulting Co-Tenant, the non-defaulting Co-Tenants. The purchase price shall be paid in all cash. The closing of such purchase shall occur at a mutually acceptable time and place within sixty (60) days after receipt by the Co-Tenants of the appraisers' decision. If the parties cannot agree as to a time and place for the closing within forty-five (45) days after receipt of the appraiser(s) decision, then the non-defaulting Co-Tenants shall, within five (5) days after expiration of such forty-five (45) day period, schedule a time and place for closing. In no event shall the non-defaulting Co-Tenants schedule the closing more than sixty (60) days after receipt of the appraisers' decision. The amount of the cash purchase price to be paid to the Defaulting Co-Tenant by the non-defaulting Co-Tenants shall be ninety percent (90%) of the appraised fair market value, adjusted to credit or debit any amount remaining in the Defaulting Co-Tenant's Property Account.

ARTICLE 9.

MISCELLANEOUS

9.1. **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.

9.2. **Entire Agreement.** This Agreement contains the entire agreement of the parties relating to the rights granted and obligations assumed in connection with the Property. 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.

9.3. **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.

9.4. **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.

9.5. **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.

9.6. **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.

9.7. **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.

9.8. **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.

9.9. **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.

9.10. **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.

9.11. **Outside Activities.** Any Co-Tenant may be engaged in one or more investments or businesses, other than the investment or business of the Property, including businesses and investments in competition with the Property, 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 9.11.

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

EXCELL INVESTMENT GROUP, LLC, a California Limited Liability Company

By: _____
CHRIS RENARD, Manager

“Excell”

6th St Governor, LLC, a California Limited Liability Company

By: Excell Investment Group, LLC, A California Limited Liability Company

By: _____
CHRIS J. RENARD, its
Manager

By: Azusa Blvd., LLC, A California Limited Liability Company

By: _____
RICARDO E. MACAYA, its
Manager

“6th Street”

Skypark Equity, LLC, a California Limited Liability Company,

By: _____
Chris Renard, Manager

“Skypark”

CT-1 Capital., LLC, a California Limited Liability Company,

By: _____
Chris Tokarski, Manager

“CT-1”

TR-1 Capital, a California Limited Liability Company,

By: _____
Richard Tokarski, Manager

“TR-1”

**AGREEMENT FOR PURCHASE AND SALE OF PROPERTY
AND JOINT ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE (this "Agreement") is made as of August 3, 2006, by and between LDC Skypark, LLC, a California limited liability company ("Seller"), and Chris Renard ("Buyer"), upon the following terms and conditions:

RECITALS

A. Seller is the ground lessee, and the City of Torrance, California, is the ground lessor, under a Lease dated July 27, 2004 (the "Ground Lease") which covers an approximately 11.22 acre parcel in Torrance, Los Angeles County, California, commonly known as 2700 Skypark Drive (the "Real Property").

B. Seller is the sublessor, and Lowe's HIW, Inc., a Washington corporation ("Lowe's") is the sublessee, under an Amended and Restated Ground Sublease dated October 8, 2004 (the "Ground Sublease") which also covers the Real Property.

C. Seller has agreed to sell and assign to Buyer, and Buyer has agreed to purchase from Seller and to assume all of Seller's right, title, and interest in and obligations under, the Ground Lease and the Ground Sublease.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer (hereafter sometimes referenced individually as a "Party," and jointly as the "Parties") agree as follows:

ARTICLE I
Definitions

Section 1.1 Defined Terms. For all purposes of this Agreement, the following terms shall have the respective meanings set forth below:

"Agreement" shall mean this Agreement in its present form or as it may be modified.

"Business Day" shall mean a day other than (a) Saturday, (b) Sunday or (c) a day on which state or national banks in Los Angeles, California are required or permitted to be closed.

"Closing" shall have the meaning set forth in Section 11.1.

"Closing Date" shall mean the date on which the purchase and sale of the Seller's interest in the Ground Lease and Ground Sublease and the other transactions contemplated by this Agreement are consummated.

"Contingency Period" shall mean the period of August 3, 2006, through August 18, 2006.

"Effective Date" shall mean the date upon which this Agreement shall have been fully executed and delivered by both Parties.

"Escrow Agent" shall mean Chicago Title Insurance Company, 700 S. Flower St. #800, Los Angeles, CA 90017, Attention: Cheryl Yanez (Rep #089) (for assignment to Kathy Robinson).

"Ground Lease Assignment" shall mean the Assignment and Assumption of Ground Lease in the form attached hereto as Exhibit A.

"Improvements" shall have the meaning set forth in the Ground Sublease, including, but not limited to, Lowe's prototypical retail store of approximately 140,938 square feet now under construction.

"Property" shall have the meaning set forth in Section 2.1.

"Purchase Price" shall mean the purchase price of the Property specified in Section 3.1.

"Buyer's Deposit" shall mean the sum of Two Hundred and Fifty Thousand Dollars (\$250,000.00);

"Ground Sublease Assignment" shall mean the Assignment and Assumption of Ground Sublease in the form attached hereto as Exhibit B.

"Title Company" shall mean Chicago Title Insurance Company, 700 S. Flower St. #800, Los Angeles, CA 90017, Attention: Cheryl Yanez (Rep #089).

ARTICLE II

Purchase and Sale of the Property

Section 2.1 Property to be Sold. On the Closing Date, and subject to the terms and conditions set forth in this Agreement, Seller agrees to sell, assign and convey to Buyer, and Buyer agrees to purchase from Seller all of Seller's right, title, and interest in and to the following (collectively, the "Property"):

(a) the unencumbered interest of Seller as lessee under the Ground Lease with respect to the Real Property; and

(b) the unencumbered interest of Seller as lessor under the Ground Sublease with respect to the Real Property.

ARTICLE III
Purchase Price and Terms of Payment

Section 3.1 **Amount**. The purchase price to be paid by Buyer to Seller for the Property (the "**Purchase Price**") shall be Nine Million Eight Hundred Thousand Dollars (\$9,800,000.00).

Section 3.2 **Payment**. On or prior to the Closing Date, Buyer shall deposit with Escrow Agent, in cash or other immediately available federal funds, the balance of the Purchase Price, plus any other costs payable by the Buyer under this Agreement at Closing.

ARTICLE IV
Deposit

Section 4.1 **Delivery of Deposit**. Buyer shall deliver Buyer's Deposit to Escrow Agent within two Business Days of the execution of this Agreement. Buyer's Deposit shall be held by Escrow Agent as a good faith deposit under this Agreement. Escrow Agent shall invest Buyer's Deposit in a federally insured interest-bearing money market account at a major banking institution. Interest on the Buyer's Deposit shall be the property of Buyer.

ARTICLE V
Seller's Deliveries

Section 5.1 **Deliveries**. Seller shall deliver to Buyer, or shall make available to Buyer at Seller's place of business (either or both of which shall be deemed "Seller's Deliveries"), all documents, reports, files, drawings, plans, surveys, and information possessed by Seller or reasonably available to Seller relating to the Property reasonably requested by Buyer, which may include, without limitation, (a) any environmental reports relating to the Real Property in its files ("Environmental Reports"), (b) any plans and/or specifications regarding the Improvements in its file or reasonably available to it, if any, and (c) any governmental use, building, and other permits pertaining to the Property, but excluding only any proprietary financial analysis pertaining to the Property. Buyer shall be responsible, at Buyer's sole cost, to update the existing survey, if any, or otherwise secure a new survey or add any endorsements to the survey, if necessary. Buyer acknowledges having received from Seller, prior to the Effective Date, copies of the Ground Lease, the Ground Sublease, an existing ALTA survey, and an existing Environmental Report.

ARTICLE VI
Contingencies

Section 6.1 **Title**. As soon as possible following the Effective Date, the Title Company shall deliver to Buyer a commitment (the "Title Commitment") for an ALTA Owner's Policy of Title Insurance on the Property to be issued by Title Company. If the Title Commitment discloses exceptions to title which are unacceptable to Buyer, then Buyer shall

have until 5:00 P.M., Pacific Time, on that date which is five (5) calendar days following receipt of the Title Commitment to deliver written objections as to such unacceptable exceptions to Seller. Any exceptions to which Buyer fails to object shall be deemed to be "Permitted Exceptions." If Buyer delivers such written notice to Seller, then Seller shall have ten (10) Business Days after receipt of such objections within which, at Seller's election: (i) to take no action with respect to such unacceptable exceptions, or (ii) to have the unacceptable exceptions removed from title, or (iii) to cause the Title Company to commit to issue an endorsement insuring Buyer against loss or damage to Buyer that may be caused by such unacceptable exceptions. If Seller is unable or unwilling to have such unacceptable exceptions removed from title, or if Buyer disapproves of Seller's proposed cure for such unacceptable exceptions or is not agreeable to addressing such exceptions by Title Company endorsement, Buyer may elect, in Buyer's sole and subjective discretion, within three (3) Business Days following the expiration of the ten (10) Business Day period, as its sole remedy hereunder, to either:

(a) terminate this Agreement by written notice to Seller, in which event Buyer's Deposit and accrued interest thereon shall be returned to Buyer; or

(b) accept title to the Property subject to the Permitted Exceptions and such unacceptable exceptions which shall then be deemed to be Permitted Exceptions.

On the Closing Date, the Title Company shall issue an ALTA Owner's Policy of Title Insurance in the amount of the Purchase Price insuring the title to the Property to be vested in the Buyer as of the Closing Date free and clear of all liens and encumbrances except the Permitted Exceptions (the "Title Policy").

Section 6.2 Additional Contingencies. Buyer's obligation to purchase the Property is subject to the satisfaction (or Buyer's written waiver) of the conditions precedent set forth in this Section 6.2 within the Contingency Period:

(a) Physical Inspection Contingency. Buyer shall have the right, in accordance with Section 14.1, and is advised, to conduct such soil tests, engineering studies, and such feasibility and other studies regarding the condition of the Property, including the construction of the Improvements, as it considers prudent at a mutually convenient time upon two (2) Business Days prior written notice to Seller. Buyer shall have the right, and is advised, to review and approve the zoning, land use and other governmental regulations, laws, permits, and approvals that apply to the Real Property. If Buyer discovers defects in the physical condition of the Real Property of which Buyer disapproves, in Buyer's sole and subjective discretion, then Buyer may terminate this Agreement upon written notice to Seller given no later than the expiration of the Contingency Period. If Buyer fails to deliver such written notice prior to the date specified above, then Buyer shall be deemed to have waived the contingency as to the physical condition of the Property and the parties shall proceed to Closing. All inspections of the Real Property made by Buyer under this Section 6.2(a) are subject to the terms of Article XIV, below.

(b) Environmental Contingency. Buyer shall have until the expiration of the Contingency Period to satisfy itself as to the environmental condition of the Real Property ("Environmental Contingency Date"). If Buyer discovers the presence of Hazardous Materials (as defined herein) in excess of clean-up levels permitted under applicable state, local, or federal environmental laws, regulations, and standards ("Environmental Laws") (other than those conditions which Buyer created), or otherwise disapproves of the environmental condition of the Property, in Buyer's sole and subjective discretion, then Buyer may terminate this Agreement by written notice to Seller, delivered prior to the expiration of the Contingency Period. If Buyer fails to deliver notice of termination to Seller prior to the expiration of the Contingency Period, then Buyer shall be deemed to have waived all conditions under this Section 6.2(b). Buyer agrees that Seller shall not be responsible to Buyer for the environmental condition of the Property from and after the Closing Date, including the costs to remove all hazardous materials located on, in or under the Property. As used herein, the term "Hazardous Material" shall mean asbestos, petroleum products, and any materials defined as "hazardous substances", "hazardous waste", "hazardous constituents," "solid waste," or language of similar import in (a) the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. 9601-9657 and any amendments thereto and regulations thereunder, (b) the Resource Conservation and Recovery Act, 42 U.S.C. 6901-6987 and any amendments thereto and regulations thereunder, and (c) any other federal, state, or local environmental statute, ordinance, or regulation.

(c) Document Contingency. The Buyer shall have the right, in accordance with Section 5.1, and is advised, to review and approve all leases, income and expense statements for the past two years, financial reports, property tax bills, insurance bills and certificates, service, management, and maintenance contracts, "as built" plans and specifications, and studies and reports that relate to the Property or that will affect the Property at the Close of Escrow, if any, which are possessed by Seller or reasonably available to Seller and which are not privileged, confidential, or proprietary.

ARTICLE VII

Representations and Warranties of Buyer and Seller

Section 7.1 Seller hereby represents and warrants to Buyer that Seller is a limited liability company duly formed, validly existing and in good standing under the laws of the State of California and has the requisite power and authority to enter into and fully carry out this Agreement and the sale of the Property made pursuant hereto.

Section 7.2 Buyer hereby represents and warrants to Seller that Buyer has the requisite power and authority to enter into and fully carry out this Agreement and the purchase of the Property made pursuant hereto.

Section 7.3 Seller hereby represents and warrants to Buyer that Seller is not a "foreign person" within the meaning of Sections 1445(f)(3) and 7701(a)(30) of the Internal Revenue Code of 1986, as amended, and no portion of the Purchase Price is required to be withheld by Buyer

pursuant thereto or pursuant to California Revenue and Taxation Code Sections 18662 and 18668 or any other similar state statutes.

Section 7.4 Seller represents and warrants that the following statements are now true and shall be true as of the date of closing and shall survive the close of escrow:

(a) Seller has no knowledge of any condemnation or eminent domain proceedings now pending or anticipated with respect to the Property.

(b) With the exception of a mechanic's lien action now pending in Los Angeles County Superior Court, which Seller is vigorously contesting, there are no legal actions, suits or other legal administrative proceedings pending, or to Seller's knowledge, threatened against Seller or the Property, or which may affect the Property, and Seller has no knowledge of any facts which might result in any such action, suit or other proceedings.

(c) Seller has no knowledge of any parties in possession or holding any rights to any portion of the Property as lessees, tenants at sufferance, invitees, optionees, holders of a right of first refusal, or purported Buyers which have not been specifically disclosed in writing by Seller.

(d) The execution, delivery, and performance of this Agreement by the persons executing the same on behalf of Seller have been duly and validly authorized (and by their execution hereof such persons individually represent and warrant that they are so authorized) and this Agreement and the other agreements and instruments contemplated hereby constitute legal, valid and binding obligations of Seller, enforceable in accordance with their respective terms, subject to bankruptcy, insolvency and other limitations on creditor's rights generally and to equitable principles.

(e) To Seller's knowledge, neither the execution, delivery or performance of this Agreement will breach any statute, law, ordinance, rule or regulation of any governmental authority or conflict with or result in a breach of any of the terms, conditions or provisions of any judgment, order, injunction, decree or ruling of any court or governmental authority to which Seller or the Property is subject or any agreement or instrument to which it is party or by which it or the Property is bound, or constitute a default thereunder.

(f) To Seller's knowledge, each of the financial statements to be provided by Seller to Buyer pursuant to this Agreement: (i) is in accord in all material respects with the Books and Records of Seller; and (ii) presents fairly, completely and accurately the results of operations for the respective periods covered thereby.

(g) All of the due diligence materials relating to the Property to be given to Buyer or its representatives by Seller will be the same documents maintained by Seller in its files and upon which Seller relies in connection with the operation of the Property.

(h) Seller has not received any written notice that any portion of the Property is presently in violation in any respect with any applicable statutes, ordinances, codes, rules,

and/or regulations (including, without limitation, relating to hazardous materials) of any governmental authority having jurisdiction over the Property which violations have not been remedied by Seller.

Section 7.5 Buyer represents and warrants that the following statements are now true and shall be true as of the date of closing:

(a) The execution, delivery, and performance of this Agreement by the persons executing the same on behalf of Buyer have been duly and validly authorized (and by their execution hereof such persons individually represent and warrant that they are so authorized) and this Agreement and the other agreements and instruments contemplated hereby constitute legal, valid and binding obligations of Buyer, enforceable in accordance with their respective terms.

(b) Neither the execution, deliver or performance of this Agreement will breach any statute, law, ordinance, rule or regulation of any governmental authority or conflict with or result in a breach of any of the terms, conditions or provisions of any judgment, order, injunction, decree or ruling of any court or governmental authority to which Buyer is subject on any agreement or instrument to which it is party or by which it is bound, or constitute a default thereunder.

ARTICLE VIII Additional Agreements

Section 8.1 Cooperation in Tax Free Exchange. Buyer and Seller agree that either party may, at its sole option, close the sale of the Property by means of a like-kind exchange of real estate pursuant to Section 1031 of the Internal Revenue Code. Each party ("Cooperating Party") agrees to cooperate with the other party ("Exchanging Party") in order to effectuate such like-kind exchange of real property in the event that a party elects to proceed with this transaction by means of a like-kind exchange of real property. The Cooperating Party agrees to execute any documents which are reasonably necessary for the Exchanging Party to effectuate such a like-kind exchange, including, without limitation, consenting to any assignment by the Exchanging Party of its rights under this Agreement to a third party so long as the Exchanging Party remains liable to the Cooperating Party under this Agreement; provided (a) the Cooperating Party shall not be required to acquire title to any exchange property or comply with any other conditions dealing with such exchange which could impose liability on the Cooperating Party as an owner in a chain of title; (b) the Cooperating Party shall not be obligated to assume any mortgage or other encumbrance or other obligation to pay money in connection with the acquisition and conveyance of the exchange property, nor shall the Cooperating Party be required to incur any other cost (other than the cost incurred in reviewing the standard exchange documents) in connection with such exchange; and (c) the transaction contemplated hereunder shall not be delayed in any material respect as a result of the tax free exchange. The Cooperating Party and its representatives shall have a reasonable opportunity to review the documents evidencing such exchange prior to the Closing. The Exchanging Party hereby agrees to indemnify and hold the Cooperating Party free and harmless from any liability (including, but

not limited to the tax ramifications to the Exchanging Party of acquiring title to exchange property) arising by reason of performing the acts required hereby to effectuate such exchange, except insofar as any such liability is attributable to the failure of the Cooperating Party to perform its obligations set forth in this Section 8.1 such as its failure to execute documents, and except for the cost to the Cooperating Party of reviewing the standard exchange documents.

Section 8.2 Sale "AS IS" Except as specifically set forth in this Agreement, it is a material inducement to Seller to enter into this Agreement that the Property is sold, "AS IS, WHERE IS."

Section 8.3 Consents Including Consent of City of Torrance. The Parties recognize and agree that among their duties of cooperation is the duty to cooperate in good faith in obtaining the timely consents necessary to the assignment of the Ground Lease and Ground Sublease, including the consent of the City of Torrance.

ARTICLE IX

Conditions Precedent to Seller's Obligations

The obligations of Seller to sell the Property to Buyer and to perform the other covenants and obligations to be performed by it on the Closing Date shall be subject to the following conditions (all or any of which may be waived, in whole or in part, by Seller):

Section 9.1 Buyer's Representations and Warranties True. The representations and warranties made by Buyer in Article VII shall be true and correct in all material respects on and as of the Closing Date with the same force and effect as though such representations and warranties had been made on and as of such date.

Section 9.2 Buyer's Performance. Buyer shall have performed in all material respects its obligations required by this Agreement to be performed by it on or before the Closing Date.

Section 9.3 Consent of City. The City of Torrance shall have given all necessary consents to the sale, assignment, and conveyance of the Property to Buyer.

ARTICLE X

Conditions Precedent to Buyer's Obligations

The obligations of Buyer to purchase the Property from Seller and to perform the other covenants and obligations to be performed by it on the Closing Date shall be subject to the following conditions (all or any of which may be waived, in whole or in part, by Buyer):

Section 10.1 Seller's Representations and Warranties True. The representations and warranties made by Seller in Article VII shall be true and correct in all material respects on and as of the Closing Date with the same force and effect as if such representations had been made on and as of such date.

Section 10.2 Seller's Performance. Seller shall have performed in all material respects all covenants and obligations required by this Agreement to be performed by it on or before the Closing Date.

Section 10.3 Consent of City. The City of Torrance shall have given all necessary consents to the sale, assignment, and conveyance of the Property to Buyer.

Section 10.4. Estoppel Certificate. Lowe's shall have executed and delivered an estoppel certificate in the form attached hereto as Exhibit C (the "Estoppel Certificate") for the benefit of Buyer.

ARTICLE XI Escrow and Closing

Section 11.1 Closing Date. The closing of the purchase and sale of the Property (the "Closing") shall take place on the thirtieth day following the final day of the Contingency Period; provided, however, that if all conditions precedent to the Closing have been or will be satisfied as of that date except the condition precedent described in Sections 9.3 and 10.3, and Seller has been working and is continuing to work diligently to obtain the necessary consents from the City of Torrance, the Closing shall be postponed until such time as such condition precedent has been satisfied. The Closing shall be held at the office of Escrow Agent.

Section 11.2 Escrow Instructions. This Agreement shall also constitute instructions to Escrow Agent for the consummation of this Agreement through the Escrow. Escrow Agent is hereby authorized and instructed to conduct the Escrow in accordance with this Agreement and applicable law. In addition to this Agreement, Escrow Agent may, subject to the reasonable approval of the parties, include its standard general escrow provisions.

Section 11.3 Seller's Deliveries. Seller shall deliver to Escrow Agent in time for delivery to Buyer at the Closing the items described below:

(a) a counterpart of the Ground Lease Assignment fully executed and acknowledged by Seller;

(b) a counterpart of the Ground Sublease Assignment fully executed and acknowledged by Seller (or each of the partners of Seller, as the case may be);

(c) a certification as to Seller's (or each of Seller's partners', as the case may be) non-foreign status which complies with the provisions of Section 1445(b)(2) of the Internal Revenue Code of 1986, as amended;

(d) such information as may be reasonably requested by Buyer or Escrow Agent to confirm that no part of the Purchase Price is required to be withheld by Buyer at Closing pursuant to California Revenue and Taxation Code Sections 18662 and 18668; and

(e) all other documents, instruments, agreements, and certificates required by this Agreement to be signed by the Seller or delivered to Buyer at the Closing, including the Estoppel Certificate.

Section 11.4 Buyer's Deliveries. Buyer shall deliver or cause to be delivered to Escrow Agent in time for delivery to Seller at the Closing the items described below:

- (a) the Purchase Price;
- (b) a counterpart of the Ground Lease Assignment fully executed and acknowledged by Buyer;
- (c) a counterpart of the Ground Sublease Assignment fully executed and acknowledged by Buyer; and
- (d) all other documents, instruments, agreements, and certificates required by this Agreement to be signed by Buyer or delivered to Seller at the Closing.

ARTICLE XII

Closing Adjustments and Costs

Section 12.1 All real estate taxes, expenses, and charges in connection with ownership and use of the Property shall be prorated as of the Closing Date. To the extent that information for any such proration is not available on the Closing Date, the Parties shall effect such prorations within thirty (15) days after such information is available. All costs shall be paid in accordance with the custom of Los Angeles County, California (i.e., C.L.T.A. title insurance premiums to be paid by Seller and A.L.T.A. title insurance premiums and any endorsements (except any which Seller agrees in writing to provide to Buyer) requested by Buyer or its lender to be paid by Buyer, survey costs to be paid by Buyer, escrow costs to be shared equally, and recording costs to be paid by Buyer).

ARTICLE XIII

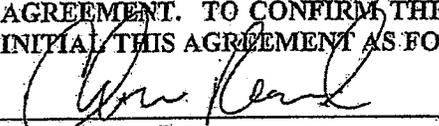
Termination

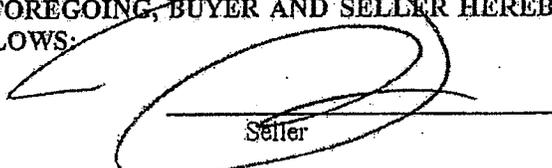
Section 13.1 Reasons for Termination. This Agreement may be terminated upon written notice given to the Escrow Agent and the other Party by:

- (a) Buyer at the Closing, if any one of the conditions set forth in Article X is not satisfied on the Closing Date; or
- (b) Seller at the Closing, if any one of the conditions set forth in Article IX is not satisfied on the Closing Date.

If this Agreement is terminated for non-satisfaction and non-waiver of one of the conditions set forth in Articles IX or X, then neither of the Parties shall thereafter have any liability to the other under this Agreement, except to the extent of the breach of any affirmative covenant or warranty in this Agreement. In the event of such termination, Buyer shall be refunded all funds deposited by Buyer with Escrow Agent, less only Title Company and Escrow Agent cancellation fees and costs, all of which shall be Buyer's obligation.

Section 13.2 Liquidated Damages for Breach by Buyer. If Seller terminates this Agreement because of a failure of Buyer to perform any of the material covenants or agreements to be performed by it under this Agreement, Escrow Agent shall pay Buyer's Deposit to Seller. **SELLER AND BUYER ACKNOWLEDGE THAT THE DAMAGES TO SELLER IN THE EVENT OF A BREACH OF THIS AGREEMENT BY BUYER WOULD BE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT THE AMOUNT OF THE DEPOSIT REPRESENTS THE PARTIES' BEST AND MOST ACCURATE ESTIMATE OF THE DAMAGES THAT WOULD BE SUFFERED BY SELLER IF THE TRANSACTION FAILS TO CLOSE, AND THAT SUCH ESTIMATE IS REASONABLE UNDER THE CIRCUMSTANCES EXISTING ON THE EFFECTIVE DATE AND UNDER THE CIRCUMSTANCES THAT SELLER AND BUYER REASONABLY ANTICIPATE WOULD EXIST AT THE TIME OF SUCH BREACH. BUYER AND SELLER AGREE THAT SELLER'S RIGHT TO RETAIN THE DEPOSIT SHALL BE SELLER'S SOLE REMEDY, AT LAW AND IN EQUITY, FOR BUYER'S FAILURE TO PURCHASE THE PROPERTY IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. TO CONFIRM THE FOREGOING, BUYER AND SELLER HEREBY INITIAL THIS AGREEMENT AS FOLLOWS:**


 Buyer


 Seller

ARTICLE XIV

Buyer's Right to Enter and Inspect the Property

Section 14.1 Buyer's Right of Inspection. Prior to the Closing Date, upon two (2) Business Days prior written notice, Seller shall permit Buyer, or its authorized or designated representatives or agents, to enter the Real Property from time to time, during reasonable business hours, and, at Seller's election, accompanied by a representative, agent or employee of Seller, for the purpose of such performing tests, environmental audits, engineering and marketing studies, surveys, and other inspections, studies, and tests on the Real Property as Buyer may reasonably deem necessary, at Buyer's sole cost and expense. Buyer shall provide Seller with a scope of work for any environmental audit or invasive sampling or testing of the soils, ground water, or building materials, for Seller's prior review. Buyer shall maintain and require any party hired by Buyer to perform such inspections and tests to maintain insurance coverage in such amounts and coverages as Seller may reasonably request, naming Seller and Lowe's as additional insureds. Buyer agrees to defend, indemnify, protect and hold Seller and Lowe's harmless from any claim, loss, liability or expense (including reasonable attorneys' fees) in connection with any entry on the Real Property by Buyer, its representatives, agents, employees,

and independent contractors, including, without limitation, any tests, inspections, studies, and surveys performed thereon, and Buyer shall promptly repair and restore the Real Property to the same condition as existed immediately prior to such entry if such entry resulted in any damage thereto. Buyer's obligations set forth in the immediately preceding sentence shall survive the Closing of the transaction contemplated hereby or the termination of this Agreement prior to such Closing and the limitation on Buyer's liability hereunder shall not apply to the matters covered by this indemnity. Notwithstanding the foregoing, Buyer agrees that prior to the Closing, it shall neither make nor allow to be made any changes in or to the Real Property without the prior written consent of Seller. Notwithstanding anything to the contrary in this Agreement, in no event shall Buyer have any liability to Seller, nor shall Buyer have any obligation to repair or restore the Property in connection with any release or dispersion of Hazardous Materials which arises from or in connection with Buyer's inspection or investigation of the condition of the Property, except to the extent of any negligence or willful misconduct on the part of Buyer or its consultants or agents. Buyer agrees that it will not disclose the results of any such investigation, test, audit, study or survey to any third party (other than Buyer's attorneys, accountants, consultants, lenders, potential investors, or actual or prospective assignees) unless required by law.

ARTICLE XV Indemnification

Section 15.1 Seller's Indemnification of Buyer. Seller hereby covenants and agrees to indemnify, defend (by counsel reasonably acceptable to Buyer), protect and hold Buyer harmless from and against any and all claims, causes of actions, damages, suits, judgments, losses, costs, expenses, and damages, liquidated or unliquidated, relating to the Ground Lease and Ground Sublease occurring prior to the Closing Date. Seller's obligations under this Section 15.1 shall expressly survive the Closing.

Section 15.2 Buyer's Indemnification of Seller. Buyer hereby covenants and agrees to indemnify, defend (by counsel reasonably acceptable to Seller), protect and hold Seller harmless from and against any and all claims, causes of actions, damages, suits, judgments, losses, costs, expenses, and damages, liquidated or unliquidated, relating to the Ground Lease and Ground Sublease assumed by Buyer arising from or relating to events occurring after the Closing Date. Buyer's obligations under this Section 14(b) shall expressly survive the Closing.

ARTICLE XVI Notices

Any and all notices, demands, consents and approvals required under this Agreement shall be sent by certified or registered mail, postage prepaid, return receipt requested, or by reputable overnight delivery service (such as Federal Express or Airborne), addressed to the parties as follows:

Seller: LDC Skypark, LLC
2601 Airport Drive, Suite 300
Torrance, CA 90505

With a copy to: Richard C. Greenberg, Esq.
Greenberg, Fields & Whitcombe, LLP
21515 Hawthorne Blvd., Suite 450
Torrance, CA 90503

Buyer: Chris Renard
c/o Commercial Realty Consultants, Inc.
23586 Calabasas Rd. #100
Calabasas, CA 91302

With a copy to: Mark H. Smith, Esq.
Sharma, Smith & Gray, P.C.
1801 Century Park East #2400
Los Angeles, CA 90067-2326

ARTICLE XVII

Assignment

Section 17.1 Assignment. Buyer shall not have the right to assign or transfer Buyer's interest in this Agreement without the prior written consent of Seller, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Buyer shall have the right, by written notice to Seller but without Seller's prior approval, to assign all or any portion of Buyer's interest in this Agreement to one or more individuals or entities *provided* that no such assignment or combination of assignments shall reduce Buyer's ownership interest in the Property following the Closing, whether such ownership interest is direct, indirect, or a combination of both, to less than twenty-five percent (25%). Each assignee must, to the extent of such assignment, assume Buyer's obligations hereunder; then, upon the close of escrow, Buyer shall be released, to the extent of such assignment, from the obligations and liabilities arising under this Agreement or out of the transactions contemplated hereby. Any purported assignment or transfer in violation of this Section shall be null and void and of no effect.

ARTICLE XVIII

Brokerage

Each party hereby represents and warrants to the other that, except with respect to Ferris Lee Investments, to which Seller shall pay a commission of two percent (2%) of the Purchase Price, no commission or other amount is payable to any person or entity for brokerage or similar services performed hereunder and each party hereto agrees to indemnify, protect, defend, and hold harmless the other party for any commission or amount owed to or claimed by any person or entity claiming through such indemnifying party.

ARTICLE XIX
Miscellaneous Provisions

19.1 Other Acts.

Buyer and Seller each hereby agree to perform such other acts and to execute, acknowledge, and/or deliver such other instruments, documents, and materials as may be reasonably necessary to effect consummation of the transaction contemplated herein.

19.2 Time is of the Essence.

Buyer and Seller mutually agree that time is of the essence throughout the term of this Agreement and every provision hereof in which time is an element. No extension of time for performance of any obligations or acts shall be deemed an extension of time for performance of any other obligations or acts. If any date for performance of any of the terms, conditions, or provisions hereof shall fall on a Saturday, Sunday, or legal holiday, then the time of such performance shall be extended to the next Business Day thereafter.

19.3 Section Headings.

The section headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several sections hereof.

19.4 Interpretation.

Whenever used in this Agreement, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

19.5 Applicable Law and Parties Bound.

This Agreement shall be construed and enforced in accordance with the laws of the state of California and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, and permitted assigns.

19.6 Amendments.

All amendments and/or supplements to this Agreement must be in writing and executed by all Parties hereto. However, such amendments and/or supplements may be executed in counterparts, all of which shall be deemed to constitute one document.

19.7 No Merger.

The obligations, representations, and warranties herein contained shall not merge with transfer of title, but shall survive the Closing and remain in effect until fulfilled.

19.8 Entire Agreement.

The Parties acknowledge and agree that at all times they have intended that none of the preliminary negotiations concerning this transaction would be binding on either Party, and that they would be bound to each other only by a single, formal, comprehensive document containing this paragraph and all of the agreements of the Parties, in final form, which has been executed and delivered by Buyer and Seller. The Parties acknowledge that none of the prior oral agreements between them (and none of the representations on which either of them has relied) relating to the subject matter of this Agreement shall have any force or effect whatever, except as and to the extent that such agreements and representations have been incorporated in this Agreement.

19.9 No Recording.

Buyer shall not record this Agreement or any memorandum or short form hereof.

19.10 Counterparts.

This Agreement may be executed in counterparts, all of which counterparts taken together shall be deemed to be but one original.

19.11 Publicity.

All notices to third parties and all other publicity concerning the transaction contemplated herein shall be jointly planned and coordinated. Neither of the Parties shall act unilaterally in this regard without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed.

19.12 Attorneys' Fees.

If any legal action is brought to interpret or enforce the provisions of this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees from the other Party.

19.13 Invalid Provision.

In the event any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect, the remainder of this Agreement shall not be affected, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

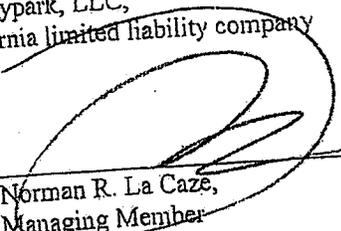
[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date first above written.

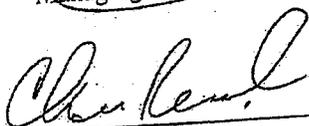
SELLER

LDC Skypark, LLC,
a California limited liability company

By: _____


Norman R. La Caze,
Managing Member

BUYER


Chris Renard

The undersigned joins in the execution of this Agreement solely for the purpose of acknowledging the receipt of the Buyer's Deposit and its agreement to hold the Buyer's Deposit in escrow in accordance with the terms hereof.

CHICAGO TITLE COMPANY

By: _____
Title: _____