

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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THIS LEASE ("Lease") is entered into as of this 3rd day of November, 2009, in duplicate pursuant to a Minute Order adopted by the City Council of the City of Long Beach at its meeting of November 3 2009, between **LONG BEACH COMMUNITY COLLEGE DISTRICT**, a Community College District ("Landlord"), and the **CITY OF LONG BEACH**, a municipal corporation ("Tenant").

In consideration of the covenants and conditions contained below, Landlord agrees to lease to Tenant and Tenant agrees to lease from Landlord the real property described below upon the following terms and conditions:

1. Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises shown on Exhibit "A" attached hereto and incorporated herein by this reference ("Premises"). The Premises shall consist of approximately seven hundred fifty (750) parking spaces located in the southwest portion of the Veterans Stadium parking lot. Tenant agrees that access to the Premises shall be via the driveway entrance on Conant Street which is closest to the corner of Conant Street and Clark Avenue.

2. Term. The term of this Lease (the "Term") shall commence on December 21, 2009 (the "Commencement Date") and shall continue through and inclusive of January 4, 2010 (the "Expiration Date"). Notwithstanding the above, Landlord shall have the right, upon advance written notice to Tenant, to immediately terminate this Lease due to an emergency situation which reasonably requires Landlord to make the Premises, or a portion thereof, available to another entity.

3. Rent.
A. Base Rent. Tenant shall pay to Landlord as base rent for the Premises an amount equal to the product of Eight Dollars (\$8.00) times the number of parking spaces comprising the Premises, prorated for a 30-day month, and multiplied by the number of days in the Term ("Base Rent"). For example, if

1 seven hundred fifty (750) spaces are reserved by Tenant, the Base Rent shall be
2 \$8.00 multiplied by 750 spaces (\$6,000), divided by 30 days (\$200/day), and
3 multiplied by fifteen days, which equals \$3,000. Base Rent shall be paid no later
4 than sixty (60) days after the Expiration Date. All rental to be paid by Tenant to
5 Landlord shall be paid without deduction, offset, prior notice or demand at the
6 address set forth below Landlord's signature, or to such other person or address
7 as Landlord may designate in writing.

8 B. Percentage Rent.

9 i. Net Revenues. In addition to the Base Rent, Tenant
10 shall pay to Landlord an additional rental at the time and in the manner
11 herein specified. Percentage Rental shall be equal to fifty percent (50%) of
12 the amount by which Tenant's Net Revenue (as hereinafter defined) made
13 in, upon or from the Premises exceeds the Base Rent to be paid by Tenant.

14 ii. Revenue Reports. Within sixty (60) days after the
15 Expiration Date, Tenant shall furnish to Landlord a statement in writing,
16 certified by Tenant to be correct, showing the total Net Revenue made in,
17 upon or from the Premises during the Term, and shall accompany each
18 such statement with a payment to Landlord equal to said percentage of the
19 amount by which the Net Revenue made in, upon or from the Premises
20 Rental paid by Tenant exceeds the Base Rent.

21 C. Definition of Net Revenues. The term "Net Revenue" as used
22 in this Lease shall mean: (A) the entire gross receipts of every kind and nature
23 from sales, services and rentals made in, upon or from the Premises, whether
24 upon credit or for cash, whether operated by Tenant or a concessionaire or other
25 party; less (B) any rebates and/or refunds to customers and the amount of all
26 sales tax receipts which have to be accounted for by Tenant to any government or
27 governmental agency, less (C) the management fees, if any, and employee wages
28 and benefits, if any, incurred by Tenant directly in connection with the operation

1 and management of the Premises, less (D) the Base Rent provided above,
2 provided, however, that (i) wages and benefits of any employee or manager who
3 does not devote substantially all of his or her employed time to the Premises
4 shall include only such wages and benefits as prorated to reflect the actual time
5 spent by such employee or manager on operating or managing the Premises; and
6 (ii) any amount paid by Tenant to a subsidiary or affiliate of Tenant for
7 management or employee services at the Premises shall be limited for purposes
8 hereof to the extent the same do not exceed the costs of such services rendered
9 by qualified, first-class unaffiliated third parties on a competitive basis, and (E) any
10 utility costs associated with the operation and management of the Premises by
11 Tenant.

12 D. Books and Records. Tenant shall keep complete and proper
13 books, records and accounts of its daily Net Revenue. With reasonable prior
14 notice, Landlord and its agents and employees shall have the right at any and all
15 times, during regular business hours, to examine and inspect all of the books and
16 records of Tenant pertaining to the business of Tenant conducted in, upon or from
17 the Premises, for the purpose of investigating and verifying the accuracy of any
18 statement of Net Revenue. Tenant shall, within ten (10) days of Landlord's written
19 request, send to Landlord copies of Tenant's quarterly state sales tax reports
20 applicable to the Term. Landlord may from time to time cause an audit or review
21 of the business of Tenant to be made by a certified public accountant or other
22 professional of Landlord's selection, and if the statement of Net Revenue
23 previously made to Landlord shall be found to be inaccurate, then there shall be
24 an adjustment and one party shall pay to the other within ten (10) days of demand
25 such sums as may be necessary to settle in full the accurate amount of said
26 Percentage Rental that should have been paid to Landlord for the period or
27 periods covered by such inaccurate statement or statements. Landlord shall be
28 responsible for the cost of any such audit, unless the audit shall disclose that

1 Tenant's Net Revenue for the period of said audit is five percent (5%) or more
2 greater than the monthly reported New Revenue, then Tenant shall immediately
3 pay to Landlord the cost of such audit.

4 4. Use. The Premises shall be used for long-term parking of motor
5 vehicles and for such other purposes as are associated with the parking of motor
6 vehicles. The parties agree that this Lease covers only the surface of the Premises and
7 only so much of the subsurface, if any, as is reasonably necessary for Tenant's use of
8 the Premises as permitted herein.

9 5. Maintenance. Tenant shall at its expense keep the Premises
10 reasonably neat and clean and in compliance with applicable laws.

11 6. Liens. Tenant shall keep the Premises free of mechanic's or
12 materialman's liens for any work done, labor performed or material furnished at the
13 Premises by or on behalf of Tenant.

14 7. Condition of Premises. Except as provided herein, Tenant accepts
15 the Premises "as is" and acknowledges that Landlord has not made any warranty or
16 representation as to the condition of the Premises or the fitness of the Premises for any
17 intended purpose. Landlord shall, at its sole cost and expense, fill any existing potholes
18 on the Premises prior to the Commencement Date. All other improvements to the
19 Premises, including fencing, signage, slurry sealing, restriping of parking stalls and the
20 installation of parking control equipment shall be made by Tenant at its sole cost and
21 expense. Tenant may also clean the surface parking lot, realign the bumper stops, and
22 add a surveillance camera. Tenant may remove any parking control equipment installed
23 pursuant to this Section 7 at its own cost upon the Expiration Date or earlier termination
24 of this Lease, or sooner at its option.

25 8. Improvements. Except as set forth herein, Tenant shall not erect any
26 improvements on the premises without the prior written approval of Landlord.

27 9. Utilities. Landlord shall provide all utilities to the Premises, which are
28 reasonably necessary for the operation of the Premises as a parking lot. The utilities to

1 be provided do not include water.

2 10. Discrimination. Subject to applicable laws, rules, and regulations,
3 Tenant shall not discriminate against anyone on the basis of age, sex, sexual orientation,
4 AIDS, HIV status, marital status, race, religion, creed, ancestry, national origin, disability,
5 or handicap in the use of the Premises.

6 11. Notices. Any notice required hereunder shall be in writing and
7 personally served or deposited in the U. S. Postal Service, first class, postage prepaid to
8 Tenant at 333 West Ocean Blvd., attention City Manager, 13th Floor, Long Beach, CA
9 90802, with a copy to the attention of The City Attorney of the City of Long Beach at 333
10 West Ocean Blvd., 11th Floor, Long Beach CA 90802, and to Landlord at Long Beach
11 Community College District, Attention Vice President of Administrative Services,
12 Contracts Management; G-4, 4901 E. Carson Street, Long Beach, CA 90808. Notice
13 shall be deemed effective two (2) days after the date of mailing or on the date personal
14 service is obtained, whichever first occurs. Change of address shall be given as provided
15 herein for notices.

16 12. Indemnification. Tenant shall defend, indemnify and hold Landlord
17 harmless from all claims, demands, damages, causes of action, losses, liability, of any
18 kind or nature whatsoever ("claims") for injury to or death of persons or damage to or loss
19 of any personal or real property occurring in, on, or about the Premises arising from the
20 negligence or willful misconduct of Tenant, Tenant's employees, agents, representatives
21 or invitees or arising from misuse of the Premises by Tenant, Tenant's employees,
22 agents, representatives or invitees, or any claims arising from any breach of this Lease
23 by Tenant.

24 13. Insurance. Tenant shall, at Tenant's sole expense, obtain and keep
25 in force at all times during the Term of this Lease, the following policies or insurance:

26 13.1 Coverage equivalent to ISO form CG 00 01 11 88 (Commercial
27 General Liability) Insurance or Self-Insurance that shall include the Landlord as an
28 additional insured with coverage equivalent to an ISO form CG 20 26 11 85 in an

1 amount of Two Million Dollars (\$2,000,000) per occurrence and in the aggregate.

2 13.2 Coverage equivalent to ISO form CA 00 01 (Commercial
3 Automobile) Insurance or Self-Insurance in an amount of One Million Dollars
4 (\$1,000,000) combined single limit (CSL) per accident for bodily injury and
5 property damage covering owned, non-owned, and hired automobiles. This shall
6 also cover garage keepers legal liability with limits of Fifty Thousand Dollars
7 (\$50,000).

8 13.3 Worker's compensation insurance or self-insurance coverage
9 that complies with the Labor Code of the State of California, and any other
10 applicable rules, regulations, ordinances and disability benefit acts.

11 13.4 Property Insurance covering the Tenant's personal property
12 from "All Risk" perils of loss (excluding flood, earthquake, and terrorism) which is
13 brought onto or kept on the Premises on a replacement cost basis. This policy
14 shall have a deductible no larger than Tenant's most common, current Property
15 Insurance deductible.

16 13.5 Tenant shall deliver to Landlord certificates evidencing the
17 existence of coverage with additional insured endorsement and amounts of such
18 insurance or self-insurance within seven (7) days prior to the Commencement
19 Date and no later than the first day upon which Tenant commences any
20 preparation, improvement or operation upon the Premises. No such policy shall
21 be cancelable or subject to reduction of coverage or other modification, except for
22 reduction of limits due to claim activity, except after thirty (30) days prior written
23 notice to Landlord. Tenant shall, at least thirty (30) days within the expiration of
24 such policies, furnish Landlord with renewal certificates or cover notes or binders
25 of renewal thereof.

26 13.6 Tenant shall, at no expense to Landlord, cause its parking
27 management subcontractors which manage the Premises to obtain and keep in
28 force at all times during the Term of this Lease those policies of insurance listed

1 above as may be requested by Landlord. Tenant shall deliver to Landlord
2 certificates evidencing the existence of coverage with additional insured
3 endorsement and amounts of such insurance within seven (7) days prior to the
4 Commencement Date and no later than the first day upon which Tenant
5 commences any preparation, improvement or operation upon the Premises.

6 14. Assignment. Tenant shall not assign or transfer this Lease or any
7 interest herein, nor sublease the Premises or any part thereof without the prior written
8 consent of Landlord, which consent shall not be unreasonably withheld.

9 15. Possession. Tenant shall peaceably deliver possession of the
10 Premises to Landlord on the effective date of termination or expiration of this Lease.
11 Upon the termination or expiration of this Lease, Tenant shall return the Premises to the
12 original condition that existed upon the Commencement Date, reasonable wear and tear
13 excepted. If, upon the termination or expiration of this Lease, Tenant fails to return the
14 Premises to the original condition, reasonable wear and tear excepted, Landlord may use
15 its own forces or engage the services of a third party to perform any work necessary to
16 return the Premises to the original condition and Tenant shall reimburse Landlord for all
17 reasonable expenses incurred in regards thereto. On giving notice of termination to
18 Tenant, Landlord shall have the right to re-enter and take possession of the Premises on
19 the effective date of termination.

20 16. Attorney's Fees. In any action or proceeding relating to this Lease,
21 the prevailing party shall be entitled to its costs, including reasonable attorney's fees.

22 17. Access. Landlord shall have the right of access to the Premises at
23 all reasonable times to inspect the Premises, to determine whether or not Tenant is
24 complying with the terms, covenants, and conditions of this Lease, and to serve, post, or
25 keep posted any notice.

26 18. Signs. Tenant shall not place, affix, maintain, or permit any sign on
27 the Premises without the prior written approval of Landlord. Any sign so approved shall
28 be maintained in good condition by Tenant at its sole cost and expense.

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1 19. Compliance with Laws. Tenant, at its sole cost, shall comply with all
2 laws, ordinances, rules and regulations of and obtain such permits, licenses, and
3 certificates required by all federal, state and local governmental authorities having
4 jurisdiction over the Premises and business thereon.

5 20. Obligations of Landlord. Landlord shall do all things necessary to
6 permit the Premises to be used for the purposes set forth in this Lease including
7 complying with all applicable laws and regulations including those, if any, of the City of
8 Long Beach. Notwithstanding the foregoing, Tenant, and not Landlord, shall be fully
9 responsible for performing, preparing, filing and/or serving any applications, notices,
10 reviews, declarations, studies, reports or other documents necessary to satisfy any
11 requirements arising from the California Environmental Quality Act (CEQA).

12 21. Defaults. In the event of a failure by Tenant to perform its obligations
13 hereunder, Landlord may immediately terminate this Lease and Tenant's right to
14 possession of the Premises. Landlord's notice shall specify the default and shall demand
15 that Tenant perform or quit the Premises. Such notice shall not be deemed a forfeiture or
16 termination of the Lease unless Landlord so elects in the notice. The exercise by
17 Landlord of one or more rights and remedies shall not preclude Landlord's exercise of
18 additional or different remedies for the same or any other default by Tenant.

19 22. No Agency. The relationship of the parties hereto is that of landlord
20 and tenant, and the parties agree that nothing contained in this Lease shall be deemed or
21 construed as creating a partnership, joint venture, association, principal-agent or
22 employer-employee relationship between them or between Landlord or any third person
23 or entity.

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1 IN WITNESS WHEREOF the parties have executed this Lease as of the
2 date first above written.

3 **LONG BEACH COMMUNITY COLLEGE**
4 **DISTRICT, a Community College District**

5 11/18/09, 2009

By: 

6 Its: DIR. RISK SERVICES

7 Contracts Management; G-4
8 4901 E. Carson Street
9 Long Beach, California 90808

10 **"LANDLORD"**

11 **CITY OF LONG BEACH, a municipal**
12 **corporation**

12 12.18, 2009

By , Assistant City Manager
13 City Manager


14 EXECUTED PURSUANT
15 TO SECTION 301 OF
16 THE CITY CHARTER.

17 **"TENANT"**

18 EXECUTED PURSUANT
19 TO SECTION 301 OF
20 THE CITY CHARTER.

21 Approved as to form this 8 day of December, 2009.

22 ROBERT E. SHANNON, City Attorney

23 By 
24 Richard F. Anthony, Deputy

25 OFFICE OF THE CITY ATTORNEY
26 ROBERT E. SHANNON, City Attorney
27 333 West Ocean Boulevard, 11th Floor
28 Long Beach, CA 90802-4664

Exhibit "A"



CITY OF LONG BEACH - CALIFORNIA



City of Long Beach - California
LONG BEACH AIRPORT - MARIO RODRIGUEZ, DIRECTOR
**VICINITY MAP for PROPOSED CITY LEASED PARKING
at VETERAN STADIUM**

