



1 2007, installation of the exhibit to begin no earlier than April 21, 2007, and shall end on  
2 June 10, 2007.

3 B. Within fifteen (15) days after expiration or revocation of this Permit,  
4 Permittee shall cease entry and shall cause all Permittee Parties to cease entry on the  
5 City-owned Property, shall remove all equipment, supplies, and personal property and  
6 shall leave the City-owned Property in a clean, neat and safe condition. Any supplies,  
7 equipment, and personal property which are not removed within the 15-day period shall  
8 become the property of the City without payment by or liability of any kind on the part of  
9 the City.

10 4. Installation Limitations/Requirements. No portion of the Watershed  
11 Project shall be installed on the Lithocrete Compass Star (Exhibit C).

12 Any construction requiring the removal of or resulting in the destruction of a fire  
13 clay paver(s) will be restored at the sole cost of the Permittee. This includes but is not  
14 limited to leveling, cleaning and sealing of pavers.

15 HEAVY EQUIPMENT: Prior to bringing any heavy equipment onto City Property,  
16 Permittee shall contact the Queensway Bay Supervisor, Paul Bays at (562) 570-1596  
17 or (562) 577-8427 (cell phone), or (562) 570-3101 (after hours) to ensure that all weight  
18 limitations on floor surfaces are met and to determine the appropriate path of  
19 entry/access. At all times, Permittee and Permittee Parties are required to place  
20 plywood over driving surfaces. Permittee and Permittee Parties shall not obstruct the  
21 fire lane. Prior to entering all parties shall contact Paul Bays for instructions.

22 COORDINATION OF CONSTRUCTION ACTIVITIES: STAGING AREA: During  
23 the course of constructing the Aquarium Education Feature, Aquarium agrees to cause  
24 its contractors to stage their equipment and construction materials in that certain  
25 staging area location. Prior to entering contact Paul Bays at (562) 570-1596 (office),  
26 (562) 577-8427 (cell phone) who will assign a staging area, which is incorporated into  
27 this Agreement by this reference (the "Staging Area"). City shall cooperate with  
28 Aquarium in its construction of the Aquarium Education Feature in order to permit

1 Aquarium to meet the Time Line.

2 5. Insurance. As a condition precedent to the effectiveness of this  
3 Permit, Permittee shall provide evidence of insurance equal to the following insurance  
4 coverage:

5 (a) Commercial general liability insurance (equivalent in scope to ISO form  
6 CG 00 01 11 85 or CG 00 01 11 88) in an amount not less than \$1,000,000 per  
7 occurrence or \$2,000,000 general aggregate. The coverage shall include but not be  
8 limited to broad form contractual liability, cross liability, independent contractors liability,  
9 and products and completed operations liability. The City, its officers, employees and  
10 agents shall be named as additional insureds by endorsement (on the City's  
11 endorsement form or on an endorsement equivalent in scope to ISO form CG 200 10  
12 11 85 or CG 20 26 11 85), and this insurance shall contain no special limitations on the  
13 scope of protection given to the City, its officers, employees and agents.

14 (b) Workers' compensation insurance as required by the California Labor  
15 Code and employer's liability insurance in an amount not less than \$1,000,000 per  
16 accident.

17 (c) Commercial automobile liability insurance (equivalent in scope to ISO  
18 form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto), in an amount not less than  
19 \$500,000 combined single limit per accident.

20 Any self-insurance program, self-insured retention, or deductible must be  
21 separately approved in writing by City's Risk Manager or designee and shall protect the  
22 City, its officials, employees and agents in the same manner and to the same extent as  
23 they would have been protected had the policy or policies not contained retention or  
24 deductible provisions. Each insurance policy shall be endorsed to state that coverage  
25 shall not be reduced, non-renewed, or canceled except after thirty (30) days prior  
26 written notice to City, and shall be primary and not contributing to any other insurance  
27 or self-insurance maintained by the City. Permittee shall notify the City within five (5)  
28 days after any insurance required in this Permit has been voided by the insurer or

1 canceled by Permittee.

2 Permittee shall require that all Permittee Parties maintain insurance in  
3 compliance with this Section unless otherwise agreed in writing by City's Risk Manager  
4 or designee.

5 Prior to entry on City-owned Property, Permittee shall deliver to City  
6 certificates of insurance or self-insurance and required endorsements, including any  
7 insurance required by Permittee Parties, for approval as to sufficiency and form. The  
8 certificates and endorsements shall contain the original signature of a person  
9 authorized by that insurer to bind coverage on its behalf. In addition, Permittee shall at  
10 least thirty (30) days prior to expiration of this insurance furnish to the City evidence of  
11 renewal of the insurance. City reserves the right to require complete certified copies of  
12 all policies of insurance at any time. Permittee and Permittee Parties shall make  
13 available to the City, during normal business hours, all books, records and other  
14 information relating to the insurance required in this Permit.

15 Any modification or waiver of these insurance requirements shall only be  
16 made by the City's Risk Manager or designee, in writing. The procuring or existence of  
17 insurance shall not be construed or deemed as a limitation on liability or as full  
18 performance with the indemnification provisions of this Permit.

19 Notwithstanding any other provision of this Permit, if Permittee or an  
20 Permittee Party fails to comply with this Section, the City may immediately revoke this  
21 Permit and the permission granted by this Permit.

22 6. Permittee's indemnification of City. Permittee shall indemnify, defend  
23 and hold the City, its officers and employees harmless from all liability, loss, damage,  
24 claims (including claims under Section 7 for which Permittee has agreed that the City is  
25 not liable), demands, penalties, fines, proceedings, causes of action, taxes,  
26 assessments, costs, and expenses (including attorney's fees and experts' fees) arising  
27 from the right to enter granted by this Permit and the activities of Permittee Parties on  
28 the City-owned Property under this Permit. This indemnity shall survive the expiration

1 or revocation of this Permit.

2           7. Non-responsibility of City. City, its officers and employees shall not be  
3 responsible or liable for loss or damage by theft, fire, flood, burglary, vandalism or any  
4 other cause to the supplies, equipment or other personal property of Permittee Parties  
5 in or on the City-owned Property, except to the extent caused by the gross negligence  
6 of the City, its officers or employees. By executing this Permit and in consideration for  
7 being allowed entry to the City-owned Property, Permittee waives all claims against the  
8 City, its officers or employees for such loss or damage.

9           8. No Title. Permittee and City acknowledge and agree that, by this  
10 Permit, Permittee does not acquire any right, title or interest of any kind in the City-  
11 owned Property, including but not limited to any leasehold interest. Permittee shall not  
12 allow the City-owned Property to be used by anyone other than an Permittee Party or  
13 for any other purpose than stated in this Permit. Notwithstanding any language to the  
14 contrary in this Permit, if a court of competent jurisdiction deems this Permit to be a  
15 lease, then Permittee waives any right of redemption under any existing or future law in  
16 the event that the City removes it from the City-owned Property and agrees that, if the  
17 manner or method used by the City in ending any right held by Permittee under this  
18 Permit gives to Permittee a cause of action similar to or based on damages that would  
19 otherwise arise in connection with unlawful detainer, then the total amount of damages  
20 to which Permittee would be entitled in such action shall be One Dollar. Permittee  
21 agrees that this Section may be filed in such action and that, when so filed, it shall be a  
22 stipulation by Permittee fixing the total damages to which Permittee is entitled in such  
23 action.

24           9. No Assignment. Permittee shall not assign this Permit or the  
25 permission granted by this Permit. Neither this Permit nor any interest in it shall be  
26 subject to transfer by attachment, execution, proceedings in insolvency or bankruptcy,  
27 or receivership. Any attempted assignment or other transfer that is not approved by the  
28 City Manager shall be void and confer no right of entry on the purported assignee or

1 transferee.

2 10. Condition after Entry. After the entry of any Permittee Party on the  
3 City-owned Property, Permittee shall return the City-owned Property in as good  
4 condition or better condition as the City-owned Property was in prior to such entry,  
5 reasonable wear and tear excepted. Permittee shall refurbish all turf used to access  
6 *City-owned property to its original condition*.

7 11. Notice. Any notice or approval given under this Permit shall be in  
8 writing and personally delivered or deposited in the U.S. Postal Service, registered or  
9 certified, return receipt, to the City at 333 West Ocean Boulevard, Long Beach, CA  
10 90802 Attn: City Manager and to Permittee at 100 Aquarium Way, Long Beach, CA  
11 90802 Attn: President. Notice shall be deemed given on the date personal delivery is  
12 made or on the date shown on the return receipt, whichever first occurs.

13 12. Consideration. This Permit is granted in consideration for Permittee's  
14 improvement and installation of the Aquarium Education Feature known as "Our  
15 Watershed Story" at no cost to the City.

16 13. Possessory Interest Tax. Permittee acknowledges that this Permit  
17 may create a possessory interest subject to possessory interest taxes. Permittee shall  
18 pay, prior to delinquency, all taxes on such possessory interest and deliver satisfactory  
19 evidence of payment to the City on request.

20 14. Improvements. Permittee Parties shall not install, construct, erect or  
21 maintain any structure or improvements on the City-owned Property except as  
22 described in this Permit. At the expiration or revocation of this Permit, all improvements  
23 to City-owned Property made pursuant to this Permit shall become the sole property of  
24 the City, at no charge.

25 15. No Limitations on City. The Permit shall not limit the City's right or  
26 power to construct, erect, build, demolish, move or otherwise modify any structures,  
27 buildings, landscaping or any other type of improvement on, over, in, or under the City-  
28 owned Property.

1                   16. No Release. The expiration or revocation of this Permit shall not  
2 release either party from any liability or obligation which accrued prior to such expiration  
3 or revocation.

4                   17. Utilities and Security. The City shall not have any obligation to  
5 Permittee to provide utilities, clean-up, or security on the City-owned Property with  
6 respect to the right of entry granted by this Permit.

7                   18. Nondiscrimination. In exercising its right of entry and use of the City-  
8 owned Property, Permittee shall not discriminate on the basis of race, color, religion,  
9 national origin, sex, sexual orientation, age, HIV status, disability or handicap.

10                  19. Compliance with Laws. Permittee Parties shall comply with all  
11 applicable laws, rules, regulations and ordinances with respect to their activities on the  
12 City-owned Property.

13                  20. Miscellaneous. A. This Permit shall be governed by and construed in  
14 accordance with the laws of the State of California.

15                               B. If any part of this Permit shall be held by a court of competent  
16 jurisdiction to be invalid, void or unenforceable, then the remainder of the Permit shall  
17 remain in full force and effect and shall not be affected, impaired or invalidated.

18                               C. This Permit may only be amended by a written agreement, signed by  
19 the City and Permittee after authorization by City's City Council.

20                               D. This Permit contains the entire understanding of the City and  
21 Permittee and supersedes all other agreements, oral or written, with respect to the  
22 subject matter of this Permit.

23                               E. On the expiration or revocation of this Permit, Permittee agrees to and  
24 shall execute such documents, in recordable form if so requested, as the City deems  
25 reasonably necessary to end the Permit and remove the Permit as an encumbrance on  
26 the City-owned Property.

27                               F. In any action or proceeding to enforce or interpret or revoke this  
28 Permit, the prevailing party shall be entitled to attorney's fees and costs.

Robert E. Shannon  
City Attorney of Long Beach  
333 West Ocean Boulevard  
Long Beach, California 90802-4664  
Telephone (562) 570-2200

1 G. The failure or delay of the City to insist on strict compliance with the  
2 provisions of this Permit shall not be deemed a waiver of any right or remedy that City  
3 may have and shall not be deemed a waiver of any subsequent or other failure to  
4 comply with any provision of this Permit.

5 H. This Permit is not intended or entered for the purpose of creating any  
6 benefit or right for any person or entity that is not a signatory or an Permittee Party.

8 Permission granted by

Terms of Permit accepted by

9 CITY OF LONG BEACH,  
a municipal corporation

AQUARIUM OF THE PACIFIC, a California  
corporation

10 By Christine J. Shuppen  
11 City Manager

By John R. Schobel  
President

12 "City"

RECEIVED PERMITTING  
TO SECTION 501 OF  
THE CITY CHARTER.

By Barbara Long  
Secretary

"Permittee"

14 APPROVED AS TO FORM

3-29, 2007

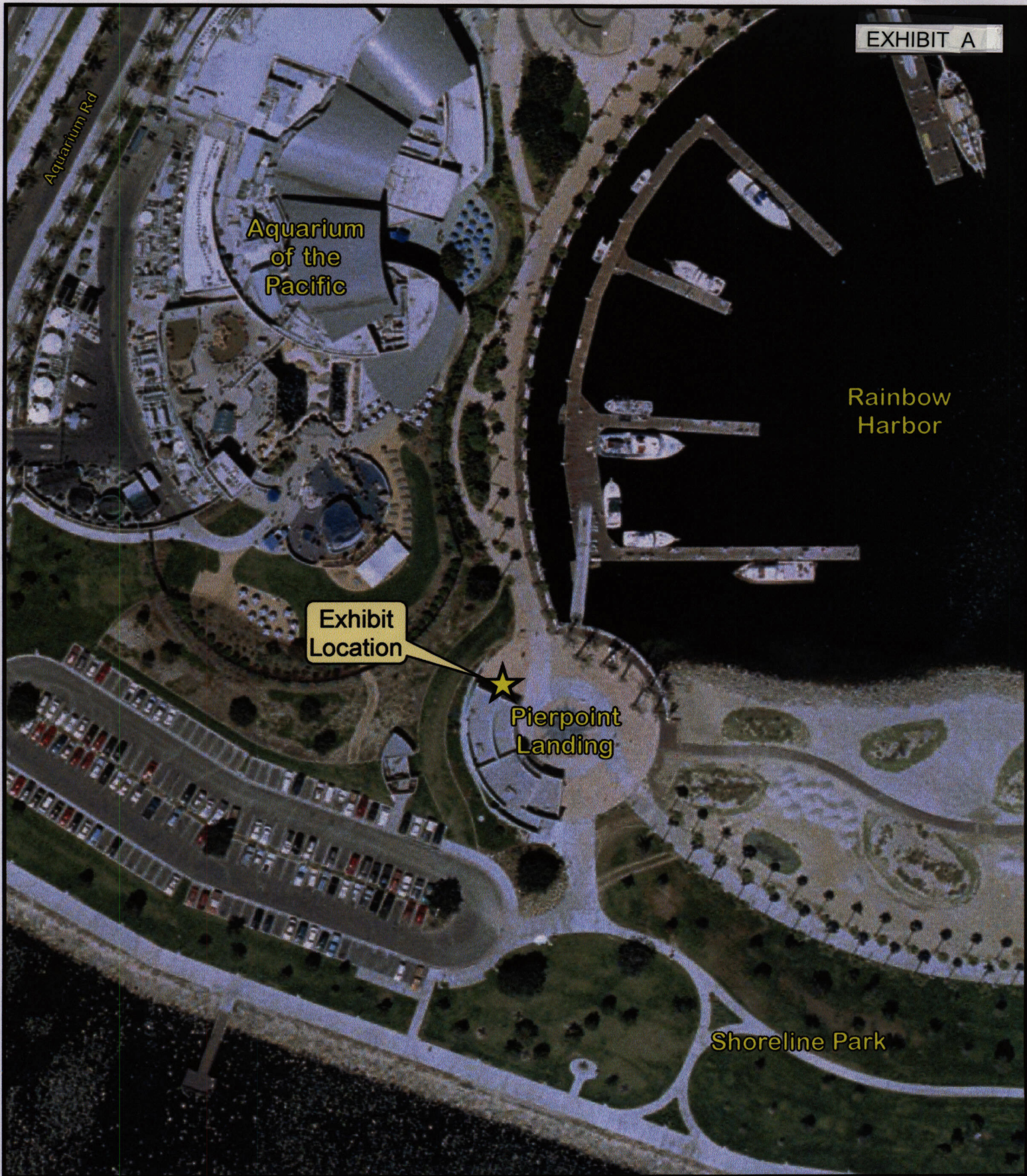
15 ROBERT E. SHANNON, City Attorney

16 By Charles Parkin  
17 PRINCIPAL DEPUTY CITY ATTORNEY

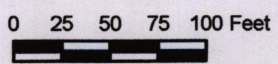
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Right of Entry Permit at Pierpoint Landing  
for Long Beach Aquarium of the Pacific's  
"Our Watershed Story" Exhibit



# Access to Project Site

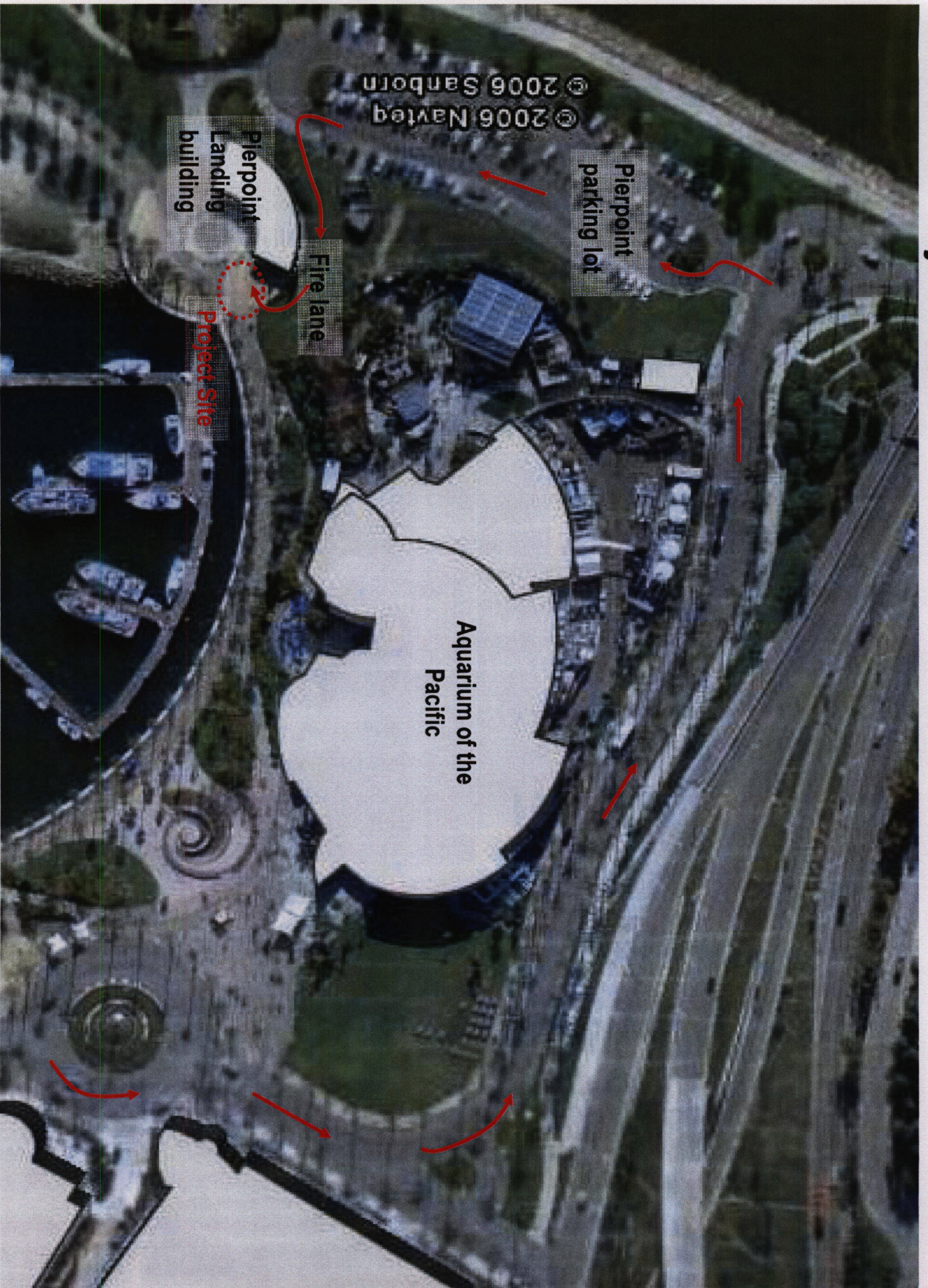


EXHIBIT B

→N

