

IMPLEMENTATION AGREEMENT

29491

This Implementation Agreement (this "Agreement") is entered into as of March 1, 2006, by and between the City of Long Beach, a municipal corporation and chartered city existing under and pursuant to the laws of the State of California (the "City"), and Aquarium of the Pacific, a California nonprofit public benefit corporation (the "Corporation") pursuant to this Agreement.

RECITALS

WHEREAS, in 2001, in order to provide capital financing for the Aquarium of the Pacific (the "Facility"), the Long Beach Bond Financing Authority (the "Authority") issued \$129,520,000 aggregate principal amount Lease Revenue Refunding Bonds (Aquarium of the Pacific Project) Series 2001 (the "Series 2001 Bonds") pursuant to an Indenture of Trust, by and between the Authority and U.S. Bank Trust National Association (predecessor in interest to U.S. Bank, National Association) (the "Trustee"), dated as of April 1, 2001 (the "2001 Indenture"); and

WHEREAS, the Series 2001 Bonds are secured by Pledged Revenues (as defined in the 2001 Indenture), which include, among other things, rental payments under the lease agreement by and between the Corporation and the Authority, dated as of April 1, 2001 (the "2001 Lease Agreement") in an amount equal to Revenues (as defined in the 2001 Indenture), including proceeds of grants, membership fees and contributions to the Corporation, but only to the extent that such proceeds are not otherwise restricted by the terms thereof; and

WHEREAS, under Section 6.4 of the 2001 Lease Agreement, the Corporation is required to provide the Authority and the Trustee a Budget for each Fiscal Year with the consent of the City, which consent is addressed further in Section 13.2 of the Fifth Amended and Restated Bylaws of the Corporation (the "Bylaws"); and

WHEREAS, in fiscal years 2001 through 2005, (1) the Corporation submitted budgets to the City as required in Section 13.2 of the Bylaws, (2) in each year the City approved the Corporation's budget, and (3) the Corporation contributed funds towards debt service on the Series 2001 bonds that met or exceeded the City-approved budget, with such contributions ranging from approximately \$469,254 to approximately \$2,249,058, resulting in the payment of debt service on the Series 2001 Bonds from other pledged sources of funds under the 2001 Indenture in amounts ranging from approximately \$699,790 to approximately \$3,114,376; and

WHEREAS, the total actual Available Tidelands Revenues (as defined in the Indenture) in fiscal years 2002, 2003 and 2004 were approximately \$17,336,000, \$22,150,000 and \$26,247,000, respectively, and are expected by the City to remain above \$19,500,000 for fiscal years 2005 through 2008; and

WHEREAS, per the historic and projected Available Tidelands Revenues data, the City and the Corporation find the possibility of non-payment of debt service on the Series 2001 Bonds highly unlikely; and

WHEREAS, in 2004, the Corporation hired Economic Research Associates ("ERA") and Management Resources ("MR") to make recommendations regarding ways to improve the Corporation's financial strength, increase revenue-generating opportunities, enhance long-term

financial stability, increase attendance and expand capacity, all towards producing revenues sufficient to cover debt service on the Series 2001 Bonds. ERA and MR recommended a long-term master plan focused on expanding capacity and potentially growing attendance to as many as 1.7 to 1.8 million per year by 2020; and

WHEREAS, the Corporation has presented the City with the Corporation's long-term master plan (the "Master Plan"), which, among other things, incorporates the recommendations of ERA and MR; and

WHEREAS, the Master Plan includes financial projections for fiscal years 2006 through 2030 which illustrate that without expansion and periodic renewal of the Facility, the Corporation projects producing a maximum of approximately \$3,528,000 of net Revenues available for debt service on the Series 2001 Bonds in fiscal year 2006, declining thereafter potentially to as little as \$1,500,000 in fiscal year 2030; and

WHEREAS, the Master Plan includes financial projections for fiscal years 2006 through 2030 which illustrate that by expansion of the Facility principally through a fund development capital campaign, the Corporation may potentially produce not less than \$3,528,000 of net Revenues available for debt service on the Series 2001 Bonds in each fiscal year, potentially increasing to as much as approximately \$5,400,000 in fiscal year 2030; and

WHEREAS, the Corporation has approved the Master Plan and the City has reviewed the Master Plan, and the City and the Corporation, given the assumptions used in the Master Plan, find the financial projections therein to be fair and reasonable, and find and agree that the large fund development campaign described in the Master Plan will be required to expand, enhance and renew the Facility under the Master Plan in order to maximize Revenues available for debt service on the Series 2001 Bonds; and

WHEREAS, the Corporation is planning a fund development capital campaign to expand, enhance and renew the Facility and has had preliminary discussions regarding the expansion with key donors and others in the fund development community from which the Corporation expects to receive a significant portion of the funds necessary to expand the Facility; and

WHEREAS, the Corporation has been advised by the fund development community and others, and the City and the Corporation have concluded, that the capital campaign will be optimized if certain matters regarding the Corporation's budget and other matters can be agreed upon between the City and the Corporation prior to the fund development capital campaign; and

WHEREAS, the Corporation and the City desire to enter into this Agreement in order to implement terms which the parties have concluded are reasonably necessary to provide for the expansion and periodic renewal of the Facility in accordance with the rights and obligations of the City and the Corporation set forth in the 2001 Lease Agreement, the 2001 Indenture and the Bylaws; and

WHEREAS, Ambac Assurance Corporation, as insurer for the Series 2001 Bonds, has been presented with, and has acquiesced by not objecting to, this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the Corporation and the City agree as follows:

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section shall for all purposes of this Agreement, and of any amendment or supplement hereto, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined. All capitalized terms not defined herein have the meanings ascribed thereto in the recitals of this Agreement, the 2001 Indenture, the 2001 Lease Agreement and the 2001 Parking Agreement.

“Additional Improvements” means a project consisting of the planning, design, construction, betterments and additions to the Facility described in the master plan of the Corporation, as may be amended from time to time by the Board of Directors of the Corporation in consultation with the City.

“Additional Improvements Contributions” means contributions to the Corporation restricted as to their use by the terms thereof to construction of the Additional Improvements, as determined on a cash basis.

“Additional Section 5.02(c) Rent” means Revenues available to pay debt service on the Series 2001 Bonds (or Refunding Bonds thereof) pursuant to Section 5.02(c) of the 2001 Indenture as long as the Series 2001 Bonds (or Refunding Bonds thereof) are outstanding after the payment of Operating and Maintenance Expenses, Section 5.02(c) Rent and Program Reinvestment Costs.

“Construction” means the physical construction of Additional Improvements, and does not include planning and designing of such Additional Improvements or any activities of the Corporation related thereto.

“In Lieu Renewal Operating and Maintenance Expenses” means Operating and Maintenance Expenses which are categorized as items otherwise payable from the Renewal and Replacement Fund that are specifically and separately identified in the Budget to be payable as Operating and Maintenance Expenses, and for which Revenues are available after budgeting the payment of Operating and Maintenance Expenses, Section 5.02(c) Rent and Program Reinvestment Costs.

“Minimum Additional Improvements Contributions Threshold” means pledged contributions to the Corporation restricted as to their use by the terms thereof to Construction of the Additional Improvements in an amount equal to 75% of the estimated costs of the Additional Improvements or phase thereof. The Corporation shall provide the City evidence of such pledged contributions to the commercially reasonable satisfaction of the City.

“Pledged Revenues Available To Pay Debt Service” means, collectively, (1) Rental Payments, (2) Parking Revenues, (3) Available Tidelands Revenues, (4) Hotel Taxes, and (5) all interest, profits or other income derived from the investment of such amounts in any fund or account established pursuant to the 2001 Indenture, to the extent such amounts are available (if needed) to be deposited in the Bond Fund.

“Pre Expansion” means the period prior to the date on which the certificate of occupancy of the first major module of the expansion of the Facility described in the master plan of the Corporation, as may be amended from time to time by the Board of Directors of the Corporation, is received by the Corporation.

“Post Expansion” means the date on which the certificate of occupancy of the first major module of the expansion of the Facility described in the master plan of the Corporation, as may be amended from time to time by the Board of Directors, is received by the Corporation and the period thereafter.

“Program Reinvestment Costs” means Operating and Maintenance Expenses which are categorized as items otherwise payable from the Renewal and Replacement Fund that are specifically and separately identified in the Budget to be payable as Operating and Maintenance Expenses. Program Reinvestment Costs shall equal the lesser of (i) Revenues less Operations and Maintenance Expenses less Section 5.02(c) Rent, or (ii) \$500,000, as adjusted for inflation at a rate equal to the LA/Long Beach CPI Price Deflator each June 30 for the ensuing Fiscal Year.

“Refunding Bonds” shall mean obligations issued or executed and delivered in order to refund the outstanding Series 2001 Bonds; provided that such obligations shall not require payments from the Corporation in excess of the lesser of (i) \$3,528,000 in any Fiscal Year, or (ii) actual debt service on such Refunding Bonds in any Fiscal Year.

“Section 5.02(c) Rent” means \$3,528,000 of Revenues in each Fiscal Year paid towards debt service on the Series 2001 Bonds (or Refunding Bonds thereof) pursuant to Section 5.02(c) of the 2001 Indenture as long as the Series 2001 Bonds (or Refunding Bonds thereof) are outstanding.

“2001 Parking Agreement” means the Parking Agreement by and between the City and the Corporation, dated as of April 1, 2001, as may be amended or supplemented.

Section 2. Amendment of Budgeting Process in the Bylaws. The Corporation shall cause Section 13.2(b) of the Bylaws to be amended and restated in its entirety as follows (and the City hereby consents to such amendment and restatement pursuant to Section 9.1 of the Bylaws):

(b) Budget process. The Corporation will coordinate with the City regarding timely submittal of proposed budgets to meet the requirements of the Lease for submittal of an annual consented budget preferably sixty days (60) but at least thirty (30) days prior to each fiscal year. The City agrees it will not withhold its consent to any budget (or budget amendment) solely on the basis of the shortfall of the resulting earnings before interest, taxes, depreciation and amortization (“EBITDA”) submitted in good faith by the Corporation and which meets each of the following parameters:

(i) such budget shall provide for a capital component of Operating and Maintenance Expenses equal to the percentage of Revenues of the Corporation for each Fiscal Year as shown on Exhibit B attached to the Implementation Agreement and, if different than as shown on Exhibit B, with prior City consent;

(ii) such budget shall provide for Revenues at least sufficient to pay
(a) all projected Operating and Maintenance Expenses of the Corporation and
(b) Section 5.02(c) Rent. Subject to Section 13.2(b)(iii) below, Revenues available

after the payment of (a) and (b) above shall be budgeted: first, as Program Reinvestment Costs; and second, 50% as Additional Section 5.02(c) Rent and 50% as In Lieu Renewal Operating and Maintenance Expenses;

(iii) Budgeted Revenues as set forth in this Section 13.2(b) shall include up to \$1,500,000 in Parking Revenues in each Fiscal Year payable to the Corporation pursuant to the Parking Agreement as set forth in Exhibit A hereto. In the event that actual Parking Revenues paid in any Fiscal Year are less than the amount of Parking Revenues as set forth in Exhibit A to the Implementation Agreement for such Fiscal Year, the Corporation and the City agree that the Budget shall be amended pursuant to Section 6.4(a) of the Lease and this Section 13.2(b)(iii), and further City consent to such amendment shall not be required, so that the budgeted uses of Revenues are decreased by no more than the amount of the difference between budgeted and actual paid Parking Revenues in the following order until the revised budget is balanced: first, 50% to Additional Section 5.02(c) Rent and 50% to In Lieu Renewal Operating and Maintenance Expenses, second, Program Reinvestment Costs and third, Section 5.02(c) Rent. In the event that Section 5.02(c) Rent is reduced pursuant to the third step in this Section 13.2(b)(iii), and the Corporation subsequently amends the budget to include additional Revenues, the Corporation shall increase Section 5.02(c) Rent by the amount of such reduction prior to using such additional Revenues for any other purpose. The budget amendments pursuant to this Section 13.2(b)(iii) shall not constitute a substantial deviation or Major Deviation under Section 13.2(d) hereof; and

(iv) The City agrees it will not withhold its consent to any budget (or budget amendment) solely on the basis of the amount of Operating and Maintenance Expenses if the budgeted Operating and Maintenance Expenses as a percent of budgeted Revenues is within 5% of the budgeted Operating and Maintenance Expenses as a percent of Revenues for the previous Fiscal Year.

Nothing in this Section 13.2(b) is intended to limit the City's authority to disapprove the budget for other reasons.

(v) The City and the Corporation agree that the revisions to the Corporation's budget process contained in this Section 13.2(b), including without limitation the right of the City to disapprove a budget of the Corporation which meets the conditions contained herein, are essential to the Corporation's capital campaign to expand the Facility, to the long-term maximization of Corporation revenues and to the achievement of the City's public purposes with respect to the Facility. Notwithstanding the other provisions of this Section 13.2(b), in the event that Pledged Revenues Available To Pay Debt Service in any Fiscal Year are projected by the City to be less than 1.2x debt service on the Series 2001 Bonds, then, for such Fiscal Year, the amendments to this Section 13.2(b) of the Bylaws effected by the Implementation Agreement, by and between the City and the Corporation, dated as of March 1, 2006, shall not be in effect and the Corporation and the City shall abide by the provisions of Section 13.2(b) contained in the Fifth Amended and Restated Bylaws of the Corporation.

Section 3. Amendment of Major Deviations from the Budget under the Bylaws. The Corporation shall cause the last paragraph of Section 13.2(d) of the Bylaws to be amended and restated in its entirety as follows (and the City hereby consents to such amendment and restatement pursuant to Section 9.1 of the Bylaws):

A Major Deviation shall mean (i) failure of the Corporation to comply with Section 6.3(c) of the Lease, (ii) the continuance of a substantial deviation described above for two consecutive, non-overlapping, nine-month periods (without regard to any cure pursuant to this Section 13.2(d)), or (iii) the failure to obtain City consent to a budget for any fiscal year or any required amendment on a timely basis.

Section 4. Amendment of Removal of Directors Provisions in the Bylaws. The Corporation shall cause the second paragraph of Section 2.8 of the Bylaws to be amended and restated in its entirety as follows (and the City hereby consents to such amendment and restatement pursuant to Section 9.1 of the Bylaws):

In addition, the City shall have the right to immediately remove any and all Directors and to appoint any and all replacements for those Director positions in the following circumstances: (1) if the Board of Directors or the Corporation fail to comply in any material respect with the provisions of these Bylaws, (2) if there is a "major deviation" within the meaning of Section 13.2 of these Bylaws and/or (3) there are transfers from City to the Authority pursuant to the City Pledge Agreement in any five (5) years of any seven (7) year period; provided that the provision set forth in clause (3) of this Section 2.8 above shall terminate and no longer be in force and effect at any time at the election of the Corporation upon delivery by the Corporation to the Authority, the City and the Trustee of an Opinion of Bond Counsel pursuant to Section 3.3.6 of the Tax Certificate to the effect that the expiration of the provision set forth in clause (3) of this Section 2.8 above shall have no adverse effect on the exclusion of interest on the Series 2001 Bonds. Any such right of the City to remove and appoint Directors shall not lapse until the circumstance causing such right has been remedied to the satisfaction of the City. For purposes of this Section, any failure to comply with the provisions of Section 2.4, 2.8, 9.1, 10.1, 11.1, 13.2 (other than immaterial breaches of notice requirement in such sections) or 13.3 hereof shall be considered material. Nothing in the preceding sentence shall limit the right of City to remove Directors for material failure to comply with other provisions of these Bylaws.

Section 5. In Lieu Renewal Operating and Maintenance Expenses. The Corporation and the City agree that budgeted In Lieu Renewal Operating and Maintenance Expenses in each Fiscal Year shall be committed and earmarked in each subsequent Budget to the payment of Operating and Maintenance Expenses. Such In Lieu Renewal Operating and Maintenance Expenses shall be withdrawn and transferred by the Corporation in accordance with Section 5.03 of the 2001 Indenture and deposited in an In Lieu Renewal Operating and Maintenance Expenses Account held by the Trustee for the payment of In Lieu Renewal Operating and Maintenance Expenses. Additional Improvements may be budgeted as In Lieu Renewal Operating and Maintenance Expenses only with the consent of the City Manager (however, no consent is required for Additional Improvements budgeted with Additional Improvements Contributions). The Corporation and the City agree that, upon consent of the City Manager, to the extent In Lieu Renewal Operating and Maintenance Expenses are used in the construction of Additional Improvements, construction of the

Additional Improvements shall constitute Operating and Maintenance Expenses under subsection (iv) of the definition thereof and are facilities with respect to the Facility necessary to maintain the Facility's competitive position, and may be budgeted as In Lieu Renewal Operating and Maintenance Expenses. The Corporation and the City agree that the amount needed for In Lieu Renewal Operating and Maintenance Expenses will never be less than the amount budgeted for In Lieu Renewal Operating and Maintenance Expenses pursuant to the formula set forth in Section 13.2(b)(ii) of the Bylaws as amended pursuant to Section 2 of this Agreement.

Section 6. Agreement by the City not to Pursue Certain Actions. Notwithstanding any other provision of this Agreement, the Bylaws, the 2001 Lease or any other agreement, as long as the Corporation is pursuing in good faith the Additional Improvements and the Additional Improvements Contributions and as long as Section 5.02(c) Rent is paid in each Fiscal Year, the City shall not direct the Corporation to employ an Independent Consultant as provided in Section 6.3(c) of the 2001 Lease or 13.2(d) of the Bylaws. Additionally, in the event that an Independent Consultant is employed by the Corporation, whether pursuant to Section 6.3(c) of the 2001 Lease, 13.2(d) of the Bylaws or otherwise, such Independent Consultant shall be selected by the Corporation with the consent of the City which shall not be unreasonably withheld.

(a) Notwithstanding the foregoing, the Corporation agrees that in the event there are transfers from City to the Authority pursuant to the City Pledge Agreement in any five (5) years of any seven (7) year period, then the City shall have the right to immediately remove any and all Directors and to appoint any and all replacements for those Director positions; provided that the provisions set forth in this Section 6(a) shall terminate and no longer be in force and effect at any time at the election of the Corporation upon delivery by the Corporation to the Authority, the City and the Trustee of an Opinion of Bond Counsel pursuant to Section 3.3.6 of the Tax Certificate to the effect that the expiration of the provisions set forth in this Section 6(a) shall have no adverse effect on the exclusion of interest on the Series 2001 Bonds.

(b) Notwithstanding the foregoing, the Corporation agrees that in the event there are transfers from City to the Authority pursuant to the City Pledge Agreement in any five (5) years of any seven (7) year period, then the City shall also have the right to direct the Corporation to employ an Independent Consultant under the terms and conditions set forth in Section 6.3(c) of the 2001 Lease; provided that the Corporation shall not be directed to employ an Independent Consultant more than once in any twelve (12) month period so long as the Corporation employs the Independent Consultant as directed and the Independent Consultant has performed or is continuing to perform the services for which it was employed.

(c) The Corporation may request that the City make representations to the Corporation regarding its present intentions with respect to the exercise of the rights set forth in Sections 6(a) and 6(b) above.

Section 7. Vacancies of the Office of President. The Corporation shall cause Section 5.4 of the Bylaws to be amended and restated in its entirety as follows (and the City hereby consents to such amendment and restatement pursuant to Section 9.1 of the Bylaws):

Section 5.4 Vacancies. Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by the Board of Directors. In the event of a vacancy in any office other than that of President, such vacancy may be filled temporarily by appointment by the President until such time as

the Board of Directors shall fill the vacancy. Vacancies occurring in offices of officers appointed at the discretion of the Board of Directors may or may not be filled, as the Board of Directors shall determine. In the event of a vacancy of the office of President, the City Manager or the designee thereof shall be at his request included as a member of the committee of the Board of Directors responsible for selecting a new President, unless otherwise prohibited by law.

Section 8. Annual Briefing of Performance of President. The Corporation shall cause Section 5.5 of the Bylaws to be amended and restated in its entirety as follows (and the City hereby consents to such amendment and restatement pursuant to Section 9.1 of the Bylaws):

Section 5.5 Duties of President. The President shall be the chief executive officer of the Corporation and shall, subject to the control of the Board of Directors, control the operations of the Corporation, including without limitation the supervision of all officers, agents and employees of the Corporation to assure that their duties are performed properly. The President shall be an ex officio, voting member of the Board of Directors. The City Manager shall be briefed by the Chairman of the Board of Directors or the committee of the Board of Directors appointed to annually review the performance of the President.

Section 9. Limitations on Construction of the Additional Improvements. The Corporation shall not commence Construction of the Additional Improvements until the Minimum Additional Improvements Contributions Threshold has been received by the Corporation; provided, however, that the Corporation may commence Construction of the Additional Improvements in phases, and in such case the Corporation shall not commence Construction of a phase of the Additional Improvements until the Minimum Additional Improvements Contributions Threshold of such phase of the Additional Improvements has been received by the Corporation. The City Manager or the designee thereof shall be informed and consulted on the contracting process for the construction of the Additional Improvements, unless otherwise prohibited by law. The City may, in its discretion, require the Corporation to obtain performance bonds and material bonds for the construction of Additional Improvements prior to each phase of construction of such Additional Improvements for which the City has not provided consent. The Corporation shall be required to create an investment policy regarding Additional Improvements Contributions with the consent of the City which shall not be unreasonably withheld. Failure to materially adhere to such investment policy shall result in a modification of the Minimum Additional Improvements Contribution Threshold to 100% of the estimated costs of the Additional Improvements and all subsequent phases thereof.

The Corporation and the City acknowledge and agree that the following restrictions apply to the construction of Additional Improvements under State and local municipal law. All plans for the construction of Additional Improvements shall be submitted to the City's Department of Planning and Building. The Corporation shall obtain the City's written consent, as owner of the site upon which the Facility is located, to submit all permit applications to the Department of Planning and Building, which consent shall not be unreasonably withheld or delayed. The City shall review all plans for Additional Improvements and may enforce design and other changes to the plans for the Additional Improvements before issuing construction permits for such Additional Improvements. Once plans for Additional Improvements are submitted to the City's Department of Planning and Building, the City shall determine what California Environmental Quality Act ("CEQA") review is

needed. The Corporation will advise the Parks and Recreation Commission about Additional Improvements.

Section 10. City Not Responsible for Additional Improvements. The Corporation and the City hereby agree that the Corporation shall be responsible for all costs associated with the Additional Improvements, and no additional debt shall be expected to be incurred by the City in the construction of the Additional Improvements. The Corporation projects that when completed, the additional Revenues attributable to the Additional Improvements will cover all additional Operating and Maintenance Expenses attributable to the Additional Improvements unless such Additional Improvements are otherwise required for future accreditation, animal health and safety and/or otherwise required by law.

Section 11. Site Control of the Facility. The City understands the future fund development programs for each of the Additional Improvements may require the Corporation to give evidence to potential donors of its site control of the Facility for the useful life of such Additional Improvements. The City agrees that, at any time at the election of the Corporation upon delivery by the Corporation to the Authority, the City and the Trustee of an Opinion of Bond Counsel pursuant to Section 3.3.6 of the Tax Certificate to the effect that the extension of the Corporation's lease of the Facility shall have no adverse effect on the exclusion of interest on the Series 2001 Bonds, the City will consider in good faith extending the term of the Corporation's site control of the Facility to 2060 with the conditions set forth in this Section 11. Any and all extensions of the Corporation's lease of the Facility pursuant to this Section 11 shall provide that while any 2001 Bonds or Refunding Bonds are outstanding, the Corporation shall pay Section 5.02(c) Rent and Additional Section 5.02(c) Rent in accordance with this Agreement. Once there are no 2001 Bonds or Refunding Bonds outstanding and for each Fiscal Year thereafter, the rent the Corporation will pay each Fiscal Year in accordance with any and all extensions of the Corporation's lease of the Facility pursuant to this Section 11 shall be \$1.

Section 12. Control and Operation of the Parking Facility. The City and the Corporation shall consider allowing the Corporation to operate and maintain the Parking Facility. During the time that a party other than the Corporation is operating and maintaining the Parking Facility, the Corporation shall receive a monthly accounting of the operations of the Parking Facility, and shall be provided all reviews, if any, of the performance of such Parking Facility operator.

Section 13. Amendments. This Agreement may be amended or modified only by written instrument signed by the parties hereto.

Section 14. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the Corporation or the City to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenants or agreements shall be null and void and shall be deemed separate from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement.

Section 15. Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

Section 16. Governing Law. This Agreement shall be construed under the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed all as of the date first above written.

THE CITY OF LONG BEACH

By: Christine F. Shippin
Its: City Manager
ASSISTANT

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

APPROVED AS TO FORM:

By: [Signature]
Its: Assistant City Attorney

AQUARIUM OF THE PACIFIC, a California
nonprofit public benefit corporation

By: Howard E. Chambers
Its: Chairman of the Board of the Directors

By: Jerry R. Schubel
Its: President and Chief Executive Officer

EXHIBIT A

BUDGETED PARKING REVENUES

<i>Fiscal Year</i>	<i>Budgeted Parking Revenues</i>
2006	\$ 907,450
2007	994,701
2008	1,100,504
2009	1,106,039
2010	1,108,408
2011	1,136,183
2012	1,207,191
2013	1,251,406
2014	1,167,702
2015	1,194,079
2016	1,192,248
2017	1,157,900
2018	1,184,223
2019	1,109,507
2020	1,365,460
2021	1,500,000
2022	1,500,000
2023	1,500,000
2024	1,500,000
2025	1,500,000
2026	1,500,000
2027	1,500,000
2028	1,500,000
2029	1,500,000
2030	1,500,000

EXHIBIT B
OPERATING AND MAINTENANCE EXPENSES
AS A PERCENT OF REVENUES

<i>Fiscal Year</i>	<i>Operating and Maintenance Expenses Capital Component⁽¹⁾ As a Percent of Revenues</i>
2005	5%
2006	5
2007	5
2008	5
2009	5
2010	5
2011	5
2012	5
2013	5
2014	5
2015	5
2016	6
2017	6
2018	6
2019	6
2020	6
2021	6
2022	6
2023	6
2024	6
2025 – 2030	7

⁽¹⁾ The capital component of the Operating and Maintenance Expenses is a line item in the Corporation's budget for each Fiscal Year for capital expenditures estimated based on a percentage of Revenues.