

31682

ASSIGNMENT AND ASSUMPTION OF LEASES AND SECURITY DEPOSITS

THIS ASSIGNMENT AND ASSUMPTION OF LEASES AND SECURITY DEPOSITS ("**Assignment**") is made as of June 3, 2010, by and between the City of Long Beach, a municipal corporation ("**Assignor**"), and LCW Yard, LLC, a Delaware limited liability company ("**Assignee**").

RECITALS:

A. Assignor and Assignee's parent company, LCW Partners, LLC, entered into that certain Real Estate Exchange Agreement, dated April 28, 2010 ("**Exchange Agreement**"), as amended, pursuant to which Assignor agreed to convey to Assignee the real property located at 901 West Anaheim St., Long Beach, California (the "**Property**").

B. Pursuant to the Exchange Agreement, Assignor has agreed to assign to Assignee all leases encumbering the Property.

NOW, THEREFORE, in consideration of the foregoing premises, of the mutual covenants set forth in this Assignment, and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Assignor and Assignee hereby agree as follows:

1. **Assignment.** Assignor hereby assigns, without recourse, to Assignee all of its right, title and interest as lessor in, to and under all leases, subleases, licenses, concessions and similar agreements for the use or occupancy of all or any part of the Property and described on Exhibit A (collectively, "**Existing Leases**"), together with any and all security deposits and guaranties and other collateral of any type or nature securing the obligations of the tenants and subtenants under the Existing Leases. Assignor shall indemnify, defend, protect, and hold harmless Assignee from any and all claims and liabilities arising prior to the date of this Assignment on account of any of the Existing Leases.

2. **Assumption.** Assignee hereby assumes and agrees to perform all obligations of Assignor as lessor under the Existing Leases that accrue on or after the date of this Assignment. In addition, Assignee hereby assumes all obligations of Assignor to tenants under Existing Leases with respect to security deposits. Assignee shall indemnify, defend, protect, and hold harmless Assignor from any and all claims and liabilities arising from and after the date of this Assignment on account of any of the Existing Leases.

3. **Notice to Tenants.** Following the execution and recordation of the deed to the Property as provided for in the Exchange Agreement, Assignor shall give notice to the tenants under the Existing Leases that Assignee has acquired the Property and owns the lessor's interest in the Existing Leases.

4. **Miscellaneous**

(a) **Binding Effect and Assignment.** This Assignment shall be binding upon and inure to the benefit of Assignor and Assignee and their respective successors, assigns, and legal representatives.

(b) **Severability.** If any term or provision of this Assignment shall be held invalid or unenforceable, the remainder of this Assignment shall not be affected.

(c) **Waivers.** No waiver or breach of any covenant or provision shall be deemed a waiver of any other covenant or provision, and no waiver shall be valid unless in writing and executed by the waiving party.

(d) **Construction.** Headings are solely for the parties' convenience, are not a part of this Assignment, and shall not be used to interpret this Assignment. The singular form shall include plural and vice versa. This Assignment shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared the it. Unless otherwise indicated, all references to sections are to this Assignment.

(e) **Counterparts.** This Assignment may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

(f) **Amendment.** This Assignment may not be amended or altered except by a written instrument executed by Assignor and Assignee.


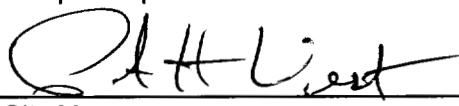
(g) **Further Assurances.** Whenever requested to do so by the other party, each party shall execute, acknowledge, and deliver any further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents, and any further instruments or documents that are necessary or proper to complete the assignments contemplated by this Assignment, and/or to carry out the intent and purpose of this Assignment.

(h) **Third-Party Rights.** Nothing in this Assignment, express or implied, is intended to confer upon any person, other than the parties and their respective successors and assigns, any rights or remedies.

(i) **Attorney Fees.** In the event of any litigation between Assignor and Assignee arising out of the obligations of Assignor or Assignee under this Assignment or concerning interpretation of any of its provisions, the losing party shall pay the prevailing party's costs and expenses of the litigation, including reasonable attorney fees.

(j) **Governing Law.** This Assignment shall be governed and construed in accordance with California law.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment under seal as of the date first above written.

Assignee: LCW Yard, LLC, a Delaware limited liability company By: LCW Partners, LLC, a Delaware limited liability company its sole member By: LCW Holdings, LLC, a Delaware limited liability company, its sole member By:  Jeffrey A. Berger, President	Assignor: City of Long Beach a municipal corporation By:  City Manager
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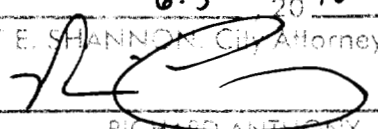
APPROVED AS TO FORM
6.3 20 10
ROBERT E. SHANNON, City Attorney
By: 
RICHARD ANTHONY
DEPUTY CITY ATTORNEY

Exhibit A

Schedule of Existing Leases

1. Letter agreement between the City of Long Beach and Harbor Diesel and Equipment, Inc., dated December 18, 2008
2. Right of Entry Agreement between the City of Long Beach and the South Coast Air Quality Management District dated as of February 16, 2007