

29872

AMENDED AND RESTATED

HOTEL LEASE

(600 QUEENSWAY DRIVE)

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1 This LEASE is made this 1st day of October, 2005, between the **CITY OF**
2 **LONG BEACH**, a municipal corporation and trust grantee of the State of California of certain
3 tide and submerged lands within said City ("**Landlord**" or "**Lessor**") and LBH Land Holding
4 Company, LLC, a California Limited Liability Company ("**Tenant**" or "**Lessee**"), pursuant to a
5 minute order adopted by the City of Long Beach City Council on October 4, 2005.

6 **ARTICLE I**

7
8 **RECITALS**

9 1.1 **Preliminary Statement.**

10 1.1.1 Landlord is the owner of certain tide and submerged lands conveyed to it
11 by the State of California, which lands were granted and are held upon certain trusts and
12 conditions set forth in Chapter 676, Statutes of 1911, Chapter 102, Statutes of 1925, Chapter 158,
13 Statutes of 1935, Chapter 29, Statutes of 1956, First Extraordinary Session, Chapter 1560,
14 Statutes of 1959, and Chapter 138, Statutes of 1964, First Extraordinary Session.

15 1.1.2 Pursuant to a Lease dated May 7, 1987 ("Original Lease"), Landlord
16 leased the Premises to Quiet Cannon Long Beach, Inc. Tenant has acquired the leasehold estate
17 under the Original Lease from Long Beach Group, Inc., a successor to Quiet Cannon Long
18 Beach, Inc. as the tenant under the Original Lease.

19 1.1.3 Tenant has proposed to prepay the base rent for the entire term, and on the
20 basis of such prepayment and other consideration, including but not limited to Tenant's
21 investment of approximately Seventeen Million Dollars (\$17,000,000) for the construction of a
22 Hotel on the Leasehold, Landlord is willing to extend the term of the leasehold estate and make
23 other changes in the Original Lease. Landlord and Tenant desire to amend and restate the

1 Original Lease in its entirety to reflect the prepayment of base rent, extension of the term,
2 construction of a Hotel and other agreed upon changes.

3 1.2 Definitions. As used in this Lease, the following words and phrases shall have the
4 following meanings:

5 1.2.1 Premises. The real property and improvements thereon shown on the
6 attached drawing marked Exhibit "A" and further described in Exhibit "B".

7 1.2.2 City Manager. The City Manager of the City of Long Beach.

8 1.2.3 Landlord's Original Address.

9 c/o City Manager, City Hall - 13th Floor
10 333 West Ocean Boulevard
11 Long Beach, California 90802
12 FAX: (562) 570-7650

13 1.2.4 Tenant's Original Address.

14 LBH Land Holding Company, LLC
15 a California Limited Liability Company
16 444 West Ocean Boulevard, Suite 1108
17 Long Beach, California 90802
18 Attn: Kambiz Babaoff
19 FAX: (562) 437-5128

20 With copies to:

21
22
23 Ensemble Real Estate Services
24 2425 East Camelback Rd.
25 Suite 390
26 Phoenix, AZ 85016
27 Attn: Michael Moskowitz
28 FAX: (602) 954-2229
29

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And

Jeffer, Mangels, Butler & Marmaro LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067
Attn: Scott M. Kalt, Esq.
FAX: (310) 203-0567

9 1.3 Exhibits.

- | | |
|-------------|-----------------------------------------------------------|
| Exhibit "A" | Drawing of Premises |
| Exhibit "B" | Legal Description of Premises and non-exclusive easements |
| Exhibit "C" | 8.5% Rate of Return on future land value |
| Exhibit "D" | Preliminary Site Plan |
| Exhibit "E" | Estoppel Certificate |
| Exhibit "F" | Percentage Rent and Additional Rent |

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All of the above-described exhibits are attached to this Lease and incorporated by reference.

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ARTICLE II
PREMISES, TERM, OPTION AND APPURTENANT
RIGHTS AND DUTIES

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2.1 Premises. Landlord leases to Tenant and Tenant leases from Landlord effective upon the Commencement Date (as defined in Paragraph 2.2) the Premises and all buildings and improvements located thereon subject to the terms, covenants, and conditions contained in this Lease. Tenant has the right, at its own risk, to tear down any and all buildings now or hereafter

1 located on the Premises on the condition that a Hotel as described in Paragraph 5.1 is thereafter
2 built on the Premises. There are excepted and reserved from the Premises all minerals and
3 mineral rights of every kind or nature lying below the surfaces of said areas. Landlord shall not
4 exercise any right of surface entry on the Premises nor any right to use the subsurfaces of the
5 land and water areas described within five hundred (500) feet below ground level or water
6 surface level of said Premises for the purpose of mineral exploration or development. This Lease
7 shall confer no rights in Tenant or its successors in interest to the subsurfaces of the land and
8 water areas described more than five hundred (500) feet below ground level. This lease shall be
9 subject to an easement to Landlord for power, telephone and sewage lines and other utilities
10 present on the Premises at the Commencement of this Lease or those utilities necessary to
11 Landlord in the future, so long as such future utilities do not unreasonably interfere with the
12 development, use or operation of the Premises and are placed in a location on the Premises
13 reasonably approved by Tenant. Tenant shall have the right to relocate to another location on the
14 Premises or with approval of Landlord, off-site any easement for utilities now or hereafter
15 encumbering the Premises in favor of Landlord, to the extent necessary for any development or
16 redevelopment of the Premises by Tenant. Without limiting the generality of the foregoing, the
17 existing sewer line(s) and/or communication line(s) on the Premises serving the adjacent boat
18 launch ramp may need to be moved, and Landlord shall pay the reasonable costs and expenses of
19 moving the sewer line(s) and/or communication line(s), if Tenant determines it to be necessary
20 for Tenant's development, use or operation of the Premises. If any new easements for utilities,
21 access or similar purposes across the Premises are necessary for Tenant to develop, use or
22 operate the Premises, as permitted by this Lease, Landlord may grant such easements for the
23 purpose of encumbering fee title to the Premises with such easements for the term of this Lease.

1 Landlord begins, Tenant shall (1) provide Landlord written notice of the effective date of the
2 change in use, (2) obtain all required permits and comply fully with Paragraph 5.8; (3) in
3 addition to the prepaid rent and for the purpose of providing adequate rent to Landlord for
4 Tenant's use and occupancy of the Premises, pay percentage rent and additional rent as detailed
5 in Exhibit "F".

6 **ARTICLE IV**

7
8 **THE PREMISES**

9 4.1 Subsurface Conditions. Tenant acknowledges that neither Landlord nor any of
10 Landlord's officers, agents, or employees have made, nor does Landlord make herewith, any
11 representation, warranty, or guaranty, either express or implied, concerning the surface or
12 subsurface soil conditions of the Premises. Tenant shall have the sole responsibility for
13 determining the surface or subsurface conditions of the Premises. Tenant takes said Premises
14 and all improvements thereon "as is" and "with all faults".

15 4.2 Mechanics Liens. Subject to Tenant's right to contest the same as hereinafter
16 provided, Tenant shall pay as soon as due all mechanics', laborers', materialmans', contractors',
17 subcontractors' or other similar charges or liens on the Premises. Nothing contained herein shall
18 in any respect make Tenant the agent of Landlord or authorize Tenant to do any act or to make
19 any contract encumbering or in any manner affecting the title or rights of the Landlord in or to
20 the Premises. If any such mechanics' or other similar liens shall at any time be filed against
21 Landlord's interest in the Premises, Tenant shall cause the same to be discharged of record within
22 thirty (30) days after the date of filing the same or otherwise free the Premises from such claim
23 or lien and any action brought to foreclose such lien, or Tenant shall promptly furnish to
24 Landlord a bond in an amount equal to one hundred twenty-five percent (125%) of such claim

1 and issued by a surety company satisfactory to Landlord, securing Landlord against payment of
2 such lien and against any and all loss or damage whatsoever in any way arising from the failure
3 of Tenant to discharge such lien. Tenant may in good faith contest any of such liens provided it
4 does so with due diligence and further provided that Tenant shall fully pay and immediately
5 discharge the amount of any final judgment granted against Landlord and Tenant or either of
6 them in any litigation involving the enforcement of such liens or the validity thereof. In the
7 event Tenant fails or refuses to discharge of record any such uncontested lien within said thirty
8 (30) day period or to pay and satisfy any such judgment as provided above, Landlord, following
9 twenty (20) days written notice to Tenant of Landlord's intent, may, but shall not be obliged to,
10 pay the amount thereof inclusive of any interest thereon or any court costs assessed against
11 Landlord and/or Tenant in litigation. Any amounts so paid by Landlord and all reasonable
12 attorneys' fees and other expenses of Landlord together with interest thereon at the rate provided
13 in Paragraph 5.5 from the date of payment shall be deemed additional rent and be paid by Tenant
14 to Landlord on demand.

15 4.3 Tenant's Property. Any building, structure or other improvement now or hereafter
16 constructed or placed on the Premises shall be and remain the property of Tenant during the
17 term. Except as provided in Paragraph 2.1, upon expiration or sooner termination of this Lease,
18 all improvements to the Premises shall become the property of Landlord free and clear of all
19 liens, charges or encumbrances of any nature whatsoever, if Landlord does not require Tenant to
20 remove said improvements. If Landlord requires Tenant to remove said improvements, then
21 Tenant shall do so at no cost to Landlord within One Hundred Eighty (180) days following the
22 date of expiration or termination of this Lease. Tenant shall execute any documents requested by

1 Landlord to evidence transfer of title to the improvements within thirty (30) days following the
2 termination of this Lease.

3 **ARTICLE V**

4 **USE OF PREMISES AND TENANT'S COVENANTS**

5
6 5.1 Permitted Uses. Tenant shall not use or allow the Premises to be used for any
7 purpose other than a first class Hotel as reasonably determined by Landlord. Hotel shall mean a
8 commercial land use for the rental of approximately one hundred fifty two (152) guest rooms to
9 transient occupants for a period of not more than thirty (30) consecutive days and incidental uses
10 within the hotel or associated with the primary use of the Premises as a hotel, including but not
11 limited to restaurants, bars, sundry, gift or other retail outlets of the type commonly found in
12 hotels, spas, and airline, auto rental and tour offices or desks. Tenant acknowledges that any
13 change in the use of the Premises must conform to the public trust doctrine and agrees that
14 Tenant will use the Premises only for purposes consistent with the Public Trust doctrine.
15 Landlord acknowledges that the Hotel and incidental uses described above are consistent with
16 the Public Trust. Tenant agrees that no Improvements shall be erected, placed upon, operated,
17 nor maintained upon the Premises, nor any business conducted or carried on therein or
18 therefrom, in violation of the terms of any regulation, order, law, statute, or ordinance of a
19 governmental agency having jurisdiction including, but not limited to, those of the City of Long
20 Beach and the State of California.

21 5.2 Tenant Improvements.

22 5.2.1 Tenant shall develop and construct the mentioned hotel and facilities (the
23 "Hotel") at its sole cost and expense. The Hotel initially to be constructed by Tenant on the

1 Premises shall be in general accordance with the Preliminary Site Plans as shown in Exhibit "D"
2 to this Lease. These Preliminary Site Plans are to be approved by the Landlord's Department of
3 Community Development operating in its capacity as Landlord and not in its municipal capacity.
4 Tenant will develop a final site plan and final plans and specifications (the "Plans and
5 specifications") for approval by Landlord. Landlord shall not have the right to object to the final
6 site plan or elements of it that are consistent with the Preliminary Site Plan attached as
7 Exhibit "D", and to the extent that the final site plan is consistent in all material respects with the
8 Preliminary Site Plan, the final site plan shall be deemed to be approved by Landlord. Landlord
9 shall not have the right to object to the Plans and Specifications or elements of them that are
10 consistent with the approved or deemed approved final site plan, and to the extent that the Plans
11 and Specifications are consistent in all material respects with the final site plan, the Plans and
12 Specifications shall be deemed to be approved by Landlord. Upon approval or deemed approval
13 by Landlord, the Final Site Plan will be incorporated into this Lease and will supersede and
14 replace Exhibit "D". Any modification to the Final Site Plan must be approved by Landlord's
15 Department of Community Development. Except as may be provided herein, it is Tenant's sole
16 responsibility to obtain all applicable regulatory permits and approvals including but not limited
17 to all environmental reviews. Tenant shall not make any material modifications of the Plans and
18 Specifications without obtaining Landlord's approval but may make minor modifications,
19 including but not limited to those of the type customarily made in the field, without Landlord's
20 approval. Before commencing construction, Tenant shall procure and deliver to Landlord at
21 Tenant's expense evidence of necessary permits, licenses, and governmental approvals for the
22 construction. If Tenant elects to demolish the Hotel then existing on the Premises in order to
23 replace it with another Hotel meeting the requirements of Paragraph 5.1, construct any

1 improvements for incidental or ancillary uses permitted by Paragraph 5.1 or make material
2 modifications to any of the foregoing, Tenant shall be required to obtain the approvals described
3 in this Paragraph 5.2.1 from Landlord with respect to the proposed new Hotel and the necessary
4 permits, licenses and governmental approvals for construction of the proposed new Hotel.

5 5.2.2 A Coastal Development Permit may be required in order to construct and
6 operate a hotel on the Premises. Tenant shall be responsible for obtaining a Coastal
7 Development Permit if so required by applicable law or the California Coastal Commission or its
8 staff. Landlord will use every reasonable effort to cooperate and assist Tenant in obtaining all
9 necessary Coastal Development Permits.

10 5.2.3 [Intentionally omitted]

11 5.2.4 No improvements, other than those approved in accordance with
12 Paragraph 5.2.1, shall be constructed or maintained. Tenant shall repair or restore to a condition
13 satisfactory to Landlord, any damage to landscaping, parking areas or other property owned by
14 Landlord which results from construction of the Hotel.

15 5.2.5 All contracts entered by Tenant relating to construction or alteration on the
16 Premises, the Hotel or the use thereof shall contain the following clause:

17 "This Agreement shall in no way bind the City of Long Beach, its
18 officials, agents, or employees, nor obligate them for any costs or
19 expenses whatsoever under this Agreement, or which are in any
20 manner connected with the subject matter of this Agreement."

21 5.2.6 Tenant shall notify Landlord twenty (20) days prior to commencement of
22 work to enable Landlord to post and record Notice(s) of Nonresponsibility.

1 5.2.7 Tenant shall provide or cause to be provided and shall pay for labor,
2 materials, equipment, tools, construction equipment and machinery, water, heat, utilities,
3 transportation and other facilities and services necessary for proper execution and completion of
4 the Tenant improvements.

5 5.2.8 Tenant warrants to Landlord that the Tenant improvements will be of good
6 quality, free from faults and defects, and in substantial conformance with the Plans and
7 Specifications, as they may be amended from time to time in accordance with Paragraph 5.2.1.
8 Work not conforming to these requirements shall be corrected by Tenant.

9 5.2.9 Tenant shall proceed at the Commencement of this Lease to promptly
10 obtain all necessary approvals and permits which are required to begin construction of the Hotel
11 on the Premises. Tenant shall proceed with construction of the Hotel in a diligent manner. In
12 any event, Hotel construction shall commence no later than October 1, 2008. Construction
13 commencement for the purposes of this Lease shall mean that the foundation shall be poured no
14 later than October 1, 2008. The Hotel shall be opened and in operation no later than October 1,
15 2010. The dates set forth in this Paragraph 5.2.9 shall be extended for the length of any delays in
16 the commencement or completion of construction, as applicable, caused by force majeure (as
17 described in Paragraph 11.11), which shall include but not be limited to delays in the processing
18 or issuance by governmental authorities of necessary permits, licenses and approvals beyond the
19 reasonable processing times. The Premises shall remain in continuous use after completion and
20 opening as a Hotel except as may be provided in Article IX of this Lease and except during
21 periods that the use or operation as a Hotel shall not be practical or feasible due to (a) causes
22 beyond the reasonable control of Tenant, (b) major renovation, repair or improvement of the

1 Hotel in accordance with this Lease, or (c) demolition of the then existing Hotel improvements
2 and replacement with another Hotel in accordance with this Lease.

3 5.3 Utilities and Services. Tenant shall be responsible for prompt payment for all
4 utilities and related services furnished to the Premises during the term including, without
5 limitation, water, gas, electricity, telephone service, trash collection, sewer charges, and for all
6 connection charges, Tenant may arrange for its subtenants to pay directly for such services.

7 5.4 Payments. Tenant covenants to perform promptly all of its obligations under this
8 Lease and to pay when due all rent, charges, costs and other sums which by the terms of this
9 Lease are to be paid by Tenant. All such payments to Landlord shall be made at Landlord's
10 original address or at such other place as may be designated in writing by Landlord. Any
11 delinquent payment due Landlord shall bear interest at the rate provided in Paragraph 5.5.

12 5.5 Interest. Whenever this Lease provides for the payment of interest on a sum due
13 either party from the other, the rate of interest shall be the maximum interest rate allowed by law,
14 where no interest rate is otherwise stated, on the date the sum becomes due and payable.

15 5.6 Condition of Premises. Tenant covenants to keep the Premises reasonably neat
16 and clean, and to keep all improvements constructed thereon in good order, repair, condition,
17 reasonable wear and tear and damage by casualty and governmental authority excepted.

18 5.7 Alterations. Tenant shall first obtain Landlord's prior written consent which shall
19 not be unreasonably withheld for any structural improvements upon or modifications to the
20 structural portions of the Premises or any improvements or modifications to the exterior of any
21 building or structure thereon. To obtain that consent, Tenant shall submit to the Landlord's

1 Department of Community Development reasonably detailed plans and specifications for such
2 alteration, together with a statement of Tenant's reasons for the alteration and the contemplated
3 use of areas after the alterations are completed. Landlord reserves the right within thirty (30)
4 days after the submission of the plans, specifications, and statement to disapprove such proposed
5 alteration. If Landlord neither approves nor disapproves in writing the proposed alteration within
6 the thirty (30) day period, the proposed alteration shall be deemed approved subject to the
7 provisions of Paragraph 5.8.

8 Landlord's approval is not required for non-structural alterations or improvements
9 within a building which do not alter the exterior elevation of the building; provided Tenant must
10 nevertheless comply with all building permit requirements and other laws and regulations
11 applicable thereto.

12 5.8 Compliance with Laws. Tenant covenants to make all repairs, alterations,
13 additions, or replacements to the Premises and the improvements constructed thereon and all
14 equipment, facilities, signs and fixtures thereon, required by law because of Tenant's use thereof;
15 to keep the Premises and improvements constructed thereon equipped with all safety appliances
16 so required because of such use; to procure or to require its subtenants to procure any licenses
17 and permits required for any such use; to comply with all laws, ordinances, orders and
18 regulations of all governmental authorities having jurisdiction over the Premises and the business
19 activities thereon; and to obtain all permits and consents required by law, order or regulation of
20 all governmental agencies having jurisdiction. Landlord will cooperate with and assist Tenant in
21 obtaining such permits and all permits, licenses, approvals and certificates from governmental
22 authorities as may be required for any Hotel construction, modification and improvement
23 permitted by this Lease and the use and operation of the Hotel; provided, however, this covenant

1 shall not be deemed or construed as a waiver of any right or obligation of Landlord acting in its
2 governmental capacity.

3 5.9 Indemnification. Tenant agrees to defend, hold harmless, and indemnify
4 Landlord, the Board of Harbor Commissioners (individually and collectively), and their officers
5 and employees from all injury, loss, claims, causes of action, demands or damages to any person
6 or property while on the Premises or in connection with the operations conducted by Tenant or
7 its servants, agents or employees pursuant to the terms of this lease or loss, injury, damages,
8 claims or causes of action to or of any person or property anywhere occasioned by the wrongful
9 omission, neglect or fault of Tenant, its servants, agents, employees, contractors or invitees
10 (excluding acts by the Landlord and its agents), which loss, claim, cause of action or damage
11 occurred on or after the Commencement Date of the term of this Lease.

12 This indemnification provision supplements and in no way limits the scope of the
13 indemnifications set out in Paragraph 5.10 below. The indemnity obligation of Tenant under this
14 Paragraph shall survive the expiration or termination, for any reason, of this Lease.

15 5.10 Use of Hazardous Material.

16 5.10.1 Use of Hazardous Material. Tenant shall not cause or permit any
17 Hazardous Material, as defined in Paragraph 5.10.5, to be generated, brought onto, used, stored,
18 dispensed or disposed of in the regular course of business on or about the Premises by Tenant or
19 its agents, employees, contractors, subtenants, or invitees, except for limited quantities of
20 standard hotel and janitorial supplies containing chemicals categorized as Hazardous Material
21 and except for batteries or petroleum products used in vehicles or vessels and/or stored on site
22 for use in such vehicles or vessels Tenant shall:

1 (a) Use, store, dispense, and dispose of all such Hazardous
2 Material in strict compliance with all applicable statutes, ordinances, and regulations in effect
3 during the Lease Term that relate to public health and safety and protection of the environment
4 ("Environmental Laws"), including those Environmental Laws identified in Paragraph 5.10.5;
5 and

6 (b) Comply at all times during the Lease Term with all
7 Environmental Laws.

8 5.10.2 Notice of Release or Investigation. If, during the Lease Term (including
9 any extensions), Tenant becomes aware of (a) any actual or threatened release of any Hazardous
10 Material on, under, or about the Premises or (b) any inquiry, investigation, proceeding, or claim
11 by any government agency or other person regarding the presence of Hazardous Material on,
12 under, or about the Premises, Tenant shall give Landlord written notice of the release or
13 investigation within five (5) days after learning of it and shall simultaneously furnish to Landlord
14 copies of any claims, notices of violation, reports, or other writings received by Tenant that
15 concern the release or investigation.

16 5.10.3 Indemnification. Tenant shall, at Tenant's sole expense and with counsel
17 reasonably acceptable to Landlord, indemnify, defend, and hold harmless Landlord, directors,
18 officers, employees, and agents with respect to all losses arising out of or resulting from the
19 disruption and release of any Hazardous Material in or about the Premises, or the violation of
20 any Environmental Law, by Tenant or Tenant's agents, contractors, or invitees. This
21 indemnification includes:

- 1 (a) Losses attributable to diminution in the value of the
2 Premises;
- 3 (b) Loss or restriction of use of rentable space on the Premises;
- 4 (c) Adverse effect on the marketing on or of the Premises; and
- 5 (d) All other liabilities, obligations, penalties, fines, claims,
6 actions (including remedial or enforcement actions of any kind and administrative or judicial
7 proceedings, orders, or judgments), damages (including consequential and punitive damages),
8 and costs (including attorney, consultant, and expert fees and expenses) resulting from the
9 release or violation.

10 This indemnification shall survive the expiration or termination of this Lease.

11 5.10.4 Remediation Obligations. If the presence of any Hazardous Material
12 brought onto the Premises by Tenant or Tenant's employees, agents, contractors, or invitees
13 results in contamination in violation of any Environmental Law, Tenant shall promptly take all
14 necessary actions, at Tenant's sole expense, to remediate the contamination in accordance with
15 Environmental Law as required by the lead agency having jurisdiction for continued use of the
16 Premises as a hotel. Tenant shall first obtain Landlord's approval of the proposed remedial
17 action. This provision does not limit the indemnification obligation set forth in Paragraph 5.10.3.

18 5.10.5 Definition of "Hazardous Material". As used in this Paragraph 5.10, the
19 term "Hazardous Material" shall mean any hazardous or toxic substance, material, or waste that
20 is or becomes regulated by the United States, the State of California, or any local government
21 authority having jurisdiction over the Premises. Hazardous Material includes:

1 (a) Any "hazardous substance," as that term is defined in the
2 Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)
3 (42 United States Code Sections 9601-9675);

4 (b) "Hazardous waste," as that term is defined in the Resource
5 Conservation and of Recovery Act of 1976 (RCRA) (42 United States Code Sections 6901-
6 6992k);

7 (c) Any pollutant, contaminant, or hazardous, dangerous, or
8 toxic chemical, material, or substance, within the meaning of any other applicable federal, state,
9 or local law, regulation, ordinance, or requirement (including consent decrees and administrative
10 orders imposing liability or standards of conduct concerning any hazardous, dangerous, or toxic
11 waste, substance, or material, now or hereafter in effect);

12 (d) Petroleum products;

13 (e) Radioactive material, including any source, special nuclear,
14 or byproduct material as defined in 42 United States Code Sections 2011-2297g-4;

15 (f) Asbestos in any form or condition unless in compliance
16 with Environmental Laws; and

17 (g) Polychlorinated biphenyls (PCBs) and substances or
18 compounds containing PCBs.

1 5.11 Insurance.

2 5.11.1 Tenant shall procure and maintain for the duration of this Lease (including
3 any extensions, renewals, or holding over thereof), at Tenant's sole expense, the following
4 insurance from insurance carriers authorized in California or from insurance carriers that are
5 listed on the California Department of Insurance's List of Eligible Surplus Lines Insurers
6 (<http://www.insurance.ca.gov/docs/FS-LESLI.htm>) and that have at least a rating of or equivalent
7 to A-VIII by A.M. Best Company for at least the coverages and limits listed, unless otherwise
8 determined by Landlord's Risk Manager or designee at Landlord's discretion in writing.
9 "Claims-made" policies are not acceptable unless approved in advance and in writing by
10 Landlord's Risk Manager or designee.

11 (a) Commercial general liability insurance equivalent in
12 coverage scope to ISO CGL CG 00 01 10 93, and including, as may be applicable to Tenant's
13 operations, products and completed operations, innkeepers liability, liquor liability, watercraft
14 liability, and fire legal liability, in an amount not less than Ten Million Dollars (\$10,000,000) per
15 occurrence and in aggregate. The City of Long Beach, the Board of Harbor Commissioners, and
16 their officials, employees, and agents shall be named as additional insureds in an additional
17 insured endorsement equivalent to ISO CG 20 26 11 85 and shall be protected from and against
18 claims, demands, causes of action, expenses, costs, or liability for injury to or death of persons,
19 or damage to or loss of property arising out activities performed by or on behalf of the Tenant.
20 Said insurance shall be primary insurance with respect to Landlord and shall include cross
21 liability protection.

1 (b) During the period of operation of the Hotel on the
2 Premises, Workers' Compensation Insurance as required by the Labor Code of the State of
3 California and any other applicable laws, and employer's liability insurance with minimum limits
4 of One Million Dollars (\$1,000,000) per accident or illness.

5 (c) Automobile Liability Insurance equivalent in scope to ISO
6 CA 00 01 06 92, including Garagekeepers Liability, in an amount not less than Two Million
7 Dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage
8 covering Symbol 1 ("all autos") operated under this Lease.

9 (d) Except for periods when coverage is provided under (e)
10 below, special perils property insurance, including debris removal, in an amount to cover the full
11 replacement value of the buildings and structural improvements on the Premises. Landlord shall
12 be named as a loss payee.

13 (e) Special perils property insurance, including debris removal,
14 and builders risk coverage during the course of construction in an amount sufficient to cover the
15 full replacement value of buildings and structural improvements constructed or erected on or
16 about the Premises during the course of construction Landlord shall be named as a loss payee.

17 (f) Special perils property insurance, including debris removal,
18 in an amount sufficient to cover the full replacement value of Tenant's personal property and
19 equipment on the Premises.

20 (g) Business interruption insurance providing that the rent due
21 Landlord shall be paid to Landlord for a period up to twelve (12) months if the Premises are

1 destroyed or rendered inaccessible. Landlord shall be named as an additional insured, as its
2 interests may appear.

3 5.11.2 If Tenant fails to procure and/or maintain any of the insurance required
4 herein, Landlord may, at its election procure and maintain such insurance on behalf of Tenant
5 and Landlord, at Tenant's sole expense.

6 5.11.3 If Landlord exercises its election, pursuant to the terms of this Lease, to
7 purchase any of the insurance coverages herein, Tenant shall reimburse Landlord immediately
8 for the reasonable cost of insurance procured by Landlord on Tenant's behalf and in any event no
9 later than fifteen (15) calendar days of the date of Landlord's invoice therefor. Any such
10 invoiced amount not received by Landlord within fifteen (15) calendar days of the date of
11 Landlord's invoice is subject to interest of 2% per month accruing from the sixteenth calendar
12 day after the invoice date, compounded monthly.

13 5.11.4 If Landlord does not exercise its election to purchase any of the insurance
14 required herein, Tenant shall have the responsibility for procuring and maintaining such
15 insurance.

16 5.11.5 When Tenant is responsible for procuring and maintaining any of the
17 insurance required herein, Tenant agrees to provide Landlord with any policy information
18 requested by Landlord and to make available to Landlord all books, records and other
19 information relating to such insurance during normal business hours.

20 5.11.6 Tenant shall deliver to Landlord certificates of insurance and original
21 endorsements for approval as to sufficiency and form no later than thirty (30) days after the

1 commencement of new or renewal policies required herein or no later than thirty (30) days after
2 the effective date of any policy amendments required herein. The certificates and endorsements
3 for each insurance policy shall contain the original signature of a person authorized by that
4 insurer to bind coverage on its behalf.

5 5.11.7 Insurance required herein shall be primary insurance as respects the
6 Landlord. Any insurance or self-insurance maintained by the Landlord shall be excess of this
7 insurance. Coverage shall state that the insurance shall apply separately to each insured against
8 whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
9 All policies shall be endorsed to provide at least thirty (30) days' notice of cancellation (10 days
10 if cancelled for nonpayment of premium) and 30 days' notice of nonrenewal, suspension,
11 termination (other than cancellation), or material changes in coverage terms to Landlord and
12 Tenant.

13 5.11.8 Any self-insurance program, self-insurance retention, or deductibles must
14 be approved separately in writing by Landlord's Risk Manager or designee and shall protect the
15 City of Long Beach, its officials, employees, and agents in the same manner and to the same
16 extent as they would have been protected had the policy 'or policies not contained retention
17 provisions.

18 5.11.9 With respect to damage to property, Landlord and Tenant hereby release
19 each other from liability for such damage, one against the other, but only to the extent that
20 collectible property insurance is available for said damage.

21 5.11.10 Not more frequently than every three years, if the amount, scope, or
22 types of coverages specified herein are not adequate based upon the levels of coverage generally

1 maintained for similar hotels in the Long Beach area, Tenant shall amend its insurances as
2 required by Landlord's Risk Manager or designee. Such amendment(s) may include, but is not
3 limited to, coverage for earthquake and flood if available from responsible insurance companies
4 at reasonable cost. Determination of "responsible insurance companies" and "reasonable cost"
5 are at the reasonable discretion of Landlord's Risk Manager or designee.

6 5.11.11 Except as provided in Section 5.11.9, such insurance as required herein
7 shall not be deemed to limit Tenant's liability relating to performance under this Lease. Landlord
8 reserves the right to require complete certified copies of all said policies at any time. The
9 procuring of insurance shall not be construed as a limitation on liability or as full performance of
10 the indemnification and hold harmless provisions of this Lease.

11 5.11.12 Any modification or waiver of the insurance requirements herein shall be
12 made only with the written approval of the Landlord's Risk Manager or designee, provided that
13 notwithstanding anything to the contrary contained herein, Landlord hereby agrees that statutory
14 limits shall be acceptable if higher insurance limits are not commercially available.

15 5.11.13 Any of the required insurance may be provided through insurance
16 maintained by Tenant's Hotel operator as long as it otherwise satisfies the requirements of this
17 Section 5.11.

18 5.12 Taxes. This Lease may create a possessory interest subject to property taxation
19 and Tenant may be liable for the payment of property taxes levied on such possessory interest.
20 Tenant covenants to pay or cause to be paid, prior to delinquency, all taxes, assessments and
21 other governmental and district charges that may be levied or assessed upon buildings,
22 improvements or property located on the Premises, to the extent of the possessory interests

1 created by this Lease and/or to the extent owed by Tenant. Satisfactory evidence of such
2 payments shall be delivered to Landlord upon demand therefor. Tenant shall have the right to
3 contest in accordance with applicable laws any taxes, assessments and charges.

4 5.13 Surrender. Except as otherwise provided in this Lease, at the termination of this
5 Lease (whether by lapse of time or otherwise), Tenant covenants to peaceably yield up and
6 surrender the Premises, including all improvements then located thereon constructed by Tenant
7 in conformity with the provisions of this Lease, said Premises, and improvements, to be in good
8 order, repair and condition, reasonable wear and tear, damage by casualty and action by
9 governmental authority or Force Majeure excepted.

10 5.14 Limitation of Liability.

11 5.14.1 Tenant acknowledges that unfavorable swell or water conditions
12 (including debris and sediment from the Los Angeles River) may occur at times in the adjacent
13 area of the Los Angeles River, such conditions include debris which has flowed down that river.
14 Tenant waives all claims for injury or damage or loss of business which may be sustained by
15 persons, Tenant's property or the property of Tenant's employees, invitees, customers,
16 subtenants, or any other person in or about the Premises as a result of any such condition.

17 5.15 Rights of Way and Access to Premises. Landlord's authorized representatives
18 shall have easements for and the right of access to the Premises for the installation, relocation,
19 removal, operations, maintenance, and repair of sewers, pipelines, conduits and structures owned
20 and maintained by Landlord as of the Commencement Date of the term and for the purpose of
21 determining whether or not Tenant is complying with the terms and conditions of this Lease.
22 The rights reserved to Landlord under this Paragraph shall be exercised at reasonable times on at

1 least 24 hours advance notice to Tenant, except in an emergency, and shall not violate reasonable
2 security restrictions required by any subleases.

3 **ARTICLE VI**
4 **LANDLORD'S TITLE; LANDLORD'S COVENANTS**

5 6.1 Landlord's Title. This Lease and any improvements to be made or constructed on
6 the Premises by Tenant shall be subject and subordinate to the trusts and conditions set forth in
7 the statutes referred to in Paragraph 1.1 and the limitations imposed by the Constitution of the
8 State of California. Landlord warrants it has the right and legal capacity and authority to enter
9 into and perform its obligations under this Lease.

10 6.2 Quiet Enjoyment. Landlord covenants and agrees that Tenant, subject to the
11 terms and provisions of this Lease, on payment of the rent and observing, keeping and
12 performing all of Tenant's covenants, shall lawfully, peaceably and quietly have, hold, occupy
13 and enjoy the Premises and any appurtenant rights granted to Tenant under this Lease without
14 hindrance or rejection by any person.

15 **ARTICLE VII**
16 **ASSIGNMENTS AND SUBLEASES.**

17 7.1 Assumption. Simultaneously with an assignment, the assignee shall execute an
18 agreement running to Landlord assuming Tenant's obligations under this Lease. Tenant shall
19 remain fully obligated under this Lease for any obligations or liabilities arising under this Lease
20 prior to the date of the assignment, notwithstanding any assignment or sublease or any
21 indulgence granted by Landlord to Tenant or to any assignee or subtenant unless released in
22 writing by Landlord.

1 7.2 Limitations on Assignment.

2 7.2.1 Except as provided in Paragraph 7.2.4.2 or Article VIII, Tenant may not
3 assign this Lease or any interest herein without first obtaining the written consent of Landlord,
4 which consent shall not be unreasonably withheld or delayed. Such approval shall be
5 conclusively deemed given if Tenant has not received notice of objection from Landlord within
6 sixty (60) days after written request for consent and the information mentioned in Paragraph
7 7.2.4.3 has been given to Landlord.

8 7.2.2 Assignment Invalid. Any transfer or assignment to which Landlord's
9 consent is required by this Lease shall be, except as provided in Paragraph 7.2.1 above, void and
10 shall confer no right or occupancy upon assignee.

11 7.2.3 Complete Release. Except as otherwise expressly set forth herein, the
12 assigning party shall be fully and completely released from all liability for the performance of all
13 of the covenants to be performed by Tenant under this Lease. Landlord's approval or consent to
14 any such assignment or transfer shall not be a waiver of any right to object to further or future
15 assignments, but the consent to each such successive assignment must be first obtained in writing
16 from Landlord.

17 7.2.4 Assignment Procedures and Requirements.

18 7.2.4.1 Any assignment may only be approved by Landlord acting in its
19 capacity as trustee of the tide and submerged lands granted to the City as described in Paragraph
20 1.1.1 after the following procedure:

1 Except as otherwise permitted by this Paragraph 7.2 and Paragraph 8.1, Tenant
2 may not assign this Lease or any interest herein without first obtaining the written consent of
3 Landlord as provided in Paragraph 7.2.1. Each request for consent to an assignment shall be in
4 writing, accompanied by information relevant to Landlord's determination as to the financial and
5 operational responsibility and appropriateness of the proposed assignee; including but not limited
6 to the intended use and/or required modification of the Premises, if any, together with a fee of
7 \$1,000, as consideration for Landlord's considering and processing said request. Tenant agrees
8 to provide Landlord with such other or additional information and/or documentation as may be
9 reasonably requested. Any assignee shall assume and agree to perform the obligations of Tenant
10 under this Lease. Tenant shall deliver to Landlord a copy of such assignment, together with a
11 statement setting forth the following information:

12 (a) Name and Address for Notices. The name and address of
13 the assignee for the purpose of notices to be given.

14 (b) Type of Entity. Whether the assignee is an individual, a
15 corporation, a partnership, limited liability company or a joint venture, and if such assignee is a
16 corporation, the names of such corporation's principal officers and of its directors and State of
17 incorporation, and if such assignee is a partnership or joint venture, the names and addresses of
18 the general partners of such partnership or venture.

19 7.2.4.2 Assignments Not Subject to Approval. The provisions of this
20 Article VII shall not be applicable to the following types of assignments and transfers, which
21 shall be permitted without the prior consent of Landlord.

1 (a) Death or Incapacity. Assignments resulting from the death
2 or mental or physical incapacity of an individual, managing partner or president of the
3 corporation or limited liability company provided, however, that any person replacing an
4 individual who departs because of physical or mental disability shall have education and
5 experience comparable to that of the person replaced.

6 (b) Family Transfer. A transfer or assignment for the benefit
7 of a spouse, children, grandchildren or other family members so long as continued management
8 competence by or on behalf of such individuals can be demonstrated.

9 (c) Affiliated Entity. A transfer to an "Affiliated Entity" as
10 hereinafter defined. An "Affiliated Entity" shall be (i) any corporation, partnership, limited
11 liability company, trust or other entity which either directly or indirectly controls the assigning
12 entity; or (ii) any corporation, partnership, limited liability company, trust or other entity, which
13 is either directly or indirectly controlled by the assigning entity; or (iii) any corporation,
14 partnership, limited liability company, trust or other entity which is controlled, either directly or
15 indirectly, by a shareholder, partner, member or other interest holder or group of shareholders,
16 partners, members or other interest holders which also controls, either directly or indirectly, the
17 assigning entity. "Control" means the power through the ownership of voting interests to make
18 the management decisions of the entity. Tenant agrees to provide evidence of "Control" to
19 Landlord upon request.

20 (d) IRS Transfer. A transfer of stock or other interests
21 resulting from or in connection with a reorganization as contemplated by the provisions of the
22 Internal Revenue Code of 1954, as amended, or otherwise or conversion, in which the ownership

1 interests of an entity are assigned directly or by operation of law to a person or persons, firm or
2 corporation which acquires the control of the voting interests of such entity or all or substantially
3 all of the assets of such entity.

4 (e) Public Entity. A transfer of stock in a publicly held
5 corporation or of the beneficial interest in any publicly held partnership or real estate investment
6 trust.

7 (f) Partner or Member. A transfer by a limited partner or
8 member or joint venturer to a partnership, limited liability company or joint venture in which the
9 assignor is a partner, member or venturer.

10 (g) Partnership or Corporation. If Tenant is a partnership,
11 limited liability company, joint venture or corporation, any assignment of less than twenty-five
12 percent (25%) of the partnership, limited liability company or joint venture interest or
13 outstanding capital stock of such an entity.

14 (h) Transfer to Lender or by Foreclosure. Any transfer under
15 Article VIII.

16 7.2.4.3 Approval of Assignments. Landlord agrees that it shall consent to
17 an assignment to an entity which, at the time of such assignment, is of such financial standing
18 and responsibility as to give reasonable assurance that, (i) the Premises will be operated in a first
19 class condition, (ii) the payment of all rent, if any, and other amounts reserved in this Lease will
20 be made in compliance with all the terms, covenants, provisions and conditions of this Lease
21 (iii) the assignee has the business experience (whether directly or through its hotel manager or

1 operator) and financial resources to operate the hotel in a first class manner. In requesting an
2 approval by Landlord of assignment pursuant to Paragraph 7.2, Tenant shall provide the
3 following information to Landlord with respect to proposed assignments of this Lease.

4 (a) Name. Name and address of the assignee.

5 (b) Description. Description of the Premises to be assigned.

6 (c) Relevant Management Experience. The extent and nature
7 of any experience of the proposed assignee (and any proposed Hotel operator or manager) in
8 managing hotels similar to the Hotel.

9 (d) Financial Information. The information showing the
10 financial ability of the assignee to operate the Hotel in accordance with this Lease.

11 (e) Officers. The identity, background and experience of all
12 officers and directors of assignee, at executive vice president level and above and senior
13 operational officer relating to the Premises, if a corporation or general partners of a partnership
14 or sole proprietor of a proprietorship (Principals).

15 (f) Additional Information. In addition to the above, the
16 assignor shall provide all the information required by the Landlord, including but not limited to
17 the following:

18 (i) Criminal record of the subtenant, assignee or any of
19 the principals.

1 (ii) Nature and extent of litigation to which the assignee
2 or any Principal is a party or has been a party in the last five years.

3 (iii) Any course of conduct which a prudent person
4 would deem materially detrimental to the Premises or to the intended use of the Premises by
5 assignee.

6 (iv) Financial references.

7 (v) Source of project financing, if applicable.

8 (vi) Identification of non-performing loans by principals
9 and/or corporation.

10 (vii) Amount of recourse debt.

11 (g) Informational Purposes. For informational purposes only:

12 (i) Number of anticipated employees of the assignee.

13 (ii) At the time of submission of the request, the terms
14 and conditions of the assignment.

15 (iii) With respect to all assignments a copy thereof after
16 execution by all parties thereto.

17 7.2.4.4 Confidentiality. If requested by Tenant at the time of submission
18 of the information described above, Landlord shall keep such information and the identity of the

1 proposed assignee confidential until approved and Landlord shall execute a confidentiality
2 statement so providing to the extent Landlord is permitted by law to do so.

3 7.2.4.5 Rejection by Landlord. Landlord reserves the right to reject any
4 proposed assignee where the matters specified above indicate that the presence of assignee
5 would adversely affect the financial and operational viability of the Hotel. Landlord shall either
6 approve or disapprove any proposed assignee within sixty (60) days after receipt by Landlord of
7 a request to do so provided that all information is provided in a timely manner. Failure of
8 Landlord to act within said sixty (60) days shall constitute approval. If Landlord does not
9 approve any proposed assignee, Landlord shall state in writing the reasons for such disapproval.
10 Tenant shall have the right to challenge the validity of such disapproval. No damages shall be
11 payable to Tenant in any action arising from such disapproval unless Landlord shall have acted
12 unreasonably or in bad faith or with actual malice.

13 7.2.5 No Release. Notwithstanding any assignment by Tenant permitted by
14 Paragraph 7.2 with Landlord's consent, and notwithstanding any assignment by a partner or joint
15 venturer of Tenant permitted by Paragraph 7.2.4.2 with Landlord's consent or made without
16 Landlord's consent pursuant to Paragraph 7.2.1., the assigning party shall remain fully liable for
17 the performance all of the covenants to be performed by Tenant under this lease prior to the
18 effective date of such assignment, but shall be released from liability with respect to the
19 performance of such covenants to be performed after such date. Landlord's approval of or
20 consent to any such assignment or transfer shall not be a waiver of any right to object to further
21 or future assignments, and Landlord's consent to each such successive assignment must be first
22 obtained in writing from Landlord unless otherwise permitted by this Lease without Landlord's
23 prior consent.

1 7.2.6 Landlord Acknowledgment. Tenant acknowledges and agrees that a
2 default under Paragraph 7.2 or any subparagraph thereof shall be conclusively deemed to be a
3 default not susceptible of being cured by Tenant. A leasehold mortgagee may cure such default
4 if within 30 days of written notice of such a default, it diligently proceeds to commence to
5 foreclose on such mortgage, unless prevented from doing so by an automatic stay in bankruptcy,
6 injunction or other court order, in which case it shall have thirty (30) days after obtaining relief
7 therefrom to commence the foreclosure, and, once possession of the Premises is obtained, cure
8 such default. No denial of assignment by Landlord, as provided by Paragraph 7.2 shall be, by
9 and of itself, a default.

10 7.3 Recognition of Subleases. Upon Tenant's request from time to time, Landlord
11 shall execute and deliver to any subtenant of Tenant within thirty (30) days after delivery of the
12 request, accompanied by a copy of the subtenant's sublease with Tenant, a recognition agreement
13 in a commercially reasonable form which shall provide that upon a termination of this Lease and
14 failure of this Lease to be replaced by a New Lease (as defined in Paragraph 8.4), Landlord
15 agrees to recognize and be bound by the terms of the subtenant's sublease for the remaining term
16 of the sublease, so long as the subtenant performs its obligations under the sublease, and the
17 subtenant agrees to attorn to Landlord, provided that (a) the subtenant agrees in the sublease to
18 be subject to the terms of this Lease and to perform any obligations of Tenant under this Lease
19 that are applicable to the subleased part of the premises (excluding rental obligations), and
20 (b) the expiration date of the term of the sublease is on or before the expiration date of the term
21 of this Lease.

1 ARTICLE VIII

2
3 **LEASEHOLD FINANCING; RIGHTS OF LENDER**

4 8.1 Assignment for Security. The provisions of Paragraph 7.2 shall not prevent or
5 hinder Tenant after the Commencement Date of this Lease from assigning Tenant's interest under
6 this Lease ("Leasehold Estate") to one or more lenders as security for loans (each a "Lender")
7 without Landlord's consent. If the secured loan is a construction loan, the proceeds of it shall be
8 used to provide funds for the purchase of the Leasehold Estate, and/or the renovation or
9 construction of improvements on the Premises, including but not limited to interest and financing
10 costs, soft and hard costs of construction, possessory interest and property taxes and assessments,
11 insurance premiums and other costs of the Premises during the period of construction and until
12 break even operations are achieved following completion. Tenant may perform any and all acts
13 and execute any and all instruments necessary or proper to consummate any loan transaction and
14 perfect the security therefor to be given the Lender. The term "Lender" as used herein shall
15 mean the beneficiary, mortgagee, secured party, or other holder of a promissory note or other
16 written obligation which is secured by any deed of trust, mortgage or other written security
17 agreement affecting the Premises ("Leasehold Mortgage"). Tenant shall deliver to Landlord a
18 copy of the promissory note, deed of trust, or security agreement executed by Tenant in
19 connection with any Leasehold Mortgage within twenty (20) days from the date of execution
20 thereof by Tenant.

21 8.2 Lender's Rights. With respect to any Lender who shall have delivered to
22 Landlord a written notice stating its name, address and a general description of the Leasehold
23 Mortgage it holds on the Premises, the following provisions shall apply:

1 8.2.1 Landlord, when giving notice to Tenant with respect to any default or
2 termination under the provisions of this Lease, shall also serve a copy of such notice upon any
3 Lender, and no such notice to Tenant shall be effective unless a copy of such notice is so served
4 upon the Lender. Upon the occurrence of any "event of default" (as defined in Paragraph 10.2
5 below), Landlord shall deliver to each and every Lender a notice (a "Default Notice") stating the
6 nature of the event of default and the date of its occurrence. Landlord may not exercise any of its
7 remedies (including, without limitation, termination of this lease) available upon the occurrence
8 of any event of default by Tenant until the "Lenders' Cure Period" (as defined in Paragraph 8.2.5
9 below) has expired.

10 8.2.2 Any Lender may do any act or thing required of Tenant hereunder and all
11 such acts or things done and performed shall be accepted by Landlord and be as effective to
12 prevent a forfeiture of Tenant's rights hereunder as if done or performed by Tenant, including the
13 right to commence an action against the Tenant for the appointment of a receiver and to obtain
14 possession of the Premises under and in accordance with the Leasehold Mortgage.

15 8.2.3 Any Lender may acquire and succeed to the interest of Tenant hereunder
16 without Landlord's consent by foreclosure of the Leasehold Mortgage or by a deed or assignment
17 in lieu of foreclosure and may transfer the Leasehold Estate to a bona fide purchaser; provided,
18 however, any such bona fide purchaser shall execute an agreement running to Landlord assuming
19 Tenant's obligations under this Lease. Notwithstanding anything to the contrary contained
20 herein, the written consent of Landlord shall not be required in the case of:

1 (a) A transfer of the Leasehold Estate relating thereto in a
2 foreclosure sale of the trust deed or assignment, a judicial foreclosure, or a deed in lieu of
3 foreclosure; or

4 (b) A subsequent transfer of the Premises or of possession of
5 the Premises by a Lender who is a purchaser at such foreclosure sale or as a result of a deed or
6 assignment in lieu of foreclosure or judicial foreclosure, to a transferee, provided the transferee
7 agrees in writing to assume and perform all the obligations under this Lease.

8 In the event of a transfer under (a) or (b) above, the Lender shall forthwith give
9 notice to the Landlord in writing of any such transfer setting forth the name and address or fax
10 number of the transferee and the effective date of such transfer, together with a copy of the
11 document by which such transfer was made. Landlord's consent requirement under Paragraph
12 7.2 shall not apply to such transfer. Any transferee under the provisions of this Paragraph shall
13 perform the full obligations of the Tenant under this Lease, and as a condition to the completion
14 of this transfer must cure, remedy or correct any event of default existing at the time of such
15 transfer if the same is reasonably susceptible of being cured by the transferee at that time.

16 8.2.4 If there is an event of default by Tenant pursuant to Paragraph 10.2(a),
17 Lender shall have a period of thirty (30) days (the Monetary Cure Period), after receipt from
18 Landlord of a written notice that such event of default has occurred, in which to cure the event of
19 default. If after any such payment by a Lender, Tenant pays the same or any part thereof to
20 Landlord, the Landlord shall promptly refund said payment to such Lender.

21 8.2.5 In the event of any event of default which cannot be cured by the payment
22 of money, the default shall be cured:

1 (a) If a Lender cures, remedies or corrects a default in a
2 manner reasonably satisfactory to Landlord within a period of thirty (30) days (the "Non-
3 Monetary Cure Period"; a Monetary Cure Period and a Non-Monetary Cure Period may each
4 sometimes be referred to herein as a "Lender's Cure Period") after the later to occur of (i) receipt
5 from Landlord of a written notice that such an event of default has occurred or (ii) the expiration
6 of any cure period available to Tenant under this Lease for such default; provided, however, if
7 the curing of such default requires activity over a longer period of time, such default may be
8 cured, if within said Non-Monetary Cure Period, a Lender commences and thereafter diligently
9 continues to perform whatever may be required to cure the particular default in a manner
10 reasonably satisfactory to Landlord; or

11 (b) If during Lenders' "Cure Period," the Lender notifies
12 Landlord of its intent to commence foreclosure, and within sixty (60) days after the mailing of a
13 Default Notice by Lender, said Lender, (i) actually commences foreclosure proceedings plus the
14 thirty-five (35) day period referred to in the next sentence and prosecutes the same thereafter
15 with reasonable diligence, the Lender's Cure Period shall be extended by the time necessary to
16 complete such foreclosure proceedings; or (ii) if said Lender is prevented from commencing or
17 continuing foreclosure by any order, judgment, or decree of any court or regulatory body of
18 competent jurisdiction or automatic stay in bankruptcy, and said Lender diligently seeks release
19 from or reversal of said order, judgment or decree, the Lender's Cure Period shall be extended by
20 the time necessary to obtain the release from or reversal of said order, judgment or decree and
21 thereafter to complete such foreclosure proceedings plus the thirty-five (35) day period referred
22 to in the next sentence. Within thirty-five (35) days after such foreclosure sale and the vesting of
23 title free of redemption in the purchaser thereat (whether or not such purchaser is the Lender),

1 said purchaser shall, as a condition to the completion of such transfer, cure, remedy, or correct
2 the default, or commence and thereafter diligently pursue the performance of the thing or work
3 required to be done to cure, correct, and remedy said default, in a manner satisfactory to
4 Landlord. If said event of default is a default by Tenant which Lender is not capable of curing
5 on a commercially reasonable basis, Landlord may not terminate this Lease so long as Lender is
6 continuing to pay any rent, if any, due under this Lease, pursuant to Paragraph 3.2 of this Lease,
7 and is diligently proceeding to cure all defaults by Tenant which such Lender is capable of
8 curing on a commercially reasonable basis. In addition, Landlord may waive any defaults of
9 Tenant which no Lender is capable of curing on a commercially reasonable basis if and when a
10 Lender assumes Tenant's rights and obligations under this Lease subsequent to foreclosure of its
11 security interest in Tenant's leasehold estate or pursuant to receipt of an assignment of Tenant's
12 rights in the leasehold estate in lieu of such foreclosure.

13 (c) If a Lender obtains title to Tenant's leasehold estate
14 pursuant to foreclosure of its security on Tenant's leasehold estate or through an assignment of
15 Tenant's leasehold estate in lieu of such foreclosure, such Lender's liability to Landlord shall be
16 limited to Tenant's obligations under this Lease incurred during the period while such Lender is
17 in possession of the Premises or is the owner of the leasehold estate; such Lender shall have no
18 liability to Landlord for any obligations of Tenant incurred after a transfer of the leasehold estate
19 from such Lender to a third party. In any event, Landlord's recourse against any Lender who
20 becomes the owner of the leasehold estate shall be limited to its interest in the Leasehold Estate.
21 Notwithstanding the foregoing, Tenant shall remain liable to Landlord for all rent, if any, owed
22 pursuant to Paragraph 3.2 which may become due during the period of time that a Lender shall
23 be the owner of the Leasehold Estate; provided, however, that from and after the date a Lender

1 shall be the owner of the Leasehold Estate, Landlord waives any and all right to collect or
2 receive from such Lender any sums pursuant to Paragraph 10.2 of the Lease.

3 8.3 Estoppel Certificate. Landlord shall, from time to time, upon not less than thirty
4 (30) days' prior written request by Tenant or Tenant's Lender, together with a fee of \$1,000 as
5 consideration for Landlord's processing said request shall execute, acknowledge and deliver to
6 Tenant or Tenant's Lender a statement in writing certifying to Tenant's Lender or an independent
7 third party that this Lease is unmodified and in full force and effect and that Landlord has no
8 knowledge of any uncured defaults of Tenant under this Lease (or, if there have been any
9 modifications that the same is in full force and effect as modified and stating the modifications
10 and, if there are any defaults, setting them forth in reasonable detail), the Commencement Date
11 and the dates to which the rent and other charges have been paid, and any other matters
12 respecting this Lease as may reasonably be required. Any such statement delivered pursuant to
13 this Paragraph 8.3 may be relied upon by any prospective lender or any prospective purchaser of
14 or from Tenant or Tenant's Lender. Notwithstanding the foregoing, if the requested estoppel
15 certificate in the form of Exhibit "E" attached to and made a part of this Agreement, Landlord
16 shall have fifteen (15) days instead of thirty (30) days to execute, acknowledge and deliver the
17 estoppel certificate.

18 8.4 New Lease. If (a) either (i) Tenant's interest under this Lease shall be sold,
19 assigned (other than for security purposes) or otherwise transferred pursuant to the exercise of
20 any right, power or remedy by a Lender or pursuant to judicial proceedings, or (ii) this Lease
21 shall be rejected under the powers reserved to Tenant and its trustee in bankruptcy under the
22 Federal Bankruptcy Code or similar state or federal legislation, or (iii) this Lease shall have been
23 terminated pursuant to the terms hereof by reason of a default or shall otherwise have terminated,

1 (b) no rent shall then be due and payable to Landlord, and (c) the Lender or any other purchaser
2 of Tenant's interest hereunder shall have arranged for the correction of any default susceptible of
3 being corrected by the tenant under the "New Lease" (defined below), then Landlord, within
4 ninety (90) days after receiving written request therefor (which period shall be extended for so
5 long as Lender is prevented by an automatic stay in bankruptcy, injunction or other court order
6 from making such request, in which case Lender shall have until 30 days after obtaining relief
7 therefrom to make the request) and upon payment to Landlord of all of Landlord's expenses,
8 including, without limitation, reasonable attorneys' fees and expenses incident thereto, will
9 execute and deliver a new lease of the Premises to the Lender or its nominee, purchaser, assignee
10 or transferee, as the case may be, for the remainder of the term of this Lease (a "New Lease"),
11 and with the same terms as are contained herein and having the same priority as this Lease.
12 Concurrently with execution of such New Lease, notwithstanding anything to the contrary
13 contained in Paragraph 4.3 or 5.13 of this Lease, Landlord acknowledges ownership, during the
14 New Lease, of the improvements on the Premises to the new tenant under the New Lease
15 together with a bill of sale conveying any personal property related to the improvements and
16 other appropriate instruments of conveyance. Upon the execution and delivery of such New
17 Lease, Landlord, at the expense of the tenant under the New Lease, shall take such steps as shall
18 be necessary to cancel and discharge this Lease of record, remove Tenant from the Premises and
19 record the New Lease or a memorandum of the New Lease in the official records of Los Angeles
20 County, California.

21 8.5 Termination of Lease. Notwithstanding anything to the contrary contained in this
22 Lease, any attempted exercise by Tenant of a right granted by this Lease or at law or in equity to
23 terminate this Lease shall be void without Tenant first obtaining the written consent of the most

1 senior Lender, if any. Landlord acknowledges that if Tenant has any right to terminate this
2 Lease, such senior Lender shall have the sole and exclusive right to exercise such election to
3 terminate this Lease during the period that such Lender has a security interest or lien pursuant to
4 a deed of trust in the Tenant's leasehold estate. Nothing contained in this Paragraph 8.5 shall be
5 deemed to limit in any way Landlord's rights to terminate this Lease for any default or breach by
6 Tenant, subject to prior notice to Lender and Lender's right to cure hereunder.

7 **ARTICLE IX**

8 **CASUALTY AND EMINENT DOMAIN**

9
10 9.1 Restoration. If during the term the Premises or any improvements on the
11 Premises are totally or partially destroyed, this Lease shall not terminate except as specifically
12 provided in this Article IX and Tenant shall promptly and diligently restore such improvements
13 to substantially the same condition (or at Tenant's option, a better condition) as they were in
14 immediately before such destruction; provided, however, that if the damage or destruction occurs
15 during the last ten (10) years of the Lease term, Tenant may, but shall not be obligated to, restore
16 or repair the improvements damaged or destroyed. If Tenant elects not to restore or repair during
17 the last ten (10) years, then Tenant agrees to obtain the consent of the most senior Lender, if any,
18 as required by Paragraph 8.5, and immediately terminate the Lease without rebate of any rent
19 from Landlord. Any insurance proceeds payable to Tenant may, in accordance with the deed of
20 trust in favor of the most senior Lender, be payable to the Lender or a trustee to be selected by
21 the most senior Lender and reasonably acceptable to Landlord and Tenant to be disbursed for the
22 restoration of the improvements in accordance with the terms of this Paragraph 9.1; provided,
23 however, that any funds not necessary for restoration may be disbursed in accordance with the
24 applicable leasehold deed of trust. If Tenant elects to terminate this Lease and the most senior

1 Lender does not elect to assume all of Tenant's obligations under this Lease all as provided
2 above, this Lease shall automatically terminate on the thirty-first day after Tenant delivered its
3 notice to Lender and Landlord and neither party under this Lease shall have any further
4 obligations or liabilities to one another under this Lease, except for Tenant's obligations under
5 Paragraph 4.3 above to remove any existing improvements, at no cost to Landlord, if Landlord so
6 requests. If this Lease terminates (other than as a result of Tenant's election not to restore or
7 repair the damaged improvements during the last ten (10) years of the lease term), Landlord shall
8 within thirty (30) days after the termination reimburse to Tenant the amount of the prepaid rent
9 under this Lease attributable to the period from the date of the early termination to the end of the
10 full term of this Lease. If the most senior Lender does elect to assume all of Tenant's obligations
11 under this Lease, Tenant shall within ten (10) days of such election execute an assignment of this
12 Lease to the most senior Lender, the most senior Lender shall execute an assumption of this
13 Lease and Landlord shall approve the same in writing.

14 9.1.1 Subject to the rights of Lender, any excess insurance proceeds remaining
15 after such restoration shall belong to Tenant.

16 9.1.2 Tenant shall notify Landlord of the date of commencement of the
17 restoration twenty (20) days prior thereto to enable Landlord to post and record notices of
18 nonresponsibility. Tenant shall accomplish restoration in a manner that will cause the least
19 inconvenience, annoyance and disruption at the Premises. On completion of any restoration,
20 Tenant shall record a notice of completion in the Office of the County Recorder of Los Angeles
21 County. Tenant waives the provisions of Civil Code Section 1932(2) and Civil Code Section
22 1933(4) with respect to any destruction of the Premises.

1 9.2 Total Taking. If, after the Commencement Date, the whole of the Premises or all
2 of the Hotel improvements then located on the Premises shall be taken by right of eminent
3 domain or otherwise for any public or quasi public use, then, when possession shall be taken by
4 the condemner, or the Tenant is deprived of its practical use of the Premises and other
5 improvements, whichever date is earlier, this Lease and all rights of Landlord and Tenant
6 hereunder, shall terminate and rent and all other payments required of Tenant for the remainder
7 of the term hereof shall be cancelled. In the event of a partial taking, as a result of which the
8 remaining portion of the Premises or any other improvements on the Premises cannot be restored
9 to an economically operable facility of a comparable kind and quality to the facility existing
10 prior to the taking with the condemnation awards received by Tenant (as the same may be
11 determined in the reasonable discretion of the most senior Lender, if any, or in the discretion of
12 Tenant if no Lender then exists), then this Lease at Tenant's option shall terminate as of the time
13 when possession of the Premises shall be partially taken by the condemner or when Tenant is
14 deprived of the practical use thereof, whichever date is earlier.

15 9.3 Partial Taking. If, after the Commencement Date, a portion of the Premises or
16 any other improvements shall be taken by right of eminent domain or otherwise for any public or
17 quasi public use and the remaining portion of the Premises and improvements can be restored by
18 Tenant to an economically operable facility of comparable kind and quality to the facility
19 existing prior to the taking (in the discretion of the most senior Lender, if any, or in the discretion
20 of Tenant if no Lender then exists), then this Lease shall not be affected and Tenant shall retain
21 the remaining portion of the Premises and other improvements thereon; provided, however, an
22 amount of the prepaid rent shall be refunded in an amount agreed upon by the parties reflecting
23 the value of the portion of the Premises taken relative to the value of the entire Premises and the

1 amount of time remaining in the Lease term. If the parties are unable to agree on the amount of
2 prepaid rent, the amount shall be fixed by arbitration. Landlord shall give notice to Tenant of the
3 appointment of a real estate appraiser with at least five (5) years' full-time commercial appraisal
4 experience in the area in which the Premises are located who shall appraise and set the amount of
5 prepaid rent to be refunded. If Tenant does not appoint an appraiser within ten (10) days
6 thereafter to perform the same task, the single appraiser appointed shall be the sole appraiser and
7 shall set the refund amount. If two appraisers are appointed, they shall select, within ten (10)
8 days after the appointment of the second appraiser, a third appraiser with the same minimum
9 qualifications. If the two cannot agree upon a third, he shall be appointed by any judge of the
10 Superior Court of the County of Los Angeles upon application therefor by either party, upon ten
11 (10) days written notice to the other. Each party shall bear one-half (1/2) of the cost of
12 appointing the third appraiser and of paying the third appraiser's fee. Within sixty (60) days after
13 the selection of the third appraiser, a majority of them shall set the amount of prepaid rent to be
14 refunded. If a majority of the appraisers are unable to set the reduced rent for said periods within
15 the sixty (60) day period, then the three (3) appraisals shall be averaged. After the refund
16 amount has been set, the appraisers shall notify the parties, who shall immediately execute an
17 amendment to this Lease stating the refund amount payable by Landlord to Tenant for the
18 balance of the term.

19 9.4 Condemnation. If there is either a total or partial taking by right of eminent
20 domain, Landlord shall receive from the award the value of Landlord's residual interest in the
21 land and/or water taken by the condemnor, and all other compensation and damages awarded in
22 connection therewith shall belong to Tenant and shall be paid to a trustee to be selected by the
23 most senior Lender, if any, subject to Landlord's and Tenant's reasonable approval, and subject

1 to the terms of the Deed of trust benefiting the most Lender, if any. Landlord and Tenant hereby
2 consent to the most senior Lender's participation in a condemnation proceeding. If there is a
3 temporary taking for a period less than the remaining term of this Lease, Tenant (or the most
4 senior Lender, if any) shall be entitled to receive all compensation and damages awarded in
5 connection therewith.

6 **ARTICLE X**

7 **DEFAULT**

8
9 10.1 Tenant's Default. The provisions of this Article X set forth the sole and exclusive
10 remedies for Landlord and Tenant upon default by the other.

11 10.2 Tenant's Default. The occurrence of any of the following shall constitute a
12 default by Tenant.

13 (a) Failure to pay when due rent, if any, pursuant to Paragraph
14 3.2, or other amounts due Landlord hereunder, if the failure continues for ten (10) days after
15 notice thereof has been given to Tenant and Tenant's Lender (a "Monetary Default").

16 (b) Failure to comply with any of the other covenants or
17 conditions of this Lease, unless, within sixty (60) days after notice thereof has been given to
18 Tenant and Tenant's Lender, the cure of such default has been commenced and thereafter
19 diligently pursued (a "Non-Monetary Default").

20 10.3 Landlord's Remedies. Subject to the provisions of Paragraph 8.2 hereof, if any
21 default by Tenant shall continue uncured, following notice of default as required by this Lease,
22 and not be cured within the time required by this Lease, Landlord shall have the right to pursue

1 any one or more of the following remedies in addition to any other remedies now or later
2 available to Landlord at law or in equity. These remedies are not exclusive but cumulative.

3 (a) Termination. Subject to the provisions of Article 9 hereof,
4 in the event of a Monetary Default only, Landlord may, at Landlord's election, terminate this
5 Lease (and, subject to the rights of Tenant's Lender, recover possession of the Leasehold Estate)
6 by giving 60 days notice of termination to Tenant and Lender. Unless the Monetary Default is
7 cured within such 60 day period, this Lease shall be terminated (subject to the rights of Tenant's
8 Lender, as set forth herein) and the same shall expire as fully and completely as if the day of
9 such notice were the date herein specifically fixed for the expiration of the Lease term, and all of
10 Tenant's rights in the Premises and in all improvements situated thereon shall terminate.

11 (b) Recovery of Rent. Landlord shall be entitled to the amount
12 of the rent which had been earned before termination, plus late charges and interest as provided
13 by the express terms of this Lease. The proceeds of any reletting or attornment shall be applied,
14 when received, first to any amounts then due and unpaid by Tenant under this Lease, to the
15 extent that such proceeds for the period covered do not exceed the amount due from and charged
16 to Tenant for the same period, and the balance to Tenant.

17 (c) Landlord's Damages. Landlord shall be entitled, at
18 Landlord's election, to recover from Tenant in compensation for all damages suffered by
19 Landlord as a result of Tenant's default, the worth at the time of the award (computed in
20 accordance with Paragraph (b) of Section 1951.2 of the California Civil Code) of the damages
21 Landlord proves that it would sustain as a result of the rent it could obtain for the Premises for

1 the remainder of the Lease Term being less than the Rent then unpaid for the balance of the
2 Lease Term.

3 (d) Landlord's Right to Cure. Landlord, at any time after the
4 expiration of the applicable time to cure a default, notice of which has previously been given to
5 Tenant, shall be entitled (but not obligated) to make any payment required of Tenant under this
6 Lease and/or to perform any covenants and comply with any condition imposed on Tenant under
7 this Lease. If, by reason of any such uncured default by Tenant, Landlord incurs any reasonable
8 expense or pays any reasonable sum, or performs any act reasonably requiring Landlord to incur
9 any expense or to pay any sum, including the actual fees and expenses paid or incurred by
10 Landlord in order to prepare and post or deliver any notice permitted or required by the
11 provisions of this Lease or otherwise permitted or contemplated by law, then the amount so paid
12 or incurred by Landlord shall be immediately due and payable to Landlord by Tenant as
13 additional rent. Such amounts shall bear interest at the Wall Street Journal prime interest rate in
14 effect on the date of payment by Tenant, but not in excess of the maximum rate permitted by
15 law, from the date of such demand until paid in full.

16 (e) Landlord shall have the right to have a receiver appointed
17 to collect rent and conduct Tenant's business while and event of default is outstanding. Neither
18 the filing of a petition for the appointment of a receiver nor the appointment thereof shall
19 constitute an election by Landlord to terminate this Lease.

20 10.4 Default by Landlord. Landlord shall be in default of its obligations under this
21 Lease if it fails to perform the same within any expressly specified period of time or, if no period
22 of time is expressly specified, within a reasonable time, but in no event more than thirty (30)

1 days after written notice by Tenant to Landlord specifying wherein Landlord has failed to
2 perform such obligations. However, if the nature of Landlord's default is such that more than
3 forty-five (45) days are required for its cure, Landlord shall not be in default if Landlord
4 commences such cure within such thirty (30) day period and thereafter diligently prosecutes the
5 same to completion. In the event of any such default by Landlord, Tenant may pursue any
6 remedy now or hereafter available to Tenant under the laws and judicial decisions of the State of
7 California.

8 **ARTICLE XI**

9 **MISCELLANEOUS PROVISIONS**

10
11 11.1 Notice. Any notice, demand, request, consent, approval or communication that
12 either party desires or is required to give to the other party shall be in writing addressed to the
13 other party at the addresses or fax numbers set forth in Paragraphs 1.2.3 and 1.2.4 or such other
14 address as may have been specified by notifying the other party of the change of address. Notice
15 shall be deemed served on the second business day following the day of mailing if mailed with
16 the United States Postal Service, by certified mail, return receipt requested. Notice by facsimile
17 shall be deemed effective upon receipt. All payments required under this Lease shall be deemed
18 sufficiently paid if made by check collected on first presentation.

19 11.2 Consent and Approval. Except as otherwise specifically provided herein,
20 Landlord's consent or approval of any act by Tenant or other matter requiring Landlord's consent
21 or approval shall not be unreasonably withheld or delayed by Landlord and if given shall not be
22 deemed to waive or render unnecessary Landlord's consent to, or approval of, any subsequent act
23 by Tenant.

1 11.3 Time of Essence. Time is of the essence of each provision of this Lease.

2 11.4 Covenants and Conditions. All provisions hereof expressed as either covenants or
3 conditions on the part of Tenant or Landlord to be performed or observed shall be deemed to be
4 both covenants and conditions.

5 11.5 Successors. This Lease shall be binding on and inure to the benefit of the parties
6 and their successors except as may otherwise be provided herein.

7 11.6 California Law. This Lease shall be construed and interpreted in accordance with
8 the laws of the State of California. Tenant covenants and agrees to submit to the personal
9 jurisdiction of any state court in the State of California for any dispute, claim or matter arising
10 out of or related to this Lease. If either party seeks recourse in equity of to enforce any of its
11 rights under this Lease, the other party agrees to waive any defense which it might otherwise
12 have that the first party has an adequate remedy at law.

13 11.7 Integrated Agreement; Amendments. This Lease contains or refers to all of the
14 agreements of the parties and cannot be amended or modified except by written agreements
15 executed by Landlord and Tenant. Landlord and Tenant shall not execute any amendment,
16 modification or termination of this Lease without Tenant delivering to each Lender then holding
17 a security interest in the Leasehold Estate (and their legal counsel) thirty (30) days' prior written
18 notice of such proposed amendment, modification or termination. Such notice shall contain the
19 following language at the top of such notice in all capital letters: WARNING: THIS NOTICE
20 REQUIRES A RESPONSE WITHIN THIRTY (30) DAYS OR THERE MAY BE
21 IMPAIRMENT OF A GROUND LEASE WHICH IS SECURITY FOR LOAN NO. 107500.

1 11.8 Interpretation. The captions and the Table of Contents of this Lease shall have no
2 effect on its interpretation. When required by the context of this Lease, the singular shall include
3 the plural.

4 11.9 Severability. The unenforceability, invalidity or illegality of any provision shall
5 not render the other provisions unenforceable, invalid or illegal.

6 11.10 Attorney Fees. If either party becomes a party to any litigation concerning this
7 Lease, by reason of any act or omission of the other party or its authorized representatives, and
8 not by an act or omission of the party that becomes a party to that litigation or any act or
9 omission of its authorized representatives, the party that causes the other party to become
10 involved in the litigation shall be liable to that party for reasonable attorneys' fees and court costs
11 incurred by it in the litigation. If either party commences an action against the other party arising
12 out of or in connection with this Lease, the prevailing party shall be entitled to request the court
13 for an award of reasonable attorneys' fees and costs of suit from the losing party.

14 11.11 Force Majeure. In any case where either party hereto is required to do any act,
15 any inability of that party to perform the act, or any delays in its performance of the act, caused
16 by or resulting from Acts of God, war, civil commotion, fire, flood, earthquake or other casualty,
17 strikes or other extraordinary labor difficulties, shortages of labor or materials or fuel or
18 equipment in the ordinary course of trade, government regulations (including but not limited to
19 any delays in the issuance of any governmental permits, licenses, certificates or approvals
20 beyond the reasonable processing time for issuance) or any other cause not reasonably within
21 that party's control and not due to that party's fault or neglect, shall be excused and such failure
22 to perform, or such delay in performance, shall not be a default by that party within the meaning

1 of this Lease. Financial inability of either party, or changes in market conditions, shall not be
2 considered to be a circumstance or cause beyond the reasonable control of that party.

3 11.12 Nondiscrimination. In the performance of this Lease, Tenant agrees not to
4 discriminate against any employee or applicant for employment or service on the basis of race,
5 color, religion, ancestry, sex, sexual orientation, AIDS, AIDS related condition, national origin,
6 age, marital status, disability, handicap or veteran status. Tenant shall at all times comply with
7 the Americans With Disabilities Act ("ADA") and shall have sole responsibility for providing
8 access at and on the Premises as required by the ADA.

9 11.13 Municipal Authority. Landlord warrants that the execution and delivery of this
10 Lease by Landlord and the consummation of the transactions contemplated herein have been
11 duly authorized and approved by all requisite action of the City of Long Beach, and this Lease
12 has been duly executed and delivered by Landlord and constitutes a valid and binding obligation
13 on Landlord.

14 11.14 Joint Effort. The parties agree that this Lease has been drafted through the joint
15 efforts of the parties and that it is not to be construed against either party as the drafter.

16 11.15 No Joint Venture or Partnership. Nothing in this agreement shall be construed as
17 creating either a partnership or joint venture between the parties hereto.

18 11.16 No Relocation Benefits. Tenant agrees that nothing contained in this Lease shall
19 create any right in Tenant for any relocation payment or assistance pursuant to the provisions of
20 Title 1, Division 7, Chapter 16 of the California Government Code, or pursuant to any other law

1 of the State of California, from Landlord on the expiration or sooner termination of this Lease
2 except if resulting from a condemnation or under threat of condemnation.

3 11.17 Non-Merger. There shall be no merger of this Lease nor of the leasehold estate
4 created by this Lease, with the fee estate in the Premises or with the interest or estate of any
5 Lender by reason of the fact that this Lease or the leasehold estate created by this Lease or any
6 interest in this Lease or any such leasehold estate may be held, directly or indirectly, by or for the
7 account of any person or persons who shall own the Premises, or any interest therein, or shall
8 hold any Leasehold mortgage. No such merger shall occur unless and until all persons at the
9 time holding the estate or interests to be merged shall in a written instrument effecting such
10 merger and shall duly record the same.

11 11.18 Memorandum of Lease. Landlord and Tenant shall execute and record a
12 Memorandum of Lease in a form reasonably acceptable to Landlord and Tenant and the most
13 senior Lender, if any. All recording costs, documentary transfer taxes, taxes assessed, and fees
14 shall be paid by Tenant.

15 11.19 Counterparts. This Lease may be executed in several duplicate counterparts, each
16 of which shall be deemed an original of this Lease for all purposes.

17 11.20 Adult Entertainment. Tenant shall not, whether or not the Premises are zoned for
18 such an activity, allow any "adult entertainment business" to operate on the Premises as such a
19 business is defined by Section 21.15.110 of the Long Beach Municipal Code.

1 11.21 Lender as Third Party Beneficiary. Each Lender shall be a third party beneficiary
 2 of those provisions of this Lease intended for its protection, including but not limited to the
 3 provisions respecting a New Lease.

4 WITNESS the execution hereof under seal the day and year first above written.

CITY OF LONG BEACH, a municipal corporation

Date: 10.11.05


By: 

"LANDLORD"

LBH Land Holding Company, LLC,
 a California limited liability company

By: ENS Development LLC,
 an Arizona limited liability company
 its member

OCT 07 2005
 Date: _____

By: 
 KAMBIZ BABADOFF
 Its: Manager

By: _____

Its: _____

"TENANT"

5 Approved as to form this 7th day of October, 2005.

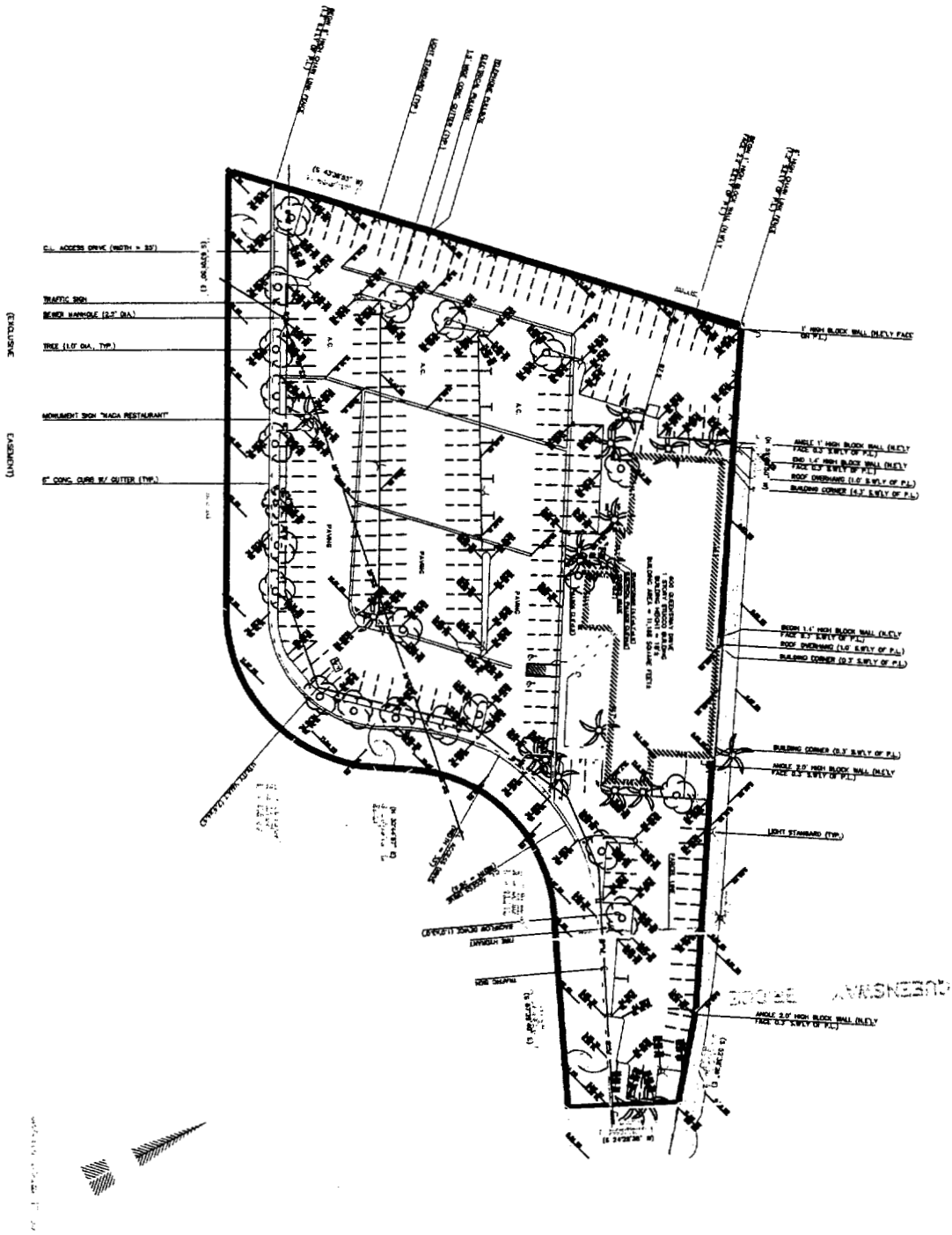
6 
 7 Robert E. Shannon, City Attorney Deputy

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Exhibit "A"

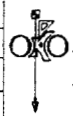
Drawing of Premises

EXHIBIT A 1



ALTA./A.C.S.M. LAND TITLE SURVEY

O.K.O. ENGINEERING INC.



FAX 848/567-2574

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HOLDS CERTIFICATE TO SURVIVE '91.

NOTES AND COMMENTS FOR CONVEYANCE, MAPPING AND OTHER: THIS IS A NOT ADDRESS REPORT RECORDED IN RECORDS AND REVISIONS FOR SAID TRACT. THE TRACT IS THE SAME AS DESCRIBED IN THE RECORDS FOR SAID TRACT, AND THE RECORDS ARE THE BEST COPY AVAILABLE.

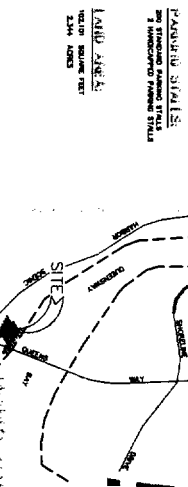
STATEMENT OF EVIDENCE/COMMENTS:

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DATE: _____

SITE INCLUSIONS:

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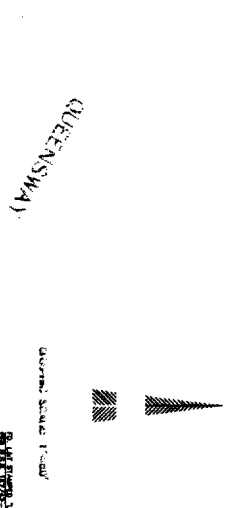
STATEMENT OF EVIDENCE/COMMENTS:

NAME: _____

DATE: _____

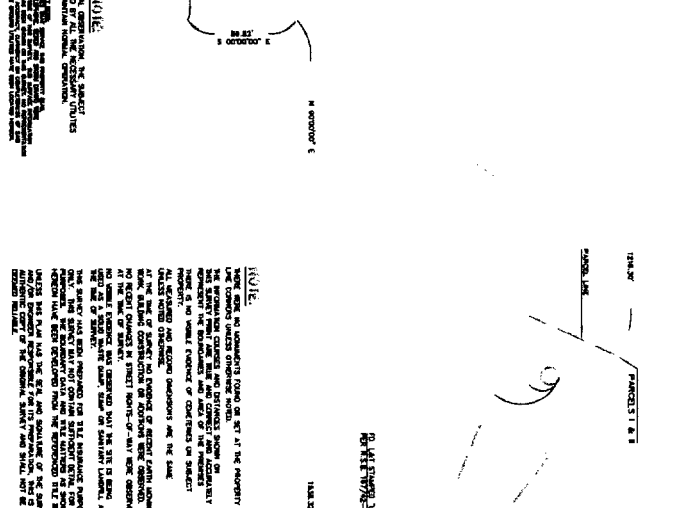
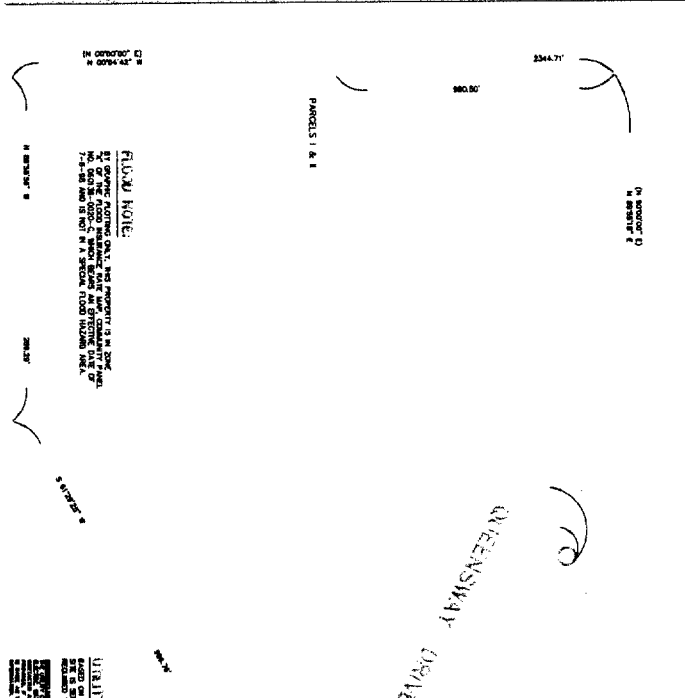
REMARKS FOR RECORD:

THIS IS A NOT ADDRESS REPORT RECORDED IN RECORDS AND REVISIONS FOR SAID TRACT. THE TRACT IS THE SAME AS DESCRIBED IN THE RECORDS FOR SAID TRACT, AND THE RECORDS ARE THE BEST COPY AVAILABLE.



REMARKS FOR RECORD:

THIS IS A NOT ADDRESS REPORT RECORDED IN RECORDS AND REVISIONS FOR SAID TRACT. THE TRACT IS THE SAME AS DESCRIBED IN THE RECORDS FOR SAID TRACT, AND THE RECORDS ARE THE BEST COPY AVAILABLE.



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Exhibit "B"

Legal Description of Premises and Non-Exclusive Easements

PARCEL I:

THAT CERTAIN PARCEL OF LAND CONTAINING APPROXIMATELY 94,503 SQUARE FEET SITUATE IN THE HARBOR DISTRICT OF THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT MONUMENT L.B.H.D. "A-11 AUX.", AS RECORDED IN BOOK 81 PAGE 50 OF RECORD OF SURVEYS OF SAID COUNTY; THENCE NORTH 980.50 FEET; THENCE EAST 1,216.30 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT OF BEGINNING HAVING COORDINATES NORTH 4,024,567.85; EAST 4,227,436.99 OF ZONE 7 OF THE CALIFORNIA COORDINATE SYSTEM; THENCE NORTH 59 DEGREES 38 MINUTES 50 SECONDS WEST 344.79 FEET; THENCE SOUTH 43 DEGREES 38 MINUTES 53 SECONDS WEST 309.58 FEET; THENCE SOUTH 63 DEGREES 01 MINUTES 50 SECONDS EAST 250.85 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 90.67 FEET; THENCE ALONG SAID CURVE, 136.44 FEET; THENCE NORTH 30 DEGREES 44 MINUTES 57 SECONDS EAST 22.21 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 90.00 FEET; THENCE ALONG SAID CURVE, 128.16 FEET; THENCE SOUTH 67 DEGREES 39 MINUTES 40 SECONDS EAST 11.45 FEET; THENCE NORTH 24 DEGREES 28 MINUTES 38 SECONDS EAST 84.74 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL II:

THAT CERTAIN PARCEL OF LAND CONTAINING APPROXIMATELY 7,559 SQUARE FEET, SITUATE IN THE HARBOR DISTRICT OF THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT MONUMENT L.B.H.D. "A-11 AUX.", AS RECORDED IN BOOK 81 PAGE 50 OF RECORD OF SURVEYS OF SAID COUNTY; THENCE NORTH 980.50 FEET; THENCE EAST 1,216.30 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT OF BEGINNING HAVING COORDINATES NORTH 4,024,567.85; EAST 4,227,436.99 OF ZONE 7 OF THE CALIFORNIA COORDINATE SYSTEM; THENCE SOUTH 24 DEGREES 28 MINUTES 38 SECONDS WEST 84.74 FEET; THENCE SOUTH 67 DEGREES 39 MINUTES 40 SECONDS EAST 100.07 FEET; THENCE NORTH 24 DEGREES 28 MINUTES 38 SECONDS EAST 64.11 FEET; THENCE NORTH 52 DEGREES 38 MINUTES 26 SECONDS WEST 53.90 FEET; THENCE NORTH 59 DEGREES 38 MINUTES 50 SECONDS WEST 47.71 FEET TO THE TRUE POINT OF BEGINNING.

EXCLUDING ALL AIR RIGHTS ABOVE AN ELEVATION OF PLUS THIRTY (+30) FEET, MEAN LOWER LOW WATER DATUM.

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Exhibit "C"

8.5 percent rate of return of future land value

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EXHIBIT C

| <u>Year</u> | <u>Rent</u> | <u>Land Value</u> | <u>8.5% of Value</u> |
|--------------------------|--------------|-------------------|----------------------|
| 2006 | 32,196 | 1,846,000 | |
| 2007 | 32,196 | 1,900,000 | |
| 2008 | 32,196 | 1,957,000 | |
| 2009 | 32,196 | 2,016,000 | |
| 2010 | 32,196 | 2,076,000 | |
| 2011 | 32,196 | 2,138,000 | |
| 2012 | 32,196 | 2,202,000 | |
| 2013 | 32,196 | 2,268,000 | |
| 2014 | 32,196 | 2,336,000 | |
| 2015 | 32,196 | 2,406,000 | |
| 2016 | 32,196 | 2,478,000 | |
| 2017 | 32,196 | 2,562,000 | |
| 2018 | 32,196 | 2,629,000 | |
| 2019 | 32,196 | 2,708,000 | |
| 2020 | 32,196 | 2,789,000 | |
| 2021 | 32,196 | 2,873,000 | |
| 2022 | 32,196 | 2,959,000 | |
| 2023 | 32,196 | 3,048,000 | |
| 2024 | 32,196 | 3,139,000 | |
| 2025 | 32,196 | 3,233,000 | |
| 2026 | 32,196 | 3,330,000 | |
| 2027 | 32,196 | 3,430,000 | |
| 2028 | 32,196 | 3,533,000 | |
| 2029 | 32,196 | 3,639,000 | |
| 2030 | 32,196 | 3,748,000 | |
| 2031 | 32,196 | 3,860,000 | |
| 2032 | 32,196 | 3,975,000 | |
| 2033 | 32,196 | 4,095,000 | |
| 2034 | 368,500 | 4,218,000 | 368,500 |
| 2035 | 369,300 | 4,345,000 | 369,300 |
| 2036 | 380,400 | 4,475,000 | 380,400 |
| 2037 | 391,800 | 4,609,000 | 391,800 |
| 2038 | 403,500 | 4,747,000 | 403,500 |
| 2039 | 415,600 | 4,889,000 | 415,600 |
| 2040 | 428,100 | 5,036,000 | 428,100 |
| 2041 | 440,900 | 5,187,000 | 440,900 |
| 2042 | 454,200 | 5,343,000 | 454,200 |
| 2043 | 467,800 | 5,503,000 | 467,800 |
| 2044 | 481,800 | 5,668,000 | 481,800 |
| 2045 | 496,200 | 5,838,000 | 496,200 |
| 2046 | 511,100 | 6,013,000 | 511,100 |
| 2047 | 526,400 | 6,193,000 | 526,400 |
| 2048 | 542,200 | 6,379,000 | 542,200 |
| 2049 | 558,500 | 6,570,000 | 558,500 |
| 2050 | 575,200 | 6,767,000 | 575,200 |
| 2051 | 592,500 | 6,970,000 | 592,500 |
| 2052 | 610,200 | 7,179,000 | 610,200 |
| 2053 | 628,500 | 7,394,000 | 628,500 |
| 2054 | 647,400 | 7,616,000 | 647,400 |
| 2055 | 666,700 | 7,844,000 | 666,700 |
| 2056 | 686,700 | 8,079,000 | 686,700 |
| 2057 | 707,300 | 8,321,000 | 707,300 |
| 2058 | 728,500 | 8,571,000 | 728,500 |
| 2059 | 750,400 | 8,828,000 | 750,400 |
| 2060 | 772,900 | 9,093,000 | 772,900 |
| 2061 | 796,100 | 9,366,000 | 796,100 |
| 2062 | 820,000 | 9,647,000 | 820,000 |
| 2063 | 844,600 | 9,936,000 | 844,600 |
| 2064 | 869,900 | 10,234,000 | 869,900 |
| 2065 | 896,000 | 10,541,000 | 896,000 |
| 2066 | 922,800 | 10,857,000 | 922,800 |
| 2067 | 950,600 | 11,183,000 | 950,600 |
| 2068 | 979,000 | 11,518,000 | 979,000 |
| 2069 | 1,008,400 | 11,864,000 | 1,008,400 |
| 2070 | 1,038,700 | 12,220,000 | 1,038,700 |
| 2071 | 1,069,900 | 12,587,000 | 1,069,900 |
| | | | |
| Total - 2006 - 2033 | \$901,468 | | |
| Total - 2006 - 2071 | \$25,690,068 | | |
| NPV @ 9.0% (2006 - 2033) | \$325,700 | | |
| NPV @ 9.0% (2006 - 2071) | \$798,500 | | |

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Exhibit "D"

Site Plan

GROUND FLOOR PLAN

TYPE 1 - F.R. CONSTRUCTION
BUILDING AREA = 10,100 S.F.
PARKING AREA = 44,300 S.F.
SITE AREA = 102,101 S.F.

142 PARKING SPACES

LINE OF BRIDGE ABOVE

QUEENSWAY DRIVE

WIREMESH STAIR

20 FT. SETBACK LINE

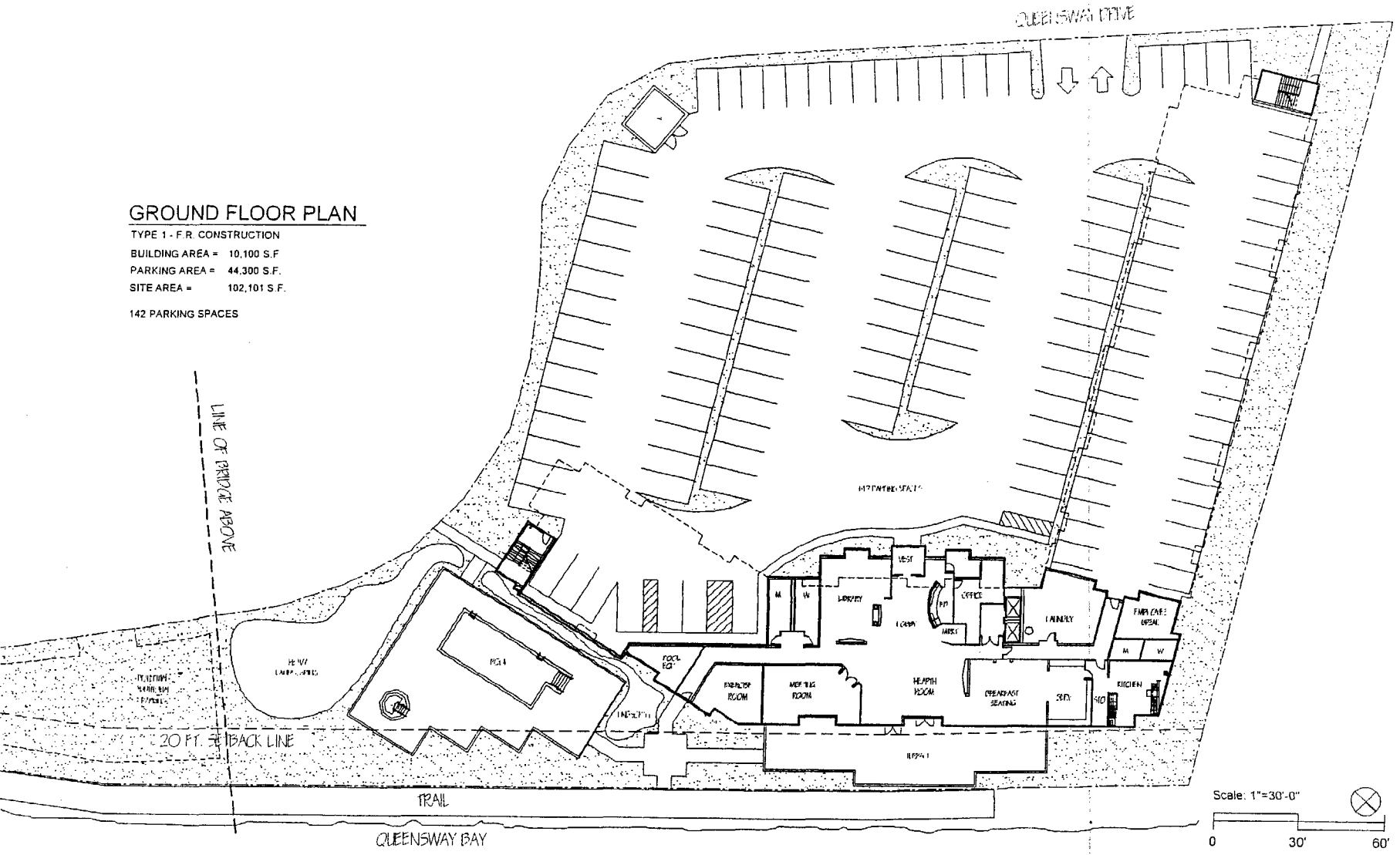
TRAIL

QUEENSWAY BAY

Scale: 1"=30'-0"

0 30' 60'

EXHIBIT D



1 Exhibit "E"

2
3 Landlord Estoppel Certificate

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7 _____, 20__

8
9 _____
10 _____
11 _____
12 _____

13
14 Re: Amended and Restated Lease dated _____, 2005 executed by The City of
15 Long Beach, a municipal corporation, as landlord ("Landlord"), and LBH Land
16 Holding Company, LLC, a California limited liability company, as tenant
17 ("Tenant") (the "Ground Lease"). The Ground Lease is evidenced by a
18 Memorandum of Amended and Restated Lease recorded on _____,
19 2005 as Instrument No. _____ in the Official Records of Los Angeles County,
20 California

21
22 Ladies and Gentlemen:

23
24 Landlord certifies to _____ and _____ and their respective successors and
25 assigns as follows:

26 1. Lease. A true, correct and complete copy of the Ground Lease is attached hereto
27 as Exhibit 1. Capitalized terms used in this Estoppel Certificate and not defined herein shall
28 have the meanings ascribed to them in the Ground Lease.

29 2. Term. The Ground Lease expires on _____, 20__.

30 3. Current Status of Lease. Except as otherwise specifically set out on a schedule
31 attached to this Estoppel Certificate:

32 a. the Ground Lease is in full force and effect and has
33 not been modified, amended, supplemented or changed in any
34 respect, and the entire Leasehold Estate under the Lease is held by
35 Tenant;

36 b. To the best of Landlord's knowledge, Tenant has
37 not assigned, transferred mortgaged, hypothecated or otherwise
38 encumbered all or any part of its interest under the Ground Lease;

39 c. To the best of Landlord's knowledge, no party to the
40 Ground Lease is in default in the performance of its obligations or
41 otherwise under the Ground Lease or has committed any breach of
42 the Ground Lease, and no event has occurred or circumstance

1 exists which, with the giving of notice or passage of time, or both,
2 could constitute such a default or breach;

3 d. No notice of default has been given to Tenant or
4 Landlord under the Lease;

5 e. Landlord has no rights of cancellation or
6 termination rights with respect to the Ground Lease, except as
7 provided in the Ground Lease;

8 f. The current notice address for Landlord is:

9 City of Long Beach
10 333 W. Ocean Boulevard
11 Long Beach, CA 90802

12 g. Landlord has not assigned, transferred, mortgaged,
13 hypothecated or otherwise encumbered all or any part of its interest
14 under the Lease, or its underlying fee, title or interest in the
15 Premises;

16 4. Rent, Other Charges and Security Deposit.

17 a. No Base Rent is or will become due under the Ground
18 Lease.

19 b. Percentage rent, if any, payable under the Ground Lease
20 has been paid through _____, subject to annual
21 reconciliation for _____.

22 c. Landlord does not hold a security deposit under the Ground
23 Lease.

24 d. There are no other amounts of additional rent or other
25 charges due and unpaid from Tenant to Landlord under the Ground
26 Lease.

27 5. Reliance on Estoppel Certificate. Landlord acknowledges the right of
28 _____ and _____ and their respective successors and assigns, to rely upon the
29 statements, representations and consents contained in this estoppel and will promptly inform
30 them if it learns that any such statement or representation may be or may become untrue,
31 inaccurate or misleading.

1 IN WITNESS WHEREOF, Landlord has executed this Estoppel Certificate as of
2 _____, 20__.

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8

CITY OF LONG BEACH,
a municipal corporation

By: _____

9 Name: _____
10 Director of Community Development

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Exhibit 1 to Estoppel Certificate

2

Ground Lease

Exhibit "F"

In the event Hotel operations cease, Tenant shall pay in addition to the prepaid rent “percentage rent” and “additional rent” as provided herein.

1.1 Percentage Rent Stated Below Based upon Tenant's Gross Receipts
(as Defined Herein) from the Listed Categories

| | | |
|----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
| a. | Food, food products (excluding alcoholic beverages) served on the Premises and food, food products prepared on the Premises and served off the Premises | 3-1/2% |
| b. | Packaged alcoholic and nonalcoholic beverages and all other alcoholic and nonalcoholic beverages sold and/or consumed on the Premises or catered off the Premises | 4-1/2% |

1.2 Payment Of Percentage Rent. Tenant shall pay the percentage rent to Landlord monthly on the date Tenant submits its monthly accounting statement in accordance with the provisions of paragraph 2.3. The percentage rent for the last month at the end of the term shall be paid within twenty (20) days from the expiration or termination date.

1.3 Gross Receipts. The term "Gross Receipts" shall mean all income and proceeds of sales of every kind, whether in cash or on credit resulting from the sale of food and beverages

1 in, on or from the Premises and areas under Tenant's control. Said income and proceeds of sales
2 shall include, without limitation, the following:

3 (a) All revenue derived from the charge for the sale of food
4 and beverage upon the Premises. For the purpose of this paragraph, an entity owned or
5 controlled by Tenant shall be defined in paragraph 7.2.4.2(c)

6 (b) Proceeds of use and occupancy insurance actually received
7 by Tenant, their respective agents, managers or employees with respect to the food and beverage
8 businesses authorized by this Lease after deduction from said proceeds all necessary expenses
9 incurred in the adjustment or collection thereof.

10 (c) Notwithstanding anything to the contrary, the term "Gross
11 Receipts" shall exclude the following:

12 (i) Sales, excise and similar taxes.

13 (ii) Gratuities received by Tenant's employees, agents
14 or contractors to the extent that said gratuities are retained by said employees, agents, or
15 contractors and not paid over to Tenant or deducted from the wages or salaries paid to said
16 employees, agents, or contractors.

17 1.4 Additional Rent. Tenant shall also pay to Landlord from time to time as provided
18 herein additional rent which shall include:

19 (d) If Tenant subleases the Premises for operations other than a
20 Hotel, Tenant shall pay to Landlord as additional rent fifty (50) percent of the rent or other

1 income received by Tenant from Subtenant above the prepaid rent (based on an 8.5 percent rate
2 of return of the then current land value) as shown on Exhibit "C" prorated on an annual basis and
3 due and payable monthly during the term of the sublease.

4 (e) Compound interest at the rate as provided in paragraph 5.5
5 per annum on amounts and obligations as are payable to Landlord pursuant to subparagraph (a)
6 above, which are not paid within ten (10) days after the due date or, if a demand is required,
7 within ten (10) days after the date of such demand. Interest shall accrue from the due date or the
8 date of demand, whichever date is applicable, until payment thereof.

9 (f) Compound interest at the rate as provided in Paragraph 5.5
10 per annum on all installments percentage rent not paid within ten (10) days after the due date.
11 Interest shall accrue from the due date until payment.

12 1.5 Manner Of Payment Of Rent. Rent, percentage rent and additional rent and any
13 other sums payable to Landlord shall be paid in United States dollars and if paid by check, such
14 obligations shall be deemed paid as of the date Landlord received such check if the check is
15 honored upon first presentation thereof. All rent payments to Landlord shall be net and Tenant
16 shall not have any right of deduction, setoff, prior notice or demand, except such demands or
17 notice as may be expressly provided for in this lease.

18 2.1 Tenant Records. Tenant shall keep or cause to be kept full, accurate and complete
19 books of account and other records reflecting the results of all business transactions conducted
20 in, on or from areas under Tenant's control ("Tenant's records and books of account") in order to
21 enable Landlord to ascertain the rent and sums due it hereunder.

1 The foregoing books, documents, and records so required to be prepared, kept,
2 maintained, and preserved shall include, but not be limited to, the following books, documents,
3 and records (collectively, the "Records"), to the extent required by generally accepted accounting
4 principles:

- 5 1. Financial journals and sales summary records;
- 6 2. General ledgers;
- 7 3. Daily dated cash register tapes;
- 8 4. Daily dated cash register summary tapes ("Z" tapes);
- 9 5. Prenumbered sales slips, including those for mail or telephone orders;
- 10 6. Daily sales and/or point of sale (POS) reports;
- 11 7. Financial statements;
- 12 8. Bank statements;
- 13 9. Records of daily bank deposits from transactions at or from the Premises;
- 14 10. Duplicate validated bank deposit slips;
- 15 11. Purchase invoices;
- 16 12. Inventory and receiving records;
- 17 13. Pricing schedules or other materials showing price markups;
- 18 14. Federal, state, and local income tax returns;
- 19 15. State and local sales tax reports;
- 20 16. Settlement statements of transactions with subtenants, concessionaires, and
21 licensees;
- 22 17. All materials necessary to document permitted exclusions or deductions
23 from Gross Receipts; and
- 24 18. Any and all records that may be examined or required by an independent
25 accountant in performing an audit of Tenant's Gross Receipts or which
26 may be requested by Landlord or its representatives.

1 All of the Records shall be kept in the Premises or in Tenant's main office for a
2 period of at least three (3) years after the expiration of each Lease Year or Partial Lease Year,
3 and the Records shall be conveniently segregated from all of Tenant's other business material.

4 Except for certain books and records which may be kept at the manager's home
5 office or other suitable location pursuant to the adoption of a central billing system or other
6 centralized services, Tenant's records and books of account shall be maintained and kept on the
7 Premises associated therewith and shall reflect only those transactions conducted in, on or from
8 the Premises and other areas under Tenant's control and shall not be maintained on a
9 consolidated basis with other corporate activities or with any other corporation, including
10 without limitation, any parent corporation or other wholly-owned subsidiary of Tenant. Tenant's
11 records and books of account shall be kept and maintained on an cash basis in accordance with
12 Generally Accepted Accounting Principles with such exceptions as may be required by the
13 provisions of this Lease; provided, however, Tenant may make such modifications in such
14 accounts and records as are consistent with the operator's manager's standard practice in
15 accounting so long as such modifications do not affect the determination of remittances to
16 Tenant in accordance with the provisions of this Lease. Landlord's City Auditor and other duly
17 authorized representatives shall have full access to Tenant's records and books of account,
18 whether kept on the Premises, at the operator's or manager's home office, or at another suitable
19 location, at all reasonable times for the purposes of examining the same and, if Landlord elects,
20 of auditing the same.

21 2.2 Special Audit. Landlord shall be entitled once during each Lease Year,
22 and once within a period of six (6) months following the expiration or termination of this Lease
23 to commence a special audit of Tenant's records and' books of account by Landlord's City

1 Auditor. Tenant shall cooperate fully with said City Auditor and his designated representatives
2 in the making of said special audit. The audit shall be conducted during usual business hours at
3 the Premises. Landlord shall provide Tenant with a copy of the results of Landlord's special
4 audit within thirty (30) days after receipt thereof. If there is a deficiency in the payment of sums
5 due Landlord, the deficiency shall become immediately due and payable together with interest
6 thereon at the rate of ten percent (10%) per year from the date of Landlord's demand for payment
7 of the deficiency. If the amount of any deficiency for any Lease Year or Partial Lease Year
8 exceeds five percent (5%) of the sums paid, Tenant shall pay the cost of the special audit;
9 otherwise, the cost thereof shall be paid by Landlord. If it is determined by such special audit
10 that there is an overpayment of rent or other sums by Tenant, a refund shall become immediately
11 due from Landlord to Tenant together with interest thereon at the rate of ten percent (10%) per
12 year from the date of Tenant's demand for such refund.

13 2.3 Accounting Statements. Tenant shall prepare and deliver or cause to be
14 prepared and delivered to Landlord within twenty (20) days after the end of each month during
15 the term a detailed statement of gross receipts (as defined in paragraph 3.2.3), and percentage
16 rent, if any, for the preceding calendar month. The accounting statements shall be prepared in
17 accordance with generally accepted accounting practices and shall be accompanied by a written
18 certification signed by Tenant certifying that the statement is accurate and complete. In addition,
19 Tenant shall prepare and deliver or cause to be prepared and delivered to Landlord within ninety
20 (90) days after the end of each lease year and partial lease year, a detailed statement of gross
21 receipts for the lease year ended and percentage rent paid for said lease year. The annual
22 statements shall be prepared in accordance with generally accepted accounting practices and
23 shall have been reviewed by a licensed certified public accountant or licensed public accountant.

1 If Tenant shall fail to prepare and deliver or cause to be prepared and delivered any accounting
2 statement within the time provided and such failure shall continue after fifteen (15) days' written
3 notice from Landlord to Tenant, Landlord may, but shall not be obligated to, audit Tenant's
4 books, records and accounts pertaining to gross receipts for such delinquent accounting period
5 and may prepare the statement or statements which Tenant shall have failed to submit. Any such
6 audit shall be in addition to the special audit provided for in paragraph 3.4. Tenant shall pay on
7 demand all expenses of such audit incurred by Landlord all sums as may be shown by such audit
8 to be due together with interest thereon as provided in paragraphs 3.2.4(b) and 3.2.4(c) from the
9 date of Landlord's notice to prepare an accounting statement.

10

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

LBH Land Holding Company, LLC
444 W. Ocean Blvd., Ste. 1108
Long Beach, CA 90802
ATTN: Kambiz Babaoff

(Space Above Line For Recorder's Use Only)

MEMORANDUM OF LEASE

(600 Queensway Drive)

THIS MEMORANDUM OF LEASE is dated as of the 1st day of October, 2005, between City of Long Beach, a municipal corporation and trust grantee of the State of California of certain tide and submerged lands within said City ("Landlord"), and LBH Land Holding Company, LLC, a California limited liability company ("Tenant").

Unless otherwise defined herein, defined terms shall have the meanings given them in the Lease.

1. **Premises.** Landlord has leased to Tenant, upon the terms and conditions of that certain Amended and Restated Hotel Lease between the parties dated as of October 1st, 2005 (the "Lease") certain real property situated in Los Angeles County, California and legally described on Exhibit A attached hereto (the "Premises").

2. **Term.** The Lease shall be for a term of sixty-six (66) years commencing on October 1, 2005 and ending on September 30, 2071.

3. **Purpose of Memorandum of Lease.** The purpose of this Memorandum of Lease is to provide record notice of the Lease and in now way modifies the Lease. In the event of conflict between the terms of this Memorandum and the terms of the Lease, the terms of the Lease shall prevail.

IN WITNESS WHEREOF, the parties hereto have duly executed this Memorandum of Lease effective as of the date first above written.

"LANDLORD"

City of Long Beach,
a municipal corporation

By: [Signature]
Name: Gerald R. Miller
Title: City Manager

APPROVED AS TO FORM

10/7, 2005
ROBERT E. SHANNON, City Attorney
By [Signature]
DEPUTY CITY ATTORNEY

"TENANT"

LBH Land Holding Company, LLC,
a California limited liability company

By: ENS Development LLC,
an Arizona limited liability company,
its member

By: [Signature]
Name: KAMBIZ BABADPP
Title: Manager

EXHIBIT A

LEGAL DESCRIPTION

A leasehold estate in the following property, as created by that certain unrecorded Amended and Restated Hotel Lease dated October 1st, 2005, executed by the City of Long Beach, a municipal corporation, acting by and through its Board of Harbor Commissioners, as Lessor, and LBH Land Holding Company, LLC, a California limited liability company, as Lessee, upon and subject to all of the provisions therein contained.

PARCEL I:

THAT CERTAIN PARCEL OF LAND CONTAINING APPROXIMATELY 94,503 SQUARE FEET SITUATE IN THE HARBOR DISTRICT OF THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT MONUMENT L.B.H.D. "A-11 AUX.", AS RECORDED IN BOOK 81 PAGE 50 OF RECORD OF SURVEYS OF SAID COUNTY; THENCE NORTH 980.50 FEET; THENCE EAST 1,216.30 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT OF BEGINNING HAVING COORDINATES NORTH 4,024,567.85; EAST 4,227,436.99 OF ZONE 7 OF THE CALIFORNIA COORDINATE SYSTEM; THENCE NORTH 59 DEGREES 38 MINUTES 50 SECONDS WEST 344.79 FEET; THENCE SOUTH 43 DEGREES 38 MINUTES 53 SECONDS WEST 309.58 FEET; THENCE SOUTH 63 DEGREES 01 MINUTES 50 SECONDS EAST 250.85 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 90.67 FEET; THENCE ALONG SAID CURVE, 136.44 FEET; THENCE NORTH 30 DEGREES 44 MINUTES 57 SECONDS EAST 22.21 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 90.00 FEET; THENCE ALONG SAID CURVE, 128.16 FEET; THENCE SOUTH 67 DEGREES 39 MINUTES 40 SECONDS EAST 11.45 FEET; THENCE NORTH 24 DEGREES 28 MINUTES 38 SECONDS EAST 84.74 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL II:

THAT CERTAIN PARCEL OF LAND CONTAINING APPROXIMATELY 7,559 SQUARE FEET, SITUATE IN THE HARBOR DISTRICT OF THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

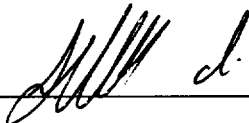
COMMENCING AT MONUMENT L.B.H.D. "A-11 AUX.", AS RECORDED IN BOOK 81 PAGE 50 OF RECORD OF SURVEYS OF SAID COUNTY; THENCE NORTH 980.50 FEET; THENCE EAST 1,216.30 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT OF BEGINNING HAVING COORDINATES NORTH 4,024,567.85; EAST 4,227,436.99 OF ZONE 7 OF THE CALIFORNIA COORDINATE SYSTEM; THENCE SOUTH 24 DEGREES 28 MINUTES 38 SECONDS WEST 84.74 FEET; THENCE SOUTH 67 DEGREES 39 MINUTES 40 SECONDS EAST 100.07 FEET; THENCE NORTH 24 DEGREES 28 MINUTES 38 SECONDS EAST 64.11 FEET; THENCE NORTH 52 DEGREES 38 MINUTES 26 SECONDS WEST 53.90 FEET; THENCE NORTH 59 DEGREES 38 MINUTES 50 SECONDS WEST 47.71 FEET TO THE TRUE POINT OF BEGINNING.

EXCLUDING ALL AIR RIGHTS ABOVE AN ELEVATION OF PLUS THIRTY (+30) FEET, MEAN LOWER LOW WATER DATUM.

STATE OF CALIFORNIA)
) ss.
COUNTY OF Los Angeles)

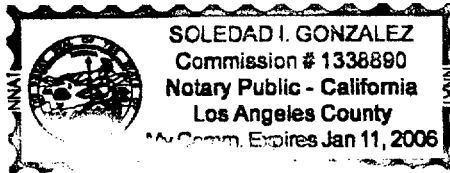
On October 6, 2005, before me, Soledad I. Gonzalez, Notary Public, personally appeared Kambiz Babooff, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledge to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Notary Public

[This area for official notary seal]



STATE OF CALIFORNIA)
COUNTY OF California (L.A.)) ss.
Los Angeles)

On October 11, 2005, before me, LINDA C. RAMSAY, Notary Public, personally appeared GERALD R. MILLER, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) ~~is~~ are subscribed to the within instrument and acknowledge to me that ~~he~~ she ~~they~~ executed the same in ~~his~~ her ~~their~~ authorized capacity(~~ies~~), and that by ~~his~~ her ~~their~~ signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Linda C. Ramsay
Notary Public

[This area for official notary seal]

