

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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**SECOND AMENDMENT TO  
AMENDED AND RESTATED LEASE NO. WDL-96  
30565**

THIS SECOND AMENDMENT TO AMENDED AND RESTATED LEASE NO. WDL-96 ("Amendment") is dated, for reference purposes only, as of July 1, 2008, pursuant to minute order adopted by the City Council of the City of Long Beach on July 1, 2008 and minute order adopted by the BOARD OF WATER COMMISSIONERS OF THE CITY OF LONG BEACH on June 12, 2008, by and between KILROY REALTY, L.P, a Delaware Limited Partnership, hereinafter referred to as "Developer", and the BOARD OF WATER COMMISSIONERS OF THE CITY OF LONG BEACH, acting for and on behalf of the City of Long Beach, a municipal corporation, and the CITY OF LONG BEACH ("City"), a municipal corporation, hereinafter collectively referred to as "Landlord". Landlord and Developer hereby agree as follows:

**RECITALS**

A. On April 1, 2003, Landlord and Developer pursuant to uncodified Ordinance No. C-7808 enacted by the City Council of the City of Long Beach on May 21, 2002 entered into that certain Amended and Restated Lease Agreement No. WDL-96 (as amended, the "Lease").

B. Landlord and Developer executed that certain First Amendment to Amended and Restated Lease No. WDL-96, dated as of October 9, 2007.

C. Landlord and Developer desire to further amend the Lease as hereinafter set forth.

**AGREEMENT**

1. Subsections 3.1.1 through Subsection 3.1.2.3 of the Lease are hereby amended and restated in their entirety to read as follows:

"3.1.1 Holding Rent. Developer shall pay a Holding Rent ("Holding Rent") for the Premises in the sum of Eight Thousand Three Hundred Thirty-Three and No/100 Dollars (\$8,333.00) per month prorated for any partial month at the commencement of

1 the term until the CNG Parcel is delivered to Developer by City. Upon delivery of the  
2 CNG Parcel, Holding Rent shall increase to Twelve Thousand Five Hundred and No/100  
3 Dollars (\$12,500.00) per month prorated for any partial month, and shall continue until  
4 completion of the office building on the Premises by Developer, or seventy-two (72)  
5 months after delivery of the CNG Parcel to Developer by City (April 14, 2009), whichever  
6 first occurs.

7           3.1.2 Initial Ground Rent. Initial Ground Rent shall commence upon  
8 completion of the office building on the Premises or seventy-two (72) months after  
9 delivery of CNG Parcel to Developer by City (April 14, 2009), whichever first occurs.  
10 Completion of the office building shall be deemed to occur on the earliest of six (6)  
11 months after issuance of an initial temporary certificate of occupancy of a building shell or  
12 commencement of subtenant rent.

13           3.1.2.1 Initial Ground Rent Negotiation Period. Upon the earlier of (i)  
14 forty-eight (48) months after the delivery of the CNG Parcel to Developer by City, or (ii)  
15 six (6) months prior to the date that Developer intends to commence construction of the  
16 improvements on the Premises, Developer and Landlord shall begin negotiating the  
17 amount of the Initial Ground Rent for the Premises ("Ground Rent Negotiation Period")  
18 which Ground Rent Negotiation Period shall last from its commencement until April 14,  
19 2009. Developer shall give Landlord thirty (30) days notice prior to the commencement  
20 of the Ground Rent Negotiation Period.

21           3.1.2.2 Initial Ground Rent Determined by Appraisal. The Initial  
22 Ground Rent for the Premises shall be the then fair market land value of the Premises  
23 multiplied by the prevailing rate of return based upon the highest and best use of the  
24 Premises. Landlord and Developer agree for the purpose of determining the Initial  
25 Ground Rent that the highest and best use of the Premises is similar to the office park  
26 complex developed by Developer under the Existing Leases. The fair market land value  
27 and prevailing rate of return shall be determined by agreement between Landlord and  
28 Developer, but should they not be able to agree at least one hundred twenty (120) days

1 prior to the end of the Ground Rent Negotiation Period, then such fair market land value  
2 and prevailing rate of return shall be determined by appraisal by an analysis of  
3 comparable land transactions committed to the same highest and best use and/or such  
4 other appraisal method(s) recognized by the appraisal profession as are appropriate for  
5 fair market land value appraisals. In the event the parties are unable to agree upon the  
6 fair market rental value or the prevailing rate of return, the fair rental value of the subject  
7 land and/or the prevailing rate of return shall be determined by appraisals prepared by  
8 two appraisers, one appointed by the Landlord at its expense and one appointed by the  
9 Developer at its expense, both of whom shall be licensed by the State of California as a  
10 Certified General Appraiser and members of the American Institute of Real Estate  
11 Appraisers or a successor organization in the event the American Institute of Real Estate  
12 Appraisers ceases to exist. Said appraisers shall be appointed not less than one  
13 hundred (100) days prior to the end of the Ground Rent Negotiation Period, but in any  
14 event, within thirty (30) days after either party has given notice in writing of inability to  
15 agree. Both appraisals must be completed and submitted to the Landlord and Developer  
16 respectively within thirty (30) days after the appointment of the appraisers. The two  
17 appraisals shall be averaged unless the higher of the two appraisals exceeds the lesser  
18 by ten percent (10%) or more, in which case the two appraisers shall appoint a third  
19 appraiser, also licensed by the State of California as a Certified General Appraiser and a  
20 member of the American Institute of Real Estate Appraisers or equivalent organization.  
21 In order to select such third appraiser, if the two appraisers do not agree, the appraisers  
22 shall obtain a list of five appraisers from the President of the Southern California Chapter  
23 of the American Institute of Real Estate Appraisers and shall alternately strike names  
24 from such list until one remains to become the third appraiser. The two appraisers shall  
25 flip a coin to determine which appraiser first strikes a name from the list. If the selected  
26 third appraiser is unwilling or unavailable to serve or cannot complete the appraisal report  
27 within the required time limit, the sixth stricken name shall be the third appraiser, and so  
28 on in reverse order until the third appraiser is selected. The third appraiser shall be

1 appointed by the first two appraisers within ten (10) days after notice from either of the  
2 parties to this Lease that the appointment of a third appraiser is necessary. The cost of  
3 such third appraiser shall be shared equally by the parties to this Lease. The third  
4 appraiser shall complete and submit the required appraisal to both parties within thirty  
5 (30) days after appointment. All appraisals shall be in the form of complete, self-  
6 contained narrative written appraisal reports supported by facts and analysis. All  
7 selected market data used in the appraisal reports shall be gathered, reviewed and  
8 analyzed independently by the respective appraisers. The two of the three appraisers  
9 arriving at values closest to each other shall attempt to concur on a value. If they are  
10 unable to do so within fifteen (15) days after completion of the third appraisal, the two  
11 closest appraisals shall be averaged and that value shall be the fair market value of the  
12 land or the prevailing rate of return, as appropriate. Disagreements between the two  
13 appraisers as to the method of appraisal shall be resolved by a third appraiser, appointed  
14 in the manner described in this Section. The third appraiser's decisions as to the method  
15 of appraisal shall be final for purposes of the appraisal process.

16                   3.1.2.3           Commencement of Construction. Upon the completion of the  
17 appraisal process described in subsection 3.1.2.2, and in the event Developer has not  
18 commenced construction of improvements, Developer shall prior to the end of the  
19 seventy-two (72) month period referred to in subsection 3.1.2 (i) commence construction  
20 of improvements, (ii) commence payment of Initial Ground Rent, or (iii) terminate this  
21 Lease by written notice to Landlord. If Developer elects to commence payment of Initial  
22 Ground Rent without concurrently commencing construction of improvements, this Lease  
23 shall terminate at the end of the twenty-fourth (24th) month after the end of the seventy-  
24 two (72) month period. Provided, however, if Developer has commenced construction  
25 within the twenty-four (24) month period, this Lease shall continue in full force and effect.  
26 Construction of improvements shall be deemed to have commenced upon the date of  
27 issuance of a foundation permit for the first building intended to produce revenue on the  
28 Premises.

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2. Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Lease.

3. Except as herein amended, the Lease shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Landlord and Developer have signed this Second Amendment to Amended and Restated Lease No. WDL – 96 as of the date opposite their signature.

(Signatures on following page)

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
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AUGUST 1, 2008

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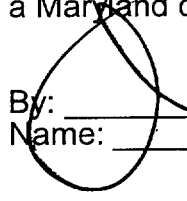
August 25, 2008

August 11, 2008

06-03023

KILROY REALTY, L.P., a Delaware limited partnership

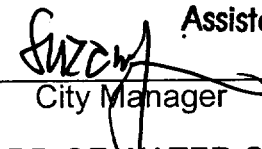
By: KILROY REALTY CORPORATION,  
a Maryland corporation,

By:   
Name: JEFFREY C. HAWKEN  
EXECUTIVE VICE PRESIDENT  
CHIEF OPERATING OFFICER

By:   
Name: JUSTIN SMART  
Senior Vice President  
Development

DEVELOPER

CITY OF LONG BEACH, a municipal corporation

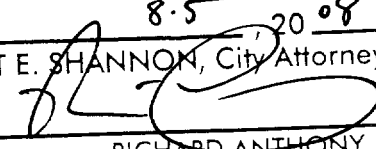
By:   
City Manager **Assistant City Manager**  
~~NECESSARY PURSUANT~~  
~~TO SECTION 501 OF~~  
~~THE CITY CHARTER.~~

BOARD OF WATER COMMISSIONERS OF  
THE CITY OF LONG BEACH

By:   
General Manager

LANDLORD

APPROVED AS TO FORM

8-5-2008  
ROBERT E. SHANNON, City Attorney  
By:   
RICHARD ANTHONY  
DEPUTY CITY ATTORNEY