

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# LEASE 29806

THIS LEASE ("Lease") is entered into this 1<sup>st</sup> day of November, 2006, in duplicate pursuant to a Minute Order adopted by the City council of the City of Long Beach at its meeting of October 10, 2006 between **LONG BEACH COMMUNITY COLLEGE DISTRICT**, a Community College District ("Landlord"), and the **CITY OF LONG BEACH**.

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

1. Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises shown on Exhibit "A" attached hereto and incorporated herein by this reference ("Premises"). The Premises shall consist of between five hundred (500) and one thousand (1,000) parking spaces located in the northeast portion of the Veterans Stadium parking lot. Not later than thirty (30) days prior to the First Term Commencement Date (as defined in Section 2), Tenant shall notify Landlord of the number of parking spaces Tenant will require during the First Term (as defined in Section 2), and such number of spaces shall comprise the Premises for the First Term. Not later than thirty (30) days prior to the Second Term Commencement Date (as defined in Section 2), Tenant shall notify Landlord of the number of parking spaces Tenant will require during the Second Term (as defined in Section 2), and such number of spaces shall comprise the Premises for the Second Term. Tenant agrees that access to the Premises shall be via the driveway entrance on Conant Street which is closest to the corner of Conant Street and Clark Avenue.

2. Term. The initial term of this Lease (the "First Term") shall commence on November 22, 2006 (the "First Term Commencement Date") and shall continue through and inclusive of November 26, 2006 (the "First Term Expiration Date"). The term of this Lease (the "Second Term", and together with the First Term, the "Term") shall

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

1 automatically recommence, without any further action on the part of either party hereto, on  
2 December 22, 2006 (the "Second Term Commencement Date") and shall continue through  
3 and inclusive of January 1, 2007 (the "Second Term Expiration Date"). Notwithstanding  
4 the above, Landlord shall have the right, upon advance written notice to Tenant, to  
5 immediately terminate this Lease due to an emergency situation which reasonably requires  
6 Landlord to make the Premises, or a portion thereof, available to another entity.

7 3. Rent.

8 (a) Base Rent. Tenant shall pay to Landlord as base rent for the Premises  
9 an amount equal to the product of Eight Dollars (\$8.00) times the number of parking  
10 spaces comprising the Premises for the First Term or the Second Term, as applicable,  
11 prorated for a 30-day month and multiplied by the number of days in the First Term or the  
12 Second Term, as applicable ("Base Rent"). For example, if six hundred (600) spaces are  
13 reserved by Tenant during the First Term, the Base Rent shall be \$8.00 multiplied by 600  
14 spaces (\$4,800), divided by 30 days (\$160/day), and multiplied by five days, which equals  
15 \$800. Base Rent for both the First Term and Second Term shall be paid no later than sixty  
16 (60) days after the Second Term Expiration Date. All rental to be paid by Tenant to  
17 Landlord shall be paid without deduction, offset, prior notice or demand at the address set  
18 forth below Landlord's signature, or to such other person or address as Landlord may  
19 designate in writing.

20 (b) Percentage Rent

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

26 (2) Revenue Reports. Within sixty (60) days after the end of the  
27 Second Term, Tenant shall furnish to Landlord a statement in writing, certified by Tenant  
28

1 to be correct, showing the total Net Revenue made in, upon or from the Premises during  
2 the Term, and shall accompany each such statement with a payment to Landlord equal  
3 to said percentage of the amount by which the Net Revenue made in, upon or from the  
4 Premises Rental paid by Tenant exceeds the Base Rent.

5 (c) Definition of Net Revenues. The term "Net Revenue" as used in  
6 this Lease shall mean: (A) the entire gross receipts of every kind and nature from sales,  
7 services and rentals made in, upon or from the Premises, whether upon credit or for cash,  
8 whether operated by Tenant or a concessionaire or other party; less (B) any rebates and/or  
9 refunds to customers and the amount of all sales tax receipts which have to be accounted  
10 for by Tenant to any government or governmental agency, less (C) the management fees,  
11 if any, and employee wages and benefits, if any, incurred by Tenant directly in connection  
12 with the operation and management of the Premises, less (D) the Base Rent provided  
13 above, provided, however, that (i) wages and benefits of any employee or manager who  
14 does not devote substantially all of his or her employed time to the Premises shall include  
15 only such wages and benefits as prorated to reflect the actual time spent by such  
16 employee or manager on operating or managing the Premises; and (ii) any amount paid  
17 by Tenant to a subsidiary or affiliate of Tenant for management or employee services at  
18 the Premises shall be limited for purposes hereof to the extent the same do not exceed  
19 the costs of such services rendered by qualified, first-class unaffiliated third parties on a  
20 competitive basis, and (E) any utility costs associated with the operation and management  
21 of the Premises by Tenant.

22 (d) Books and Records. Tenant shall keep complete and proper books,  
23 records and accounts of its daily Net Revenue. With reasonable prior notice, Landlord and  
24 its agents and employees shall have the right at any and all times, during regular business  
25 hours, to examine and inspect all of the books and records of Tenant pertaining to the  
26 business of Tenant conducted in, upon or from the Premises, for the purpose of  
27 investigating and verifying the accuracy of any statement of Net Revenue. Tenant shall,  
28

1 within ten (10) days of Landlord's written request, send to Landlord copies of Tenant's  
2 quarterly state sales tax reports applicable to the Term. Landlord may from time to time  
3 cause an audit or review of the business of Tenant to be made by a certified public  
4 accountant or other professional of Landlord's selection, and if the statement of Net  
5 Revenue previously made to Landlord shall be found to be inaccurate, then there shall be  
6 an adjustment and one party shall pay to the other within ten (10) days of demand such  
7 sums as may be necessary to settle in full the accurate amount of said Percentage Rental  
8 that should have been paid to Landlord for the period or periods covered by such  
9 inaccurate statement or statements. Landlord shall be responsible for the cost of any such  
10 audit, unless the audit shall disclose that Tenant's Net Revenue for the period of said audit  
11 is five percent (5%) or more greater than the monthly reported New Revenue, then Tenant  
12 shall immediately pay to Landlord the cost of such audit.

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

18 6. Maintenance. Tenant shall at its expense keep the Premises reasonably  
19 neat and clean and in compliance with applicable laws.

20 7. Liens. Tenant shall keep the Premises free of mechanic's or  
21 materialman's liens for any work done, labor performed or material furnished at the  
22 Premises by or on behalf of Tenant.

23 8. Condition of Premises. Except as provided herein, Tenant accepts the  
24 Premises "as is" and acknowledges that Landlord has not made any warranty or  
25 representation as to the condition of the Premises or the fitness of the Premises for any  
26 intended purpose. Landlord shall, at its sole cost and expense, fill any existing potholes  
27 on the Premises prior to commencement of the First Term. All other improvements to the  
28

1 Premises, including fencing, signage, slurry sealing, restriping of parking stalls and the  
2 installation of parking control equipment shall be made by Tenant at its sole cost and  
3 expense. Tenant may also clean the surface parking lot, realign the bumper stops, and  
4 add a surveillance camera. Tenant may remove any parking control equipment installed  
5 pursuant to this Section 8 at its own cost upon expiration or earlier termination of this  
6 Lease, or sooner at its option.

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

9 10. Utilities. Landlord shall provide all utilities to the Premises, which are  
10 reasonably necessary for the operation of the Premises as a parking lot. The utilities to  
11 be provided do not include water.

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

16 12. Notices. Any notice required hereunder shall be in writing and  
17 personally served or deposited in the U. S. Postal Service, first class, postage prepaid to  
18 Tenant at 333 West Ocean Blvd. attention City Manager, 13<sup>th</sup> Floor, Long Beach , CA  
19 90802, with a copy to the attention of The City Attorney of the City of Long Beach at 333  
20 West Ocean Blvd. 11<sup>th</sup> Floor, Long Beach CA 90802, and to Landlord at Long Beach  
21 Community College District, Attention Executive Vice President of Administrative Services,  
22 4901 East Carson Street, Long Beach, CA 90808. Notice shall be deemed effective two  
23 (2) days after the date of mailing or on the date personal service is obtained, whichever  
24 first occurs. Change of address shall be given as provided herein for notices.

25 13. Indemnification. Tenant shall defend, indemnify and hold Landlord  
26 harmless from all claims, demands, damages, causes of action, losses, liability, of any kind  
27 or nature whatsoever ("claims") for injury to or death of persons or damage to or loss of  
28

1 any personal or real property occurring in, on, or about the Premises arising from the  
2 negligence or willful misconduct of Tenant, Tenant's employees, agents, representatives  
3 or invitees or arising from misuse of the Premises by Tenant, Tenant's employees, agents,  
4 representatives or invitees, or any claims arising from any breach of this Lease by Tenant.

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

7 14.1 Coverage equivalent to ISO form CG 00 01 11 88 (Commercial  
8 General Liability) Insurance or Self-Insurance that shall include the Landlord as an  
9 additional insured with coverage equivalent to an ISO form CG 20 26 11 85 in an  
10 amount of Two Million Dollars (\$2,000,000) per occurrence and in the aggregate.

11 14.2 Coverage equivalent to ISO form CA 00 01 (Commercial  
12 Automobile) Insurance or Self-Insurance in an amount of One Million Dollars  
13 (\$1,000,000) combined single limit (CSL) per accident for bodily injury and property  
14 damage covering owned, non-owned, and hired automobiles. This shall also cover  
15 garage keepers legal liability with limits of Fifty Thousand Dollars (\$50,000).

16 14.3 Worker's compensation coverage that complies with the Labor  
17 Code of the State of California, and any other applicable rules, regulations,  
18 ordinances and disability benefit acts.

19 14.4 Property Insurance covering the Tenant's personal property  
20 from "All Risk" perils of loss (excluding flood, earthquake, and terrorism) which is  
21 brought onto or kept on the Premises on a replacement cost basis. This policy shall  
22 have a deductible no larger than Tenant's most common, current Property Insurance  
23 deductible.

24 14.5 Tenant shall deliver to Landlord certificates evidencing the  
25 existence, coverage and amounts of such insurance or self-insurance within  
26 seven (7) days after the commencement of the Lease and no later than the first day  
27 upon which Tenant commences any preparation, improvement or operation upon  
28

1 the Premises. No such policy shall be cancelable or subject to reduction of  
2 coverage or other modification, except for reduction of limits due to claim activity,  
3 except after thirty (30) days prior written notice to Landlord. Tenant shall, at least  
4 thirty (30) days within the expiration of such policies, furnish Landlord with renewal  
5 certificates or cover notes or binders of renewal thereof.

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

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

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

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

26 19. Signs. Tenant shall not place, affix, maintain, or permit any sign on the  
27 Premises without the prior written approval of Landlord. Any sign so approved shall be  
28

1 maintained in good condition by Tenant at its sole cost and expense.

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

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

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

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



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

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

Dated: 10/26, 2006

By: [Signature]  
Its: ASST Supt - Exec V.P.

**"LANDLORD"**

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

Dated: 10-27, 2006

By: [Signature]  
City Manager

**"TENANT"**

Approved as to form this 24<sup>th</sup> day of October, 2006.

ROBERT E. SHANNON, City Attorney

By: [Signature]  
Richard F. Anthony, Deputy

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

RFA:abc 10/11/06 (LEASE/GRANT DEED) #06-03432  
L:\APPS\CtyLaw32\WPDOCS\D008\P005\00093881.WPD

**ATTACHMENT**

**Proposed Parking Lease Area**

**(APPROX 600-730 SPACES)**

**BOHING PARKING**  
**(386 SPACES)**

**AIRPORT LOT D**  
**(1984 PARKING SPACES)**

s.smith/public works/engineering 9-22-06

**CITY OF LONG BEACH - CALIFORNIA**  
**DEPARTMENT OF PUBLIC WORKS - CHRISTINE F. ANDERSEN DIRECTOR**

**Vicinity Map for**  
**Proposed City Leased Parking**  
**at Veterans Stadium**