

Agreement No. 76300  
Long Beach Northeast Drainage System -  
Hamilton Bowl  
Parcels 1 through 79, 82 through 85, and 107  
R/W Map No. 94-RW1  
A.P.N. 7216-012-900, 902 through 906, and  
7216-033-900  
Thomas Guide Page 795 G-4  
Fourth District

**30310**  
**LEASE AGREEMENT**

**BETWEEN**

**LOS ANGELES COUNTY FLOOD CONTROL DISTRICT**

**AND**

**CITY OF LONG BEACH**

## LEASE AGREEMENT

This Lease Agreement (hereinafter referred to as the Lease) is made and entered into, in duplicate, as of the 25<sup>th</sup> day of JULY, 2007 (hereinafter referred to as the Effective Date), pursuant to minute order adopted by the City Council of the City of Long Beach, at its meeting held on the 19<sup>th</sup> day of June, 2007, by and between the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic (hereinafter referred to as LANDLORD) and the CITY OF LONG BEACH, a municipal corporation (hereinafter referred to as TENANT).

### 1. DESCRIPTION AND ACCEPTANCE OF LEASED PREMISES.

1.1. The premises leased hereunder (hereinafter referred to as the Leased Premises) consist of approximately 19 acres of land located in the City of Long Beach, California, which is used by LANDLORD as a flood control facility known as Hamilton Bowl and commonly referred to as Chittick Field. The Leased Premises are more particularly described in Exhibit A attached hereto and incorporated herein by this reference.

1.2. TENANT accepts the Leased Premises in an as is condition and acknowledges that TENANT has not received and LANDLORD has not made any warranty, express or implied as to the condition of the Leased Premises or any improvements, structures, substructures, or infrastructures located thereon.

1.3. TENANT specifically acknowledges that the Leased Premises are subject to periodic inundation by storm water flows.

2. USE. TENANT agrees for itself, its successors and sublessees, that during the Term, the Leased Premises shall be used for publicly-owned recreational improvements consisting specifically of baseball fields, soccer fields, a dirt parking lot and a restroom structure (hereinafter referred to as the Authorized Uses). Any other use is expressly prohibited; provided, however, that this Lease shall be amended to change the Authorized Uses, subject to such additional terms and conditions as LANDLORD may reasonably determine are necessary or appropriate, and provided that the proposed uses are recreational in nature, open to the public, comply with all other provisions of this Lease and all other applicable laws.

3. TERM. The term (hereinafter referred to as the Term) of this Lease shall commence on July 1, 2007 and shall continue thereafter for a period of sixty-five (65) years, with an expiration date of June 30, 2072, subject to the parties' respective rights to cancel as set forth in Section 5, below.

4. RENT. Rent for the Leased Premises shall be zero dollars (\$0.00) per year. TENANT acknowledges that if this Lease is amended to change the Authorized Uses, TENANT will be required to pay fair market rent for the Leased Premises.

### 5. CANCELLATION.

5.1. LANDLORD shall have the right to cancel and terminate this Lease, by giving TENANT at least one hundred eighty (180) days prior written notice, under the following conditions:

5.1.1. LANDLORD proposes to implement a project on the Leased Premises for flood control, water quality or water conservation purposes, including, but not limited to, modifying the Flood Control Improvements (defined in Section 6.1, below) or the Water Quality Improvements (defined in Section 6.1, below) to increase capacity or improve efficiency; and

5.1.2. LANDLORD determines, in good faith, that the Authorized Uses, or any of them, would be substantially incompatible with the proposed project; and

5.1.3. LANDLORD has negotiated in good faith with TENANT and provided TENANT with a reasonable opportunity to accommodate the proposed project in a manner, which would avoid the termination of this Lease.

5.2. TENANT shall have the right to cancel this Lease for any reason by giving LANDLORD at least sixty (60) days prior written notice.

6. FLOOD CONTROL, WATER QUALITY, AND WATER CONSERVATION PRIORITY.

6.1. TENANT acknowledges that the Leased Premises are used by LANDLORD for flood control purposes, including the operation of a detention basin and pump stations and facilities (hereinafter referred to as the Flood Control Improvements) and for water quality purposes, including the operation of facilities to remove trash from storm water flows (hereinafter referred to as Water Quality Improvements) by LANDLORD and the City of Signal Hill (hereinafter referred to as Signal Hill) for water conservation purposes. Notwithstanding anything to the contrary contained in this Lease, at no time shall TENANT use the Leased Premises, or construct any improvements thereon, in such a manner which would limit or interfere with LANDLORD's use of the Leased Premises for flood control, water quality or water conservation purposes or Signal Hill's use of the Water Quality Improvements.

6.2. TENANT acknowledges that LANDLORD's use of the Leased Premises for flood control, water quality and water conservation may require construction activities by LANDLORD and others authorized by LANDLORD to be carried on within the Leased Premises from time to time. TENANT shall not unreasonably hinder or delay any such construction activities, and LANDLORD shall not unreasonably interfere with TENANT's Authorized Uses when carrying out such construction activities.

6.3. If LANDLORD determines, in its reasonable discretion, that any construction activities described in subparagraph 6.2, above, cannot be accommodated

practically or economically with any improvements made or used by TENANT in connection with the Authorized Uses, TENANT shall be obligated to make such modifications, additions, relocation or removal as may be requested by LANDLORD. TENANT shall perform such obligations at its expense and shall complete them prior to commencement of LANDLORD's construction activities.

6.4. Should TENANT fail to commence performance of said modifications, additions, relocation or removal within ninety (90) days from receipt of notice from LANDLORD, LANDLORD may perform the required work itself or engage an independent contractor and charge TENANT for any and all expenses incurred, together with interest at a rate of ten percent (10%) per annum, but not to exceed the existing legal limit as of the date of demand by LANDLORD.

## 7. CONSTRUCTION, ALTERATION AND CHANGES.

### 7.1. Tenant's Right to Construct and Alter.

7.1.1. TENANT has the right to construct, or cause to be constructed, improvements necessary for the Authorized Uses (hereinafter referred to as Tenant Improvements). All Tenant Improvements now or hereafter constructed or located on the Leased Premises, shall be the property of TENANT.

7.1.2. The construction, reconstruction, alteration, remodeling, or removal of any Tenant Improvement shall not commence until TENANT's preliminary and final plans and specifications have been submitted to and approved in writing by the Chief Engineer of the Los Angeles County Flood Control District or its designee, and are in accordance with the terms and conditions of this Lease. It is understood by TENANT that such approval by LANDLORD does not imply, confer, or constitute any entitlement as to what is permitted and may be constructed on the Leased Premises. Such entitlement(s) must be obtained by TENANT from the jurisdiction in which the Leased Premises are located.

7.1.3. Such written approval for construction, reconstruction, remodeling, or alteration with the exception of removal, shall not be unreasonably withheld unless LANDLORD, at its sole discretion, determines that the proposed construction, reconstruction, remodeling, or alteration, will interfere with LANDLORD's use of the Leased Premises for flood control, water quality or water conservation purposes or the placement of underground utilities.

7.1.4. TENANT shall submit to LANDLORD As Built Construction Drawings within thirty (30) days of issuance of a Notice of Completion as executed by the Head of the Permits and Subdivision Section, Construction Division of the County of Los Angeles Department of Public Works.

### 7.2. Cost of Construction. The entire cost and expense of constructing

any Tenant Improvements shall be borne by TENANT. TENANT shall protect, defend, indemnify and hold LANDLORD harmless from any liability whatsoever in connection with development and construction of any Tenant Improvements.

7.3. Approval by LANDLORD as to Compatibility. Approval by LANDLORD of plans and specifications submitted by TENANT shall be as to compatibility with LANDLORD's facilities and shall not be interpreted or inferred to be an endorsement or approval as to the design, accuracy, correctness, or authenticity of the information shown thereon. TENANT shall comply with all applicable requirements, rules, regulations, and ordinances pertaining to the construction of all Tenant Improvements on the Leased Premises.

7.4. Responsibility of TENANT to Obtain Permits. TENANT shall arrange for, obtain, and bear costs of all permits, including plan check and inspection fees, licenses, environmental impact reports, site preparation, surface treatment, relocation of any facilities, and enclosure of the Leased Premises as necessary or required for health or safety in the construction, operation, and maintenance of all Tenant Improvements and in connection with the Authorized Uses.

7.5. Incorporation of Permit by Reference. TENANT shall perform the covenants and conditions contained in any permit issued or to be issued to TENANT by the Chief Engineer of the Los Angeles County Flood Control District or his designees. In the event of any inconsistencies or ambiguities between the terms of this Lease and any permit issued, this Lease shall prevail.

## 8. REPAIRS AND MAINTENANCE.

### 8.1. Tenant Responsible for Repairs and Maintenance.

8.1.1. TENANT, at its sole cost and expense, shall maintain the Leased Premises, including but not limited to, all facilities, structures, landscaping and improvements constructed thereon by TENANT (but not including any LANDLORD-owned improvements), in good repair and in compliance with all requirements of law and usual industry standards.

8.1.2. TENANT shall take all steps necessary to protect all LANDLORD-owned improvements and property from damage incident to TENANT's use of the Leased Premises, all without expense to LANDLORD. TENANT shall be liable for damage to all LANDLORD-owned improvements and property resulting from or attributable to the use and occupancy of the Leased Premises by TENANT or any person entering thereon with or without the consent of TENANT, expressed or implied.

8.1.3. TENANT shall repair any and all damage that TENANT has made or caused to the Tenant Improvements, and shall remove any Tenant Improvements that have been damaged and cannot be repaired, at no cost to LANDLORD. Should damages be caused by the presence of hazardous substances,

TENANT shall take remedial actions as specified in Section 11, below.

8.1.3.1. TENANT shall immediately remove any graffiti from all Tenant Improvements. TENANT shall repair or remove all other instances of damage within seven (7) days of the incident causing the damage. Prior to TENANT's repair or removal of said damage, TENANT shall notify LANDLORD in writing. Where LANDLORD-owned improvements are affected, TENANT shall obtain LANDLORD's approval.

8.1.3.2. If TENANT fails to repair said damages or remove damaged structures within the applicable time period and otherwise to LANDLORD's satisfaction, LANDLORD may enter the Leased Premises with or without notice and repair said damage.

8.1.3.3. Should LANDLORD repair or remove said damages, TENANT shall reimburse LANDLORD for any and all expenses incurred, together with interest at a rate of ten percent (10%) per annum, but not to exceed the existing legal limit as of the date of demand by LANDLORD. For each month that the sum is past due, interest shall be charged on the unpaid balance plus accrued interest, until the full amount owed is received by LANDLORD.

8.1.3.4. Notwithstanding the above, LANDLORD shall not be obligated to make any repairs, alterations, additions or improvements in, on or to the Leased Premises or in, on or to any structure or other improvements hereinafter erected or installed thereon by TENANT, whether structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen.

8.2. Emergency Conditions. In the event of an emergency, TENANT shall take all steps necessary to abate the condition. Emergency conditions are defined as situations in which lives are endangered or material or substantial environmental damage will result if required work is delayed pending approval by LANDLORD. TENANT agrees that if work is done under emergency conditions, TENANT shall, within seven (7) days from the occurrence of the emergency, request approval in writing from LANDLORD for the work performed as required herein.

9. SURETY BONDS.

On each occasion TENANT constructs, reconstructs or removes any Tenant Improvement within the Leased Premises, TENANT shall at its own cost and expense furnish LANDLORD corporate surety and performance bonds, in accordance with LANDLORD's requirements.

10. TAXES AND ASSESSMENTS.

10.1. Should this Lease create a possessory interest, which may be subject to a property tax levy, TENANT agrees to pay any property tax levied on such interest.

10.2. Should, during the Term, any assessment be imposed on the Leased Premises in connection with or by virtue of this Lease by any governmental agency whether, city, state, federal or special district, TENANT agrees to pay such assessment.

10.3. If notice of any such tax or assessment is received by LANDLORD from a governmental agency or any other person or entity, LANDLORD shall communicate such notice to TENANT; however, LANDLORD's failure to communicate such notice shall not impose liability on LANDLORD or excuse TENANT from payment of the tax or assessment.

## 11. HAZARDOUS SUBSTANCES.

### 11.1. Definitions.

For purposes of this Lease, the term hazardous substances shall be deemed to include any of the following:

11.1.1. Hazardous, toxic or radioactive substances as defined in California Health and Safety Code Section 25316 as amended from time to time, or the same or a related defined term in any successor or companion statutes, crude oil or byproducts of crude oil other than which naturally exist on the property, and those chemicals and substances identified pursuant to Health and Safety Code Section 25249.8.

11.1.2. Substances, which require investigation or remediation under any federal, state or local statute, regulation, ordinance, order action, policy or common law.

11.1.3. That which is or becomes defined as hazardous waste, hazardous substances, pollutant or contaminant under any federal, state or local statute, regulation, ordinance or amendment thereto, including without limitation. the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and/or the Resource Conservation and Recovery Act (RCRA).

11.1.4. That which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or likewise hazardous and is or may become regulated by any governmental authority, agency, department, commission, board of instrumentality of the United States, the State of California or any political subdivision thereof.

11.1.5. Substances, present in, on or about the Leased Premises, which cause or threaten to cause a nuisance thereupon or to adjacent properties or pose or threaten to pose a hazard to the health or safety of persons on or about such property.

11.1.6. Substances containing gasoline, diesel fuel or other petroleum hydrocarbon.

11.1.7. Substances containing polychlorinated bipheynols (PCBs), asbestos or urea formaldehyde foam insulation.

11.2. Warranties and Representations.

11.2.1. TENANT hereby warrants and represents that it shall not cause or allow to be caused the presence, use, storage or disposal of any hazardous substances on or about the Leased Premises.

11.2.2. TENANT hereby warrants and represents that it shall comply with all federal, state, and local laws and regulations concerning the use, release, storage and disposal of hazardous substances on the Leased Premises.

11.3. Notice. TENANT agrees to immediately notify LANDLORD when TENANT has knowledge that hazardous substances have been released on the Leased Premises.

11.4. Damage/Spillage.

11.4.1. In the event of spillage, leakage, or escape (release) of any hazardous substances for any reason, TENANT shall immediately notify LANDLORD at (800) 675-4375 or (800) 675-HELP, and make necessary repairs and erect necessary restraints and impoundments to prevent discharge into any property, channel, ocean drainage system or underground reservoirs. TENANT shall also promptly remove any and all hazardous substances that may have leaked, spilled or escaped and restore the Leased Premises and all other affected properties and/or facilities to their former condition or equivalent to LANDLORD's satisfaction.

11.4.2. TENANT further agrees that no pollutants or water-carried pollutants may be used to pressure test a pipeline, or be discharged into LANDLORD's property, channel, underground reservoir, drainage system or the ocean unless TENANT receives written approval by LANDLORD. In the event such pollutants are inadvertently discharged into any such system, TENANT shall immediately notify LANDLORD by telephone and take the appropriate action to prevent further discharge.

11.4.3. In addition to removing any hazardous substances, TENANT shall be liable for and reimburse LANDLORD for any and all costs and expenses that LANDLORD may incur or suffer by reason of the escape of such substances from the Tenant Improvements. Such responsibility shall include costs or



expenses as LANDLORD may incur by reason of federal, state, local or other authoritative agency's laws and regulations.

11.5. Indemnity. TENANT agrees to indemnify, defend and save harmless LANDLORD, from and against all liability, expenses (including defense costs, legal fees, and response costs imposed by law) and claims for damages of any nature whatsoever, which arise out of the presence or release of hazardous substances on the Leased Premises. Notwithstanding the foregoing, this indemnity shall not apply to (1) the release by LANDLORD, its agents or employees, of any hazardous substance on, under or from the Leased Premises prior to the Effective Date (which such hazardous substances, if any, are more particularly described in that certain Phase I Environmental Assessment dated September 2005 prepared by SCS Engineers with respect to the Leased Premises and that certain Phase II Investigation Report dated October 5, 2005 prepared by SCS Engineers with respect to the Premises), and (2) the accumulation of hazardous substances on the Leased Premises due to floodwaters or otherwise due to the ongoing use of the Leased Premises as a detention basin, and (3) environmental damage that is caused by the active negligence or willful misconduct of LANDLORD, its agents or employees.

11.6. Default. TENANT's release of hazardous substances on the Leased Premises in violation hereunder shall constitute an event of default and shall be subject to the remedies set forth in this Lease.

11.7. Survival. The provisions, warranties and representations set forth in this Section 11 shall survive the termination of this Lease without limiting the survival of any other provisions of this Lease.

## 12. LIENS AND CLAIMS.

12.1. TENANT agrees to keep the Leased Premises and the Tenant Improvements hereinafter constructed or placed thereon, and every part thereof, and any and every estate, right, title, and interest therein, at all times during the Term, free and clear of mechanic's liens and other liens for labor, service, supplies, equipment, and materials.

12.2. TENANT shall, at all times, fully pay and discharge and wholly protect, defend, and hold harmless LANDLORD and all and every part of the estate, right, title, and interest of LANDLORD in and to all and every part of the Leased Premises and the Tenant Improvements, or any of them, against; (a) any and all demands or claims which may or could become such liens or labor claims; (b) all attorney's fees and costs, and; (c) any and all expenses, damages, or outlays which may or might be incurred by LANDLORD by reason of, or on account of any such liens or claims or the assertion thereof.

12.3. If any lien shall be filed, or if any suit, action, or proceeding shall be commenced, affecting the Leased Premises or the Tenant Improvements, TENANT

shall immediately, upon obtaining information thereof, give notice in writing to LANDLORD.

12.4. Should TENANT allow a final judgment of foreclosure of mechanic's lien, or any other judgment arising out of any claim or demand in connection with any construction or improvements made upon the Leased Premises to remain unsatisfied for more than a period of ten (10) days, LANDLORD may, at its option, pay any and all such claims or demands. TENANT covenants and agrees to pay to LANDLORD all such sums incurred or expended by LANDLORD, including all reasonable attorney's fees, with interest at a rate of ten percent (10%) per annum, but not to exceed the existing legal limit, from the time of such payment by LANDLORD, until the same shall be paid by TENANT. The interest charged shall be compounded monthly and shall be charged on the unpaid balance plus accrued interest; until such time that the full amount owed is received by LANDLORD.

12.5. LANDLORD shall have the right to post, record, and maintain on the Leased Premises such Notices of Nonresponsibility as provided for under the laws of the State of California.

12.6. Notwithstanding anything to the contrary herein contained, if TENANT shall contest the validity of any lien, claim or demand, then TENANT shall, at its expense, defend itself and LANDLORD against the same and shall pay and satisfy any final adverse judgment that may be rendered therein before enforcement thereof against LANDLORD or the Leased Premises.

12.7. TENANT shall name LANDLORD as additional obligee under any surety bond furnished in the contested proceedings.

### 13. INDEMNIFICATION & INSURANCE.

#### 13.1. Indemnification.

13.1.1. TENANT agrees to indemnify, defend, and hold harmless LANDLORD, its governing council, officers, employees, engineers, contractors, and agents against the claims of any third parties for any damage, destruction, personal injury, or death, to the extent caused by the acts or omissions of TENANT in conducting its operations, including the construction, reconstruction, maintenance or removal of any Tenant Improvements, on, above, under, or adjoining the Leased Premises. For purposes of this subsection 13.1, LANDLORD shall mean the Los Angeles County Flood Control District, the County of Los Angeles and their governing boards, officers, agents, and employees, and TENANT shall mean the City of Long Beach and its governing boards, officers, agents, and employees.

13.1.2. LANDLORD shall not be liable for any loss occurring due to the operation of the Leased Premises by TENANT; for injury, loss, death to any person whomsoever, including third parties, any damage to or destruction of the Leased

Premises, at any time occasioned by or arising out of, indirectly, solely, or contributorily by: (1) any act, activity or omission of TENANT or anyone holding under TENANT; (2) the occupancy or use of the Leased Premises or any part thereof, by or under TENANT; and/or (3) any state or condition of the Leased Premises caused by or relating to Tenant Improvements thereon or any part thereof.

13.1.3. LANDLORD agrees to indemnify, defend, and hold harmless TENANT, its governing council, officers, employees, engineers, contractors, and agents against the claims of any third parties for any damage, destruction, personal injury, or death, to the extent caused by the acts or omissions of LANDLORD in conducting its operations on, above, under, or adjoining the Leased Premises.

13.1.4. By providing the indemnification and among the parties hereto as set forth above, it is expressly understood and agreed the provisions of Government Code Sections 895.2 and 895.6 are not applicable to this Lease.

13.1.5. The provisions of California Civil Code Section 2778 regarding interpretation of indemnity agreements are made a part hereof as if fully set forth herein.

13.1.6. Each party agrees to include the other within the protection of any indemnification clause contained in any contract relating to the Leased Premises.

13.1.7. TENANT acknowledges that the Leased Premises are an operating flood control facility and subject to inundation. TENANT waives all rights to damages and releases LANDLORD of all liability for any loss, cost, or expense TENANT may sustain as a result of damage to or destruction of its improvements in, on, or adjacent to the Leased Premises caused by LANDLORD's flood control, water quality, or water conservation facilities and operations.

## 13.2. Insurance.

13.2.1. As of the Effective Date of this Lease and during the Term, TENANT shall procure and maintain in full force and effect the following insurance coverage, with insurance carrier(s) acceptable to LANDLORD:

(a) Comprehensive General Liability coverage of not less than five million dollars (\$5,000,000) combined single limit for third party liability and one million dollars (\$1,000,000) per occurrence.

(b) Automobile Liability coverage of not less than one million dollars (\$1,000,000) per accident.

(c) Worker's Compensation coverage in such amount as will fully comply with the laws of the State of California and that shall indemnify, insure,

and provide legal defense for both LANDLORD and TENANT against any loss, claim or damage arising from any injuries or occupation diseases occurring to any worker employed by or any person retained by TENANT in the course of carrying out the work or services contemplated in this Lease.

13.2.2. In the event TENANT procures commercial insurance policies for the Leased Premises, the County of Los Angeles and the Los Angeles County Flood Control District, its governing board, officers, agents, contractors, and employees shall be named as Additional Insured on all policies of liability insurance. TENANT shall furnish to LANDLORD a Certificate of Insurance evidencing TENANT's insurance coverage no later than ten (10) working days after execution of this Lease. Upon renewal of said policy, TENANT shall furnish to LANDLORD a Certificate evidencing TENANT's continued insurance coverage as required herein.

13.2.3. LANDLORD may accept, should TENANT elect to provide, a Certificate of Self-Insurance. The limits of such self-insurance coverage shall meet or exceed those stated herein. The Los Angeles County Flood Control District, the County of Los Angeles and their governing Board, officers, agents and employees shall be named as additional insureds.

#### 14. ASSIGNMENT AND SUBLETTING.

14.1. Assignment. This Lease is not assignable. TENANT shall have the right to sublease as provided in subsection 14.2, below.

##### 14.2. Subletting.

14.2.1. Consent. TENANT shall have the right to sublease all or a portion of the Leased Premises under the same terms and conditions of this Lease upon written consent of LANDLORD, which shall not be unreasonably withheld. Such consent shall not be a waiver of any rights to object to further or future assignments or subleases, but the consent to each successive sublease must be first obtained in writing from LANDLORD.

14.2.2. Vesting Of Subleases. As a condition to the vesting of any rights in this Lease or in the leasehold estate created hereby in any subtenant of TENANT 's interest hereunder, whether voluntary or involuntary, each such subtenant shall first have delivered to LANDLORD a written notice of such subleases which notice: (1) Shall state the name and address of the subtenant for the purpose of enabling notices to be given under Section 24.7, below; (2) Shall state whether the subtenant is an individual, a corporation or a partnership, and if such subtenant is a corporation, the name of such corporation, principal officers and its directors and state of incorporation, and if such subtenant is a partnership, the names and addresses of the members of such partnership; and (3) Shall contain a statement that the subtenant agrees to be subject to all terms, covenants and conditions of this Lease (other than rent) including,

but not limited to, the restriction on use of the Leased Premises.

15. EMINENT DOMAIN.

15.1. Definitions.

15.1.1. Condemnation means either (1) the taking or damaging, including severance damage, by eminent domain or by inverse condemnation for any public or quasi-public use under any statute whether by legal proceedings or otherwise, by a condemnor (hereinafter defined), or (2) a voluntary sale or transfer to a condemnor, either under threat of condemnation or while condemnation legal proceedings are pending.

15.1.2. Date of taking means the earlier of (1) the date actual physical possession is taken by the condemnor or, (2) the date on which the right to compensation and damages accrues under the law applicable to the Leased Premises.

15.1.3. Award means all compensation, sums, or anything of value awarded, paid or received for a total taking, a substantial taking or a partial taking (hereinafter defined), whether pursuant to judgment or by agreement or otherwise.

15.1.4. Condemnor means any public or quasi-public authority or private corporation or individual having the power of condemnation.

15.1.5. Substantial taking means the taking by condemnation of so much of the Leased Premises that one or more of the following conditions results: (1) The remainder of the Leased Premises would not be economically and feasibly usable by TENANT for the Authorized Uses; and/or, (2) A reasonable amount of reconstruction would not make the Leased Premises reasonably suited for the Authorized Uses.

15.1.6. Partial taking means any taking of the fee title that is not either a total taking or a substantial taking.

15.1.7. Notice of intended condemnation means any notice or notification on which a reasonably prudent person would rely and which (s)he would interpret as expressing an existing intention of condemnation as distinguished from a mere preliminary inquiry or proposal.

15.2. Notice. LANDLORD and TENANT shall give each other prompt notice of any condemnation action or threat thereof. LANDLORD and TENANT shall each have the right to participate in any settlement of awards, compensation, and damages and may contest any such awards, compensation, and damages and prosecute appeals therefrom. Each party shall bear its own cost thereof.

15.3. Total or Substantial Taking.

15.3.1. On a total taking, this Lease shall terminate on the date of taking.

15.3.2. If a taking is a substantial taking as defined above, TENANT may, by notice to LANDLORD given within thirty (30) days after TENANT receives notice of intended condemnation, elect to treat the taking as a substantial taking. If TENANT does not so notify LANDLORD, the taking shall be deemed a partial taking. If TENANT gives such notice and LANDLORD gives TENANT notice disputing TENANT'S contention within ten (10) days following receipt of TENANT'S notice, the dispute shall be promptly submitted to arbitration before the American Arbitration Association in Los Angeles County, California. If LANDLORD gives no such notice, the taking shall be deemed a substantial taking. A substantial taking shall be treated as a total taking.

15.3.3. On a total taking all sums, including damages and interest awarded for the fee or leasehold or both, shall be distributed and disbursed in the following order of priority: (1) First, to LANDLORD a sum equal to the fair market value of the fee title, valued as if improved only with the Flood Control Improvements, the Water Quality Improvements, and any other improvements made by LANDLORD in connection with its use of the Leased Premises for flood control, water quality or water conservation purposes, and as encumbered by the terms and conditions of this Lease and subleases, as well as compensation for its loss of revenue from this Lease; (2) Second, to TENANT, the value of the Leasehold estate under this Lease, and the value of any Tenant Improvements.

#### 15.4. Partial Taking.

15.4.1. On a partial taking, this Lease shall cease as to the part so taken, as of the date of taking, and shall remain in full force and effect as to the remainder of the Leased Premises and any Tenant Improvements.

15.4.2. Promptly after a partial taking, TENANT, to the extent of any award paid to TENANT on account of such taking, shall repair, alter, modify, or reconstruct any Tenant Improvements so as to make them reasonably suitable for TENANT's continued occupancy for the Authorized Uses.

15.4.3. Each party waives the provisions of Code of Civil Procedure Section 1265.130, allowing either party to petition the Superior Court to terminate this Lease in the event of a partial taking of the Leased Premises under the circumstances described in said Section.

16. SALE OF PORTION OF LEASED PREMISES. In the event LANDLORD determines, during the Term, that a certain portion of the Leased Premises is no longer required for its purposes, such portion of the Leased Premises shall be offered for sale to TENANT upon terms and conditions mutually acceptable to both parties and subject to California Government Code Section 54222. If such a sale occurs, the parties hereto

shall amend this Lease to remove the portion sold from the Leased Premises.

17. RESERVATIONS.

17.1. Reservation of Use of the Leased Premises.

17.1.1. LANDLORD reserves the right to use the Leased Premises, and authorize others to use the Leased Premises, for flood control, water quality, water conservation, utilities, and/or other related uses together with incidental rights of construction and installation of facilities, ingress and egress, operation and maintenance. The exercise of the rights reserved herein shall not unreasonably interfere with any of TENANT's Authorized Uses.

17.1.2. Interruption of the Authorized Uses, or any of them, for a reasonable period of time, to permit construction and installation activities in connection with any of the uses specified in subparagraph 17.1.1, above, shall not be deemed an unreasonable interference if both of the following conditions occur: (1) TENANT shall be notified at least ninety (90) days prior to the commencement of any such construction or alteration; and (2) no utilities or support structures shall be attached to, built upon, or otherwise unreasonably interfere with TENANT's use without the written approval of TENANT.

17.2. Right of Entry for Inspection, Emergency.

17.2.1. LANDLORD reserves the right to enter the Leased Premises by its authorized personnel, employee(s), contractor(s), or agent(s) in order to inspect the Leased Premises for any purposes incidental to the rights or duties of LANDLORD, and for the protection, maintenance, construction, reconstruction and operation of LANDLORD's facilities. The right to inspect reserved to LANDLORD shall not obligate LANDLORD to make inspections to ascertain the condition of the Leased Premises and shall not impose liability upon LANDLORD for failure to inspect.

17.2.2. LANDLORD shall have the right, as it deems necessary, to immediately take possession of the Leased Premises for the purpose of preventing sabotage, for the protection of LANDLORD's facilities, and in an emergency where LANDLORD has cause to believe that lives or excessive property or environmental damage are threatened. LANDLORD's exercise of its rights under this subsection 17.2.2 shall not constitute a termination of the Lease, and if LANDLORD's possession of the Leased Premises continues for one hundred eighty (180) consecutive days or more, then the Term shall be extended for a like period of time.

18. TERMINATION FOR DEFAULT.

18.1. Default By Tenant.

18.1.1. Should TENANT default in the performance of any

term, covenant, condition or agreement imposed upon or promised by TENANT pursuant to this Lease, LANDLORD may provide TENANT with a written notice specifying the default. If the default is not corrected within thirty (30) days from and after the date of the written notice to TENANT by LANDLORD, LANDLORD may declare this Lease and all rights and interest created hereby to be terminated by providing TENANT with a written notice of termination for default.

18.1.2. Notwithstanding subparagraph 18.1.1, above, where it appears that such default cannot reasonably be cured within thirty (30) days by the exercise of due diligence, and where TENANT has begun and continues a good faith effort to cure such default, LANDLORD shall grant an extension of time for the curing of said default sufficient to permit said default to be cured.

18.1.3. If this Lease is terminated for TENANT's default, TENANT shall yield and peaceably deliver possession of the Leased Premises to LANDLORD on the date of termination specified in the notice of termination for default. Upon giving written notice of termination for default to TENANT, LANDLORD shall have the right to re-enter and take possession of the Leased Premises on the date specified in the notice without further notice of any kind and without institution of summary or regular legal proceedings.

18.1.4. Termination of this Lease and re-entry of the Leased Premises by LANDLORD shall in no way alter or diminish any obligation of TENANT under the Lease.

18.1.5. If LANDLORD provides TENANT with a notice of termination for default and TENANT disputes the termination, TENANT shall seek relief by filing an application for same in the appropriate court, prior to the termination date in the notice of termination, it being the intention of the parties that any dispute as to the right of LANDLORD to terminate this Lease for default, shall thereafter be fully adjudicated in that forum. In the event that TENANT fails to seek relief as provided for herein within the time period set forth above, TENANT agrees that should the manner or method employed by LANDLORD in re-entering or taking possession of the Leased Premises give TENANT a cause of action for damages or in forcible entry and detainer, the total amount of damages to which TENANT shall be entitled in any such action shall be One Dollar (\$1.00). TENANT agrees that this clause may be filed in any such action and that when filed, it shall be a stipulation of TENANT fixing the total damages to which TENANT is entitled in such an action.

18.2. Default by Landlord. Should LANDLORD default in the performance of any term, covenant, or condition to be performed by LANDLORD pursuant to this Lease TENANT may provide LANDLORD with a written notice specifying the default. If such default is not remedied by LANDLORD within thirty (30) days from end after the date of the written notice of default by TENANT to LANDLORD, TENANT may declare this Lease and all rights and interests created thereby to be terminated by providing LANDLORD a written notice of termination.



19. SURRENDER OF POSSESSION.

19.1. Upon the expiration or earlier termination of this Lease (whether by lapse of time or otherwise), TENANT, at its cost, shall completely restore the Leased Premises, including the clean-up of any hazardous substances on or arising from TENANT'S use of the Leased Premises, reasonable wear and tear and damage by the elements excepted, and shall thereafter peaceably surrender possession within a reasonable period of time, not exceeding thirty (30) days.

19.2. All Tenant Improvements shall be and remain the property of TENANT during the Term. At the option of LANDLORD, exercisable in its sole discretion, all Tenant Improvements shall be removed by TENANT within ninety (90) days after termination or earlier expiration of this Lease. The cost of the removal, and the repair of any damage caused by such removal, shall be borne by TENANT. In the event LANDLORD elects not to require such removal, all Tenant Improvements shall automatically become the property of LANDLORD without any compensation therefore.

19.3. Upon termination of this Lease (whether by lapse of time or otherwise), TENANT shall cause all personal property belonging to TENANT or its sublessee to be removed from the Leased Premises prior to the termination date and shall cause to be repaired any damage occasioned by such removal. If any such property is not so removed from the Leased Premises, LANDLORD shall have the right to remove and/or sell and/or destroy the same (subject to the interest of any person other than TENANT) at TENANT'S expense, and TENANT agrees to pay the reasonable cost of any such removal, sale, or destruction within thirty (30) days of receipt of an invoice from LANDLORD.

20. TERMINATION OF PRIOR AGREEMENTS. It is mutually agreed that this Lease shall supersede any prior agreements between the parties hereto covering all or any portion of the Leased Premises.

21. UTILITIES. TENANT shall, at its own cost, pay for all electricity, gas, water, telephone and other utility services furnished to TENANT, including the cost of installation of necessary connections for all of said services.

22. WARRANTIES.

22.1. LANDLORD makes no warranties as to whether the Leased Premises are free and clear of any claims, obligations, mortgages, tax assessments, liens and encumbrances. TENANT may, at it's sole cost and expense, procure a policy of title insurance.

22.2. LANDLORD makes no covenants or warranties with respect to the condition of the soil, subsoil, or any other condition of the Leased Premises.

22.3. LANDLORD makes no representations or covenants or warranties regarding TENANT's proposed or actual use of the Leased Premises or improvements

thereon.

23. COUNTY LOBBYIST. TENANT shall be familiar with and adhere to Los Angeles County Code Section 2.160.010, County Lobbyist. Each County Lobbyist as defined by Los Angeles County Code Section 2.160.010 retained by TENANT and/or TENANT'S representative or agent shall fully comply with provisions set forth therein. Failure on the part of any Lobbyist retained by TENANT or TENANT'S representative or agent to fully comply with said County Code shall constitute a material breach of this Lease upon which LANDLORD may immediately suspend or terminate this Lease.

24. GENERAL CONDITIONS.

24.1. Successors in Interest. Unless otherwise provided in this Lease, the terms, covenants and conditions contained herein shall apply to and bind the heirs, successors, executors and administrators of all of the parties hereto, all of whom shall be jointly and severably liable hereunder. Whenever reference is made to either LANDLORD or TENANT in this Lease, the reference shall be deemed to include, where applicable, the successors of such parties the same as if in every case expressed.

24.2. Circumstances Which Excuse Performance. If either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, restrictive governmental laws or regulations or other cause, without fault and beyond control of the party obligated (other than financial incapacity), performance of such act shall be excused for the period of the delay; and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay, provided, however, nothing in this section shall excuse TENANT from the prompt payment of a rental or other charge required of TENANT hereunder except as may be expressly provided elsewhere in this Lease.

24.3. Entire Agreement. This Lease contains the entire agreement of the parties and of matters covered hereby, and no other previous agreement, statement or promise made by any party hereto which is not contained herein shall be binding or valid unless in writing and properly executed by both parties.

24.4. Headings and Titles. The marginal headings or titles to the paragraphs of this Lease are not part of this Lease and shall have no effect upon the construction or interpretation of any part herein.

24.5. Partial Invalidity. If any term, covenant, condition or provisions of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

24.6. Waiver of Rights. The failure of TENANT or LANDLORD to insist upon strict performance of any of the terms, conditions or covenants herein shall not be deemed a waiver of any rights or remedies that either may have, and shall not be

deemed a waiver of any subsequent breach or default of the terms, conditions or covenants herein contained.

24.7. Notices. All notices given or to be given by either party to the other shall be served by either: (1) enclosing the same in a sealed envelope addressed to the party intended to receive the same at the address indicated herein or at such other address as the parties may by written notice hereafter designate, and deposited in the U.S. Postal Service, with postage prepaid; or (2) personal service upon an officer or authorized agent of the applicable party. Such notices shall be effective on the date of mailing if served by mail or on the date personal service is affected if such notice is personally served. For the purposes hereof, notices to LANDLORD and TENANT shall be addressed as follows:

TO: LANDLORD

Los Angeles County Flood Control District  
P.O. Box 1460  
Alhambra, CA 91802-1460  
Attn: Mapping & Property Management Division

TO: TENANT

City of Long Beach  
333 W. Ocean Boulevard, 13th Floor  
Long Beach, CA 90802-4664  
Attn: City Manager

24.8. Time. Time is of the essence with respect to obligations to be performed under this Lease.

24.9. Approvals and Consents. Wherever in this Lease consents or approvals by either party are required, such consents or approvals shall not unreasonably be withheld or delayed.

24.10. Prohibition Against Recording Lease Recordable Memorandum of Lease. This Lease shall not be recorded. LANDLORD and TENANT agree that they shall, at any time at the request of the other, promptly execute a memorandum or short form of this Lease, in recordable form, setting forth a description of the Leased Premises, the Term, and any other provisions herein, or the substance thereof, as either party desires, and the cost of preparation and recording any such memorandum or short form shall be paid by TENANT.

24.11. Quiet Possession. LANDLORD covenants and agrees that TENANT, upon paying the rent and other charges herein provided for and observing and keeping the covenants, conditions, and terms of this Lease on TENANT'S part to be kept or performed, shall lawfully and quietly hold, occupy, and enjoy the Leased Premises during the Term without any hindrance or molestation by LANDLORD or any person claiming under LANDLORD.

24.12. Covenants. All provisions of this Lease, whether covenants or conditions, on the part of TENANT, shall be deemed to be both covenants and conditions.

24.13. Negation Of Partnership. Nothing in this Lease shall be constituted to render LANDLORD in any way or for any purpose a partner, joint venturer, or associate in any relationship with TENANT other than that of LANDLORD and TENANT, nor shall this Lease be construed to authorize either to act as agent for the other unless expressly provided in this Lease.

24.14. Quitclaim. At the expiration or earlier termination of this LEASE, TENANT shall execute, acknowledge, and deliver to LANDLORD within ten (10) days after written demand from LANDLORD, any quitclaim deed or other document as may be required by and on a form acceptable to LANDLORD, to remove the cloud of this Lease from the title of the real property, subject to this Lease.

24.15. Number And Inclusion, Joint And Several. Whenever the singular number is used in this Lease and when required by the context, the same shall include the plural, and the word "person" shall include corporation, firm or association.

24.16. Compliance With Governmental Regulations. TENANT shall, at its own cost and expense, promptly and properly observe, comply with and execute, including the making of any alteration, addition or change to the Leased Premises, all present and future orders, regulations, directions, rules, laws, ordinances and requirements of all governmental authorities (including but not limited to state, municipal, and federal governments and their departments, bureaus, boards and officials), arising from the use or occupancy of, or applicable to, the Leased Premises, or the vaults, franchises, or privileges appurtenant to or connected with the enjoyment of the Leased Premises. TENANT shall have the right to contest or review, by legal procedure or in such other manner as TENANT may deem suitable, at its own expense, any such order, regulation, direction, rule, law, ordinance or requirement and if able, may have the same canceled, removed, revoked or modified, provided that LANDLORD is not subjected to a criminal prosecution and that LANDLORD's title to the Leased Premises is not subject to forfeiture, and TENANT hereby agrees to indemnify, defend and hold LANDLORD harmless from and against any civil liability as a result of any such contest of review. Any such proceedings shall be conducted promptly and shall include, if TENANT so decides, appropriate appeals. Whenever requirements become absolute after a contest, TENANT shall diligently comply with the same or so much thereof as shall have been judicially sustained.

24.17. Ineligibility For Relocation Assistance. TENANT expressly acknowledges that TENANT is a post-acquisition TENANT, and termination by reasons of an exercise of the rights herein reserved to LANDLORD, breach of the Lease terms by TENANT, expiration of the term hereof, or termination for any other reason shall not entitle TENANT to a claim of status as a displaced person as such is defined in Section 7260 (b)(c)(d) of the Government Code of the State of California. TENANT hereby disclaims such status and hereby acknowledges its ineligibility for relocation assistance as provided in Government Code Sections 7260 through 7277, as it exists or as it may be amended.

24.18. Storage Of Materials. TENANT shall not use the Leased Premises for the temporary or permanent storage of excavated materials, rock, sand, cement, or other material or any equipment except as specifically approved in writing from LANDLORD.

24.19. Claims And Protest.

24.19.1. During reasonable hours, LANDLORD, its agents or employees shall have the right, but not the obligation, to enter upon and inspect the Leased Premises and operations and to make written Demand to Perform upon TENANT to perform its obligations under this Lease. Such Demand shall specify the obligations to be performed. TENANT shall perform its obligations within the time periods specified by this Lease. If TENANT disputes such Demand, within thirty (30) days after any such Demand is given, TENANT shall file a written Protest of Demand with LANDLORD stating clearly and in detail its objections and reasons.

24.19.2. If TENANT does not file such protest within thirty (30) days, TENANT shall be deemed to have waived and does hereby waive all claims for damages and adjustments against LANDLORD arising out of the Demand.

24.20. Savings Clause. If any provision or provisions of this Lease are for any reason adjudged to be unenforceable or invalid, it is the specific intent of the parties that the remainder shall subsist, be, and remain in full force and effect.

24.21. Authority To Enter Lease. TENANT and LANDLORD individually and severally attest that they are duly authorized to execute this Lease.

24.22. Law and Regulation. TENANT shall observe and comply with any and all public laws, ordinances and regulations, applying to Leased Premises during the Term.

24.23. Third Party Beneficiaries. This Lease is entered into for the sole protection and benefit of LANDLORD and TENANT and their successors and assigns. No rights in any other party are created by this Lease, and no other party shall have any right of action under this Lease.

ACKNOWLEDGEMENTS

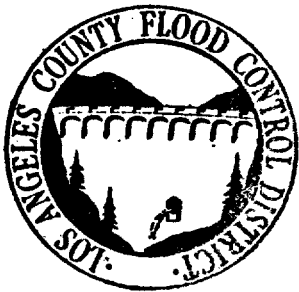
IN WITNESS WHEREOF, the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic as LANDLORD, by order of its Board of Supervisors, has caused the Lease Agreement to be subscribed by the Chairman of the Board and the seal of the DISTRICT to be affixed hereto and attested by its executive Officer of the Board of Supervisors, and the TENANT has hereunto subscribed its name, the date and year first above written.

TENANT:

CITY OF LONG BEACH,  
a municipal corporation

By *Andrew Beth*

7/18/07  
Date



LANDLORD:

LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic

By *Ben Yaroslansky*

ATTEST:

Sachi A. Hamai, Executive Officer  
of the Board of Supervisors of the County of Los Angeles

By: *Sachi A. Hamai*  
Deputy



Approved as to Form:  
RAYMOND G. FORTNER, JR.  
County Counsel

By *Raymond G. Fortner, Jr.*  
Deputy

APPROVED AS TO FORM  
7/12/07  
ROBERT E. SHANNON, DEPUTY  
By *Robert E. Shannon*  
DEPUTY CITY ATTORNEY

**ADOPTED**  
BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

# 43 JUN 26 2007

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF LOS ANGELES        )

On January 6, 1987, the Board of Supervisors for the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies, and authorities for which said Board so acts adopted a resolution pursuant to Section 25103 of the Government Code that authorized the use of facsimile signatures of the Chairman of the Board on all papers, documents, or instruments requiring the Chair's signature.

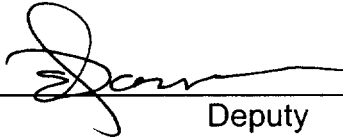
The undersigned hereby certifies that on this 25<sup>TH</sup> day of JULY, 2007, the facsimile signature of ZEV YAROSLAVSKY, Chairman of the Board of Supervisors of the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT, was affixed hereto as the official execution of this document. The undersigned further certifies that on this date a copy of the document was delivered to the Chair of the Board of Supervisors of the LOS ANGELES COUNTY FLOOD CONTROL DISTRICT.

In witness whereof, I have also hereunto set my hand and affixed my official seal the day and year above written.



(LACFCD-SEAL)

SACHI A. HAMAI, Executive Officer  
of the Board of Supervisors  
of the County of Los Angeles

By  Deputy

ACKNOWLEDGMENT FORM

STATE OF CALIFORNIA )  
COUNTY OF Los Angeles ) ss.

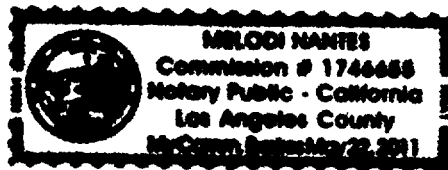
On 7.18.7, before me, Melodi Nantes, Notary Public,  
(insert name of the officer) (insert title of the officer)

personally appeared Anthony W. Batts  
(insert name(s) and title(s))

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 Melodi Nantes



(Seal)

NOTARIES: ATTACH ADDITIONAL OR OTHER FORMS, IF REQUIRED

ACKNOWLEDGMENT FORM  
(FOR COUNTY USE ONLY)

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) ss.

On \_\_\_\_\_, before me, CONNY B. McCORMACK, Registrar-Recorder/County Clerk of the County of Los Angeles, personally appeared \_\_\_\_\_

\_\_\_\_\_ 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 on behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

CONNY B. McCORMACK, Registrar-Recorder/  
County Clerk of the County of Los Angeles

By \_\_\_\_\_  
Deputy County Clerk

(Seal)



EXHIBIT A

