

15383

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WHEN RECORDED RETURN TO:

City of Long Beach  
333 W. Ocean Blvd, 3<sup>rd</sup> Floor  
Long Beach, CA 90802  
Attn: Property Services

COPY of Document Recorded

06 1449134

Has not been compared with original.  
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LOS ANGELES COUNTY REGISTRAR - RECORDER/COUNTY CLERK

APN No. 7149-13-908

Documentary Transfer Tax is \$ Ø  
( ) computed on full value of property conveyed, or  
( ) computed on full value less value of liens and  
encumbrances remaining at time of sale

**FIRST AMENDMENT TO  
LEASE AGREEMENT AND GROUND SUBLEASE**

**(Parcel 3 of Parcel Map No. 15307 of Business Park)**

**THIS FIRST AMENDMENT TO LEASE AGREEMENT AND GROUND  
SUBLEASE (Parcel 3 of Parcel Map No. 15307 of Business Park) (this "First  
Amendment") is made as of the 6<sup>th</sup> day of June, 2006, by and between TARMAC  
HOLDINGS, L.P., a Delaware limited partnership ("Sublessee"), OC INVESTORS,  
INC., a California corporation ("Sublessor") and the CITY OF LONG BEACH, a  
municipal corporation (the "City").**

**RECITALS**

A. The land described on Exhibit "A" attached hereto and by this reference made a part hereof is identified as "Parcel 3". Parcel 3 is covered and encumbered by that certain Lease Agreement (Parcel 3 of Parcel Map No. 15307 of Business Park) made as of March 10, 1983 (but deemed to relate back to April 23, 1981) between the City of Long Beach, a municipal corporation, and Long Beach Airport Business Park, a California general partnership ("LBABP") (the "Parcel 3 Master Lease"). A short form of the Parcel 3 Master Lease was recorded on May 13, 1983 as Instrument No. 83-539452 in the Official Records of the Los Angeles County, California Recorder (but said short form is deemed to relate back to August 6, 1982). (Parcel 3 is hereinafter referred to as the "Land". The Land as well as Parcels 1, 2, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the Parcel Map No. 15307 are hereinafter collectively referred to as the "Business Park".)

B. LBABP, as sublessor, and San Bernardino County Employees

Retirement Association, a pension fund, as sublessee ("SBCERA") entered into that certain Ground Sublease (Parcel 3 of Parcel Map No. 15307 of Business Park) dated August 11, 1983, (hereinafter referred to as the "Parcel 3 Sublease"). A Memorandum of the Parcel 3 Sublease was recorded August 12, 1983 in the Official Records of said County as Instrument No. 83-934421.

C. Pursuant to that certain Assignment of Leasehold Interests dated December 23, 1986 by and between LBABP, as assignor, and Carlton Browne and Company, Incorporated, a California corporation ("CBC"), LBABP assigned the tenant's interest in the Parcel 3 Master Lease and the sublessor's interest in the Parcel 3 Sublease to CBC. The foregoing assignment was recorded December 29, 1986 as Instrument No. 86-1818743 of Official Records in Los Angeles County, California. (On or about August 30, 1999, CBC amended its articles of incorporation and changed its name to "OC Investors, Inc.")

D. Pursuant to that certain Assignment of Lease dated October 26, 1992 and recorded October 30, 1992 in the Official Records of said County as Instrument No. 92-2000177, SBCERA assigned the sublessee's interest in the Parcel 3 Sublease to 5000 Airport Plaza, L.P., a California limited partnership ("5000 Airport Plaza"). The general partner of 5000 Airport Plaza was Mullikan Medical Center, A Medical Group, Inc., a California professional corporation ("Mullikan").

E. On or about November 28, 1995, Mullikan merged with Medpartners Provider Network, Inc., a California corporation ("Medpartners") and Medpartners succeeded to the sublessee's interest in the Parcel 3 Sublease.

F. The Land and the improvements thereon are subject to that certain Maintenance Declaration (Long Beach Airport Business Park) (the "Maintenance Declaration") dated January 31, 1983 and recorded on March 8, 1983 as Instrument No. 83-256290 of the Official Records of the County Recorder of Los Angeles County, California.

G. The Land and the improvements thereon are also subject to that certain Declaration of Covenants, Conditions and Restrictions for Long Beach Airport Business Park (the "Office CCRs") dated January 31, 1983 and recorded on March 9, 1983 as Instrument No. 83-262462 of the Official Records of the County recorder of Los Angeles County, California.

H. Pursuant to that certain Assignment of Ground Sublease, Grant Deed of Improvements and Interests, and Memorandum of Assignment of Office Building Subleases dated as of September 21, 2000, and recorded October 13, 2000 as Instrument No. 00-1598241 of the Official Records of the County recorder of Los Angeles County, California, Tarmac Holdings, L.P. succeeded to all right, title and interest of the sublessee in and to the Parcel 3 Sublease, and in and to the improvements on Parcel 3.

I. As of the date hereof, the City is the owner of fee simple title to the Parcel 3 Land and the master lessor under the Parcel 3 Master Lease; Sublessor is the lessee under the Parcel 3 Master Lease and the sublessor under the Parcel 3 Sublease, and Sublessee is the owner of a defeasible fee simple interest in the improvements on Parcel 3 and the sublessee under the Parcel 3 Sublease.

J. The parties now desire to amend the Parcel 3 Master Lease and the Parcel 3 Sublease (collectively, the "Parcel 3 Leases") to provide for: (i) an extension of the term of the Parcel 3 Leases; and (ii) an amendment of the insurance provisions of the Parcel 3 Leases and such other terms as are provided herein. Terms which are not otherwise defined herein shall have the same meanings as defined in the Parcel 3 Leases, the Maintenance Declaration and the Office CC&R's.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. AMENDMENTS OF PARCEL 3 LEASES.

1.1. Extension of Term.

A. Parcel 3 Sublease. Section 2 of the Parcel 3 Sublease is hereby amended and restated to read in full as follows: "The term of this Lease ("Term") shall commence on August 12, 1983 ("Commencement Date") and shall end on the later to occur of: (i) one (1) day before the expiration date of the Parcel 3 Master Lease, and (ii) July 7, 2050, subject, however, to the earlier termination as provided in this Lease. In the event of the termination of the Parcel 3 Master Lease prior to July 7, 2050, this Lease shall become a direct Lease between the City and Sublessee and shall remain in full force and effect in accordance with its terms."

B. Parcel 3 Master Lease. Section 2 of the Parcel 3 Master Lease is hereby amended and restated to read in full as follows: "The term of this Lease shall commence on the 8<sup>th</sup> day of July, 1982, and shall continue thereafter until July 7, 2050."

1.2. Indemnity, Insurance, Casualty Damage.

A. Parcel 3 Sublease. Section 6 and all subsections under Section 6 of the Parcel 3 Sublease are hereby amended and restated to read in full as follows:

"6. Indemnity, Insurance, Casualty Damage.

6.1. Indemnification and Hold Harmless. To the fullest extent permissible by law, Tenant expressly agrees to defend, protect, indemnify and hold the City, Landlord and each of their officers, agents and employees harmless and free from and against any and all claims, demands, damages, expenses, losses or liability of any kind or nature whatsoever which City, Landlord or any of their officers, agents or employees may sustain or incur or which may be imposed upon them or any of them for injury to or death of persons or damage to property arising out of or resulting from the

alleged acts or omissions of Tenant, its officers, agents or employees or in any manner connected with this Lease or with the occupancy, use or misuse of the Premises by Tenant, its officers, agents, employees, subtenants, licensees, patrons or visitors and Tenant agrees to defend at its own cost, expense and risk all claims or legal actions that may be instituted against Tenant, the City or Landlord, and Tenant agrees to pay settlements entered into with Tenant's approval and to satisfy any judgment that may be rendered against either Tenant, the City or Landlord as a result of any injuries or damages which are alleged to have resulted from or be connected with this Lease or the occupancy or use of the Premises by Tenant or its officers, agents, employees, subtenants, licensees, patrons or visitors, except to the extent resulting from the negligent or willful acts of the City, Landlord or any such indemnitee.

## 6.2 Insurance.

6.2.1 Liability Insurance. At all times during the term of this Lease, Tenant shall obtain and maintain or cause to be obtained and maintained commercial general or airport liability insurance equivalent in coverage scope to the Insurance Services Office (ISO) CG 00 01 10 93 policy with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and in aggregate naming the City of Long Beach, Landlord and their officers, members, agents and employees as additional insureds on an endorsement equivalent in coverage scope to the ISO CG 20 26 11 85 form. In addition and as may be applicable to the Tenant's operations on the Premises, Tenant shall obtain and maintain or cause to be obtained and maintained products and completed operations liability, liquor liability, and garagekeeper's legal liability with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and in aggregate. For each of these applicable coverages, Tenant agrees to name the City of Long Beach, Landlord and their officers, members, agents and employees as additional insureds on an endorsement equivalent in coverage scope to the ISO CG 20 26 11 85 form.

6.2.2 Commercial Automobile Liability Insurance. If applicable to the Tenant's operations, Tenant shall obtain and maintain or cause to be obtained and maintained auto insurance equivalent in coverage scope to ISO CA 00 01 06 92, covering Symbol 1 in an amount not less than One Million Dollars (\$1,000,000) combined single limit.

6.2.3 Workers' Compensation Insurance. Tenant shall also maintain workers' compensation insurance in the amount required by statute. The insurer of such coverage shall agree to waive its right of subrogation against the City and Landlord.

6.2.4 Property Insurance. Tenant shall, at no cost or expense to City or Landlord, keep insured for the benefit of Tenant, City and Landlord, and such other parties, having an insurable interest, as Tenant may designate, the improvements constructed by or under Tenant upon the Premises against special perils of loss (commonly known as "all risks") in an amount equal to the replacement cost new of said improvements. City and Landlord shall be named as loss payees under any such policy. Such coverage shall also be required to be furnished by Tenant during the construction of

improvements on the Premises as contemplated by Article 7 below. Any loss payable under such insurance shall be payable to Tenant and such other parties having an insurable interest in the property and may be endorsed with a standard mortgagee's loss payable endorsement in favor of the holder of any first trust deed on Tenant's leasehold estate or on any ground subleasehold estate.

6.2.5 Personal Property Insurance. Tenant shall also maintain "All Risk" property insurance in an amount sufficient to cover the full replacement value of Tenant's personal property, improvements, and equipment on the Premises.

6.2.6 Business Interruption Insurance. Tenant shall also maintain business interruption insurance providing that the rent due Landlord shall be paid for a period up to twelve (12) months if the Premises are destroyed or rendered inaccessible.

6.2.7 General Requirements.

(a) Prior to entry upon the Premises, Tenant shall deliver the certificates of insurance required by this Section 6.2, to Landlord and the City of Long Beach Airport Manager for approval as to sufficiency and for approval as to form by the City Attorney. Notwithstanding any other provision to the contrary contained in this Lease, Tenant shall not have the right to enter upon the Premises for any purpose whatsoever until such certificate has been filed with Landlord, the City and the Airport Manager.

(b) The insurance policies to be secured by Tenant pursuant to this Section 6.2 shall be obtained from insurance companies that are authorized to write insurance in the State of California or that have ratings of or equivalent to an A:VIII by A.M. Best and Company and shall require that the insurer give City and Landlord notice of any termination or cancellation of any policy of insurance no less than thirty (30) days prior to the effective date of such termination or cancellation, except in the event of non-payment of premium in which event there is only ten (10) days' notification. In addition, Tenant shall notify City and Landlord of any termination or cancellation of any policy of insurance secured by Tenant pursuant to this Section 6.2 as soon as Tenant learns of any such termination or cancellation. The policy of liability insurance to be obtained under Section 6.2.1 above shall stipulate that said policy provides primary coverage and is not subordinate to nor contributing with any other insurance coverage held or maintained by City or Landlord. The procuring of any such policy of insurance shall not be construed to be a limitation upon Tenant's liability or its full performance on Tenant's part of the indemnification and hold harmless provisions of this Lease; and Tenant understands and agrees that, notwithstanding any such policy of insurance, Tenant's obligation to protect, indemnify and hold harmless City and Landlord under this Lease is for the full and total amount of any damage, injuries, loss, expense, costs or liabilities caused by or in any manner connected with or attributed to the acts or omissions of Tenant, its officers, agents, employees, licensees, patrons or visitors, or the operations conducted by Tenant, or Tenant's use or misuse of the Premises, except to the extent resulting from the negligent or willful acts of City, Landlord or any such indemnitee.

6.2.8. Self-Insurance. If Tenant is self-insured as a matter of

Tenant's usual and customary business policy and such self-insurance is accepted by institutional lenders, Tenant may request City and Landlord to waive the insurance requirements of this Lease and to consent and permit Tenant to self-insure. Such request shall be accompanied by information deemed necessary by City and Landlord to review the request. Consent to self-insure shall not be unreasonably withheld.

6.3 Damage or Destruction; Restoration of Premises.

6.3.1 Restoration of Premises. If any building or improvement on the Premises is totally or partially destroyed or damaged as a result of any casualty, Tenant shall either (i) promptly repair, replace or rebuild such building or other improvement at least to the extent of its value immediately prior to such occurrence, subject, however, to delays resulting from force majeure, the cancellation of existing leases due to such casualty, settling with insurers and/or negotiating new financing if necessary; or (ii) remove all damaged or destroyed improvements and place the portions of the Premises from which improvements are removed in a clean and level condition following which all insurance proceeds attributable to such destruction or damage shall be the property of Tenant. After the commencement of such repair, replacement or rebuilding, Tenant shall continue such work with reasonable diligence until completion. Tenant may cause any such work to be performed by or under its subtenants. In no event shall City or Landlord be liable to Tenant for any damages resulting to Tenant from the happening of any such fire or other casualty or from the repair or reconstruction of the improvements on the Premises or from the termination of this Lease as provided in Section 6.3.2 below.

6.3.2 Right to Terminate. Notwithstanding the provisions of Section 6.3.1 above, (i) if the buildings and improvements on the Premises shall be damaged or destroyed as a result of a hazard against which Tenant is not required to carry insurance to an extent in excess of twenty-five percent (25%), or more, of their then insurable value; or (ii) if any such uninsured damage or destruction shall occur at any time after the fortieth (40th) anniversary of the commencement date of the term of this Lease, then Tenant shall have the right to elect to cancel this Lease by giving written notice thereof to Landlord and City within three hundred sixty-five (365) days after the date of any such damage or destruction. Upon such termination, it will be the obligation of Tenant to remove all damaged or destroyed improvements and to place the portions of the Premises from which improvements are removed in a clean and level condition. If the cost of restoration exceeds twenty-five percent (25%) of the then replacement value of the improvements on the Premises which are destroyed and such casualty occurs during the first forty (40) lease years, and if Tenant elects to terminate this Lease pursuant to this paragraph, then City or Landlord, within fifteen (15) days after receiving Tenant's notice to terminate, can elect to prevent such termination from becoming effective by agreeing to pay to Tenant the difference between such twenty-five percent (25%) of the value and the actual cost of restoration, in which case Tenant shall restore the damaged or destroyed improvements on the Premises, and City or Landlord shall deposit an amount equal to the estimated cost of such difference with Tenant's construction lender, upon request, prior to Tenant's commencement of such work of restoration. Upon any such termination, the rents and other charges payable hereunder shall be prorated and paid or reimbursed to and from the date of termination and Tenant

shall forthwith surrender the Premises to Landlord and the City.

6.3.3 No Reduction in Rent. In case of destruction of all or any of the improvements on the Premises, except as provided in Section 6.3.2., there shall be no abatement or reduction of rent.

6.3.4 City Insurance Requirements. Not more frequently than every three (3) years, if in the opinion of City or of City's Risk Manager or designee, the amount of the foregoing insurance coverage is not adequate, Tenant shall increase the insurance coverage as required by City. Such insurance as required herein shall not be deemed to limit Tenant's liability relating to performance under this Lease. Any modification or waiver of the insurance requirements herein shall be made only with the written approval of the City's Risk Manager or designee."

B. Parcel 3 Master Lease. Section 6 and all subsections ~~under~~ Section 6 of the Parcel 3 Master Lease are hereby amended and restated to read in full, as follows:

"6. Indemnity, Insurance, Casualty Damage.

The provisions of Section 6 and all subsections of Section 6 of the Parcel 3 Sublease are hereby incorporated herein by reference provided that all references to the City and Landlord therein shall be deemed to refer only to the City herein."

2. ATTORNMEN T AND NONDISTURBANCE.

In the event of any termination or expiration of the Parcel 3 Master Lease for any reason whatsoever prior to the expiration of the Term of the Parcel 3 Sublease, the City, Sublessor and Sublessee agree that the Parcel 3 Sublease, and all terms, provisions, covenants and agreements thereof, as amended by this First Amendment, shall survive any such expiration or termination, whether such termination occurs as a result of or arising out of any default under the Parcel 3 Master Lease, and the Parcel 3 Sublease shall continue in force and effect in accordance with and subject to all of its terms, provisions, agreements and covenants as a direct lease with the City, as ground lessor, and Sublessee as ground lessee. In such event, Sublessee agrees to attorn to the City as ground lessor and to recognize the City as the ground lessor under the Parcel 3 Sublease. The City shall in such event exercise and undertake all of the rights, obligations and duties of Sublessor in and under the Parcel 3 Sublease, including without limitation, the right to collect all rents and payments due and payable under the Parcel 3 Sublease. Upon the expiration or termination of the Parcel 3 Master Lease, the Maintenance Declaration or the Office CC&R's, for the duration of the Parcel 3 Sublease the City agrees to grant Sublessee, and Sublessee's successors and assigns, rights and easements of enjoyment in and to Parcel 2 of Parcel Map No. 15307 of the Business Park and such other Common Area as may be annexed to the Business Park consistent with those rights and easements which are set forth in the Office CC&R's including, without limitation Section 11.12 of the Office CC&R's, for access, ingress, and egress, for parking purposes and easements for utilities, sewage and drainage, and such rights and easements shall be appurtenant to and shall pass with title to and any leasehold interest in Parcel 3.


3. FULL FORCE AND EFFECT.

Except as expressly modified by this First Amendment, all terms and conditions of the Parcel 3 Master Lease and the Parcel 3 Sublease are ratified and affirmed and remain in full force and effect.


IN WITNESS WHEREOF, the parties have executed this First Amendment Lease Agreement and Ground Sublease as of the date first set forth above.

**TARMAC HOLDINGS, LP**, a Delaware limited partnership

By: Tarmac Holdings GP, LLC, a Delaware limited liability company

By:   
Name: JOHN A. GRAVER  
Title: VP

**OC INVESTORS, INC.**, a California corporation

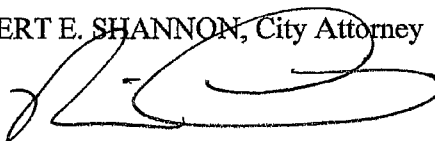
By:   
Name: Richard C. Brower  
Title: Vice President  
May 10 2006

**CITY OF LONG BEACH**, a Municipal corporation

By:   
City Manager

The foregoing First Amendment to Lease Agreement and Ground Sublease is hereby approved as to form this 4 day of June, 2006.

ROBERT E. SHANNON, City Attorney

By:   
Everett L. Glenn, Deputy  
Richard F. Anthony



STATE OF CALIFORNIA

~~COUNTY OF SANTA BARBARA~~ *Orange*

On 5-10-06, before me, FARID MANSOUR  
NOTARY PUBLIC, personally appeared Richard C. BROWN II, personally  
~~known to me~~ (or proved to me on the basis of satisfactory evidence) to be the person(s)  
whose name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies), and that by  
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

(Seal)



STATE OF CALIFORNIA *NY*

COUNTY OF SANTA BARBARA *NY*

On March 16, 2006, before me, John R. Fraser *At Alex Hofmann*  
NOTARY PUBLIC, personally appeared John R. Fraser, personally  
known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)  
whose name(s) is/are subscribed to the within instrument and acknowledged to me that  
he/she/they executed the same in his/her/their authorized capacity(ies), and that by  
his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

(Seal)

ALEX HOFMANN  
Notary Public, State of New York  
No. 01HO6028348  
Qualified in New York County  
Commission Expires July 26, 2007

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Los Angeles

ss.

On June 6, 2006

Date

before me,

LINDA C. RAMSAY, Notary Public

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

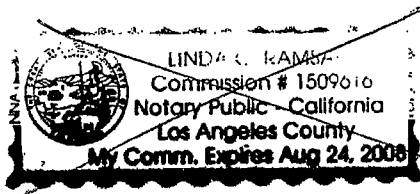
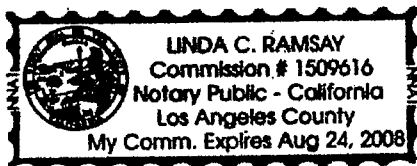
personally appeared

GERALD R. MILLER

Name(s) of Signer(s)

☒ personally known to me

☐ proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Linda C. Ramsay  
Signature of Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

## Description of Attached Document

Title or Type of Document:

FIRST Amendment to Lease Agreement and Ground Sublease

Document Date:

Number of Pages:

8, plus Exhibit A

Signer(s) Other Than Named Above:

## Capacity(ies) Claimed by Signer

Signer's Name:

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

Signer Is Representing:

RIGHT THUMBPRINT OF SIGNER  
Top of thumb here

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 3 of Parcel Map No. 15307 of Business Park

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES, DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCEL 3 OF PARCEL MAP NO. 15307, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 159, PAGES 50 THROUGH 53 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ALL BUILDINGS AND IMPROVEMENTS NOW OR HEREAFTER SITUATED ON SAID LAND.

ALSO EXCEPT THEREFROM, ALL OIL, GAS AND OTHER HYDROCARBONS IN AND UNDER SAID LAND, BUT WITHOUT THE RIGHT TO USE THE SURFACE, OR SUBSURFACE OF SAID LAND ABOVE A DEPTH OF 100 FEET, AS RESERVED BY BIXBY LAND COMPANY, A CORPORATION, IN DEEDS RECORDED IN BOOK 18884, PAGE 347, IN BOOK 24554, PAGE 211, IN BOOK 28612, PAGE 328, IN BOOK 38790, PAGE 367, IN BOOK 46180, PAGE 52, IN BOOK 49399, PAGE 406, IN BOOK D-721, PAGE 156, IN BOOK 37202, PAGE 300, ALL OF OFFICIAL RECORDS, AND AS RESERVED BY WHEELER F. CHASE IN DEED RECORDED IN BOOK 41754, PAGE 423, OFFICIAL RECORDS OF SAID COUNTY.

PARCEL 2:

ALL BUILDINGS AND IMPROVEMENTS FOR THE TERM OF THE GROUND SUBLEASE REFERRED TO IN THE ESTATE HEREIN, NOW SITUATED ON PARCEL 3 OF PARCEL MAP NO. 15307, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 159, PAGES 50 THROUGH 53 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.