

31682

ASSIGNMENT AND ASSUMPTION OF CONTRACTS

THIS ASSIGNMENT AND ASSUMPTION OF CONTRACTS ("**Assignment**") is entered 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 W. Anaheim St., Long Beach, California (the "**Property**").

B. Pursuant to the Exchange Agreement, Assignor has agreed to assign to Assignee, and Assignee has agreed to assume, all Approved Contracts (as such term is defined in this Assignment). In addition, Assignor has agreed to assign to Assignee, all rights, warranties, guaranties, utility contracts, approvals (governmental or otherwise, but only to the extent such are assignable), surveys, and plans and specifications affecting the Property.

NOW, THEREFORE, for good and valuable consideration, Assignor and Assignee agree as follows:

1. **Assignment.** Effective as of the date Assignee acquires title to the Property (the "**Closing Date**"), Assignor assigns to Assignee all of Assignor's rights (to the extent assignable) in:

(a) Those certain contracts (the "**Contracts**") described in Schedule 1, attached hereto and incorporated herein by this reference;

(b) All warranties and guaranties made by or received from any third party for any building, building component, structure, fixture, machinery, equipment, or material situated on or contained in any building or other improvement situated on or comprising a part of the Property (collectively, "**Warranties and Guaranties**"); and

(c) All governmental permits or licenses now or in the future owned by Assignor in connection with the Property or any improvements or personal property located on the Property or other rights relating to the ownership, use or operation of the Property ("**Intangibles**"), but not including personal property located on the Premises covered by that certain Lease Agreement dated June 4, 2010, by and between Assignor, as tenant, and Assignee, as landlord, covering a portion of the Property.

2. **Assumption.** Effective as of the Closing Date, Assignee assumes and agrees to perform all the Contracts which are described in Schedule 1, attached hereto, accruing from and after the Closing Date.

3. **Indemnity.** Assignor agrees to indemnify, defend, protect and hold harmless Assignee for any claim, loss, cost, liability or expense, including attorney fees and court costs, relating to Assignor's acts or omissions under the Contracts described in Schedule 1 and accruing prior to the Closing Date. Assignee agrees to indemnify, defend, protect and hold harmless Assignor for any claim, loss, cost, liability or expense, including attorney fees and

court costs, relating to Assignee's acts or omissions under the Contracts described in Schedule 1 and accruing from and after the Closing Date.

4. Miscellaneous.

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

(b) 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.

(c) 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 the 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 it. Unless otherwise indicated, all references to sections are to this Assignment.

(d) 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.

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

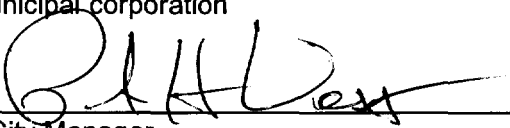
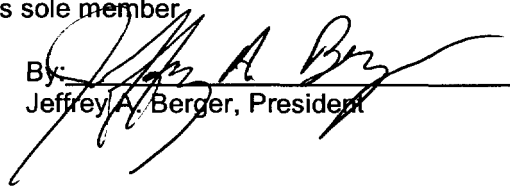
(f) Further Assurances. Whenever requested to do so by the other party, each party shall execute, acknowledge, and deliver any further conveyances, assignments, confirmations, satisfactions, releases, powers of attorney, instruments of further assurance, approvals, consents, and any further instruments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

(g) 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.

(h) Attorney Fees. In the event of any litigation between Assignor and Assignee arising out of the obligations of Assignor 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.

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

IN WITNESS WHEREOF, the Parties have executed this Agreement under seal as of the date first above written.

<p>Assignor</p> <p>City of Long Beach a municipal corporation</p> <p>By:  City Manager</p>	<p>Assignee:</p> <p>LCW Yard, LLC, a Delaware limited liability company</p> <p>By: LCW Partners, LLC, a Delaware limited liability company its sole member</p> <p>By: LCW Holdings, LLC, a Delaware limited liability company, its sole member</p> <p>By:  Jeffrey A. Berger, President</p>
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APPROVED AS TO FORM


6-3, 20 10
ROBERT F. SPANNON, City Attorney
By: 
RICHARD ANTHONY
DEPUTY CITY ATTORNEY

Exhibit A

Legal Description of the Property

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

LOTS 36 TO 48, INCLUSIVE, IN BLOCK 8 OF THE TOWN OF SEABRIGHT, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 23 PAGE 43, ET SEQ., AND IN BOOK 55 PAGE 2, BOTH OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY.

TOGETHER WITH THAT PORTION OF ANAHEIM STREET, VACATED BY CITY OF LONG BEACH RESOLUTION NO. C-5722, WHICH WOULD PASS BY OPERATION OF LAW WITH A CONVEYANCE OF THE ABOVE DESCRIBED LAND.

TOGETHER WITH THAT CERTAIN ALLEY VACATED BY THE CITY OF LONG BEACH RESOLUTION NO. C-13298 RECORDED NOVEMBER 2, 1951 AS INSTRUMENT NO. 2108 OF OFFICIAL RECORDS OF SAID COUNTY.

TOGETHER WITH THAT PORTION OF THAT CERTAIN ALLEY LOCATED WITHIN SAID BLOCK, VACATED BY THE CITY OF LONG BEACH RESOLUTION NO. RES-07-0133 ON OCTOBER 2, 2007, RECORDED DECEMBER 28, 2007 AS INSTRUMENT NO. 20072857194 AND OCTOBER 20, 2009 AS INSTRUMENT NO. 20091586470, BOTH OF OFFICIAL RECORDS OF SAID COUNTY.

EXCEPT THAT PORTION OF SAID LOT 36 DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 36; THENCE EAST ALONG THE SOUTH LINE OF SAID LOT, 0.38 FEET; THENCE NORTHERLY 182.26 FEET TO A POINT IN THE NORTH LINE OF SAID LOT 36, DISTANT THEREON 1.22 FEET EAST FROM THE NORTHWEST CORNER THEREOF; THENCE WEST ALONG THE NORTH LINE OF SAID LOT, 1.22 FEET TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 36, 182.24 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS LOCATED MORE THAN 100 FEET BELOW THE SURFACE OF SAID LAND, WITHOUT, HOWEVER, THE RIGHT TO ENTER SAID LAND WITHIN 100 FEET OF THE SURFACE THEREOF, AS RESERVED IN DEEDS RECORDED APRIL 4, 1951 AS INSTRUMENT NO. 1417, OCTOBER 24, 1951 AS INSTRUMENT NO. 363, AND OCTOBER 1, 1973 AS INSTRUMENT NO. 197, ALL OF OFFICIAL RECORDS.

PARCEL 2:

LOTS 1 TO 13, INCLUSIVE, OF THE DELTA TRACT, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 10 PAGE 143 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY.

EXCEPT THAT PORTION OF SAID LOT 13 DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT, A DISTANCE OF 1.99 FEET; THENCE SOUTHERLY 150 FEET TO A POINT IN THE SOUTH LINE OF SAID LOT, DISTANT 1.29 FEET EASTERLY ALONG SAID SOUTH LINE FROM THE SOUTHWEST CORNER OF SAID LOT; THENCE WESTERLY ALONG SAID SOUTH LINE, 1.29 FEET TO THE SOUTHWEST CORNER; THENCE NORTHERLY ALONG THE WEST LINE OF SAID LOT 150 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING TITLE TO ALL STRUCTURES AND IMPROVEMENTS LOCATED UPON SAID LOTS 9, 10, 11, 12 AND 13, TOGETHER WITH THE RIGHT TO REMOVE THE SAME, AS RESERVED BY DORIAN H. FICKLING AND MELBA L. FICKLING IN DEED RECORDED OCTOBER 24, 1951 AS INSTRUMENT NO. 363 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM ALL OIL, GAS AND OTHER HYDROCARBONS LOCATED MORE THAN 100 FEET BELOW THE SURFACE OF SAID LAND, WITHOUT, HOWEVER, THE RIGHT TO ENTER SAID LAND WITHIN 100 FEET OF THE SURFACE THEREOF, AS RESERVED IN DEEDS RECORDED OCTOBER 24, 1951 AS INSTRUMENT NO. 363, AND OCTOBER 1, 1973 AS INSTRUMENT NO. 197, BOTH OF OFFICIAL RECORDS.

PARCEL 3:

ALL OF BLOCKS 9 THROUGH 11, INCLUSIVE, OF THE TOWN OF SEABRIGHT, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 23 PAGE 43 ET SEQ. AND IN BOOK 55 PAGE 2, BOTH OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THAT ALLEY VACATED IN SAID BLOCK 10 BY RESOLUTION NO. C-922 OF THE CITY OF LONG BEACH, ON JUNE 5, 1923, ON FILE IN THE OFFICE OF THE CITY CLERK OF SAID CITY.

TOGETHER WITH THOSE CERTAIN STREETS AND ALLEYS LOCATED WITHIN SAID BLOCKS, VACATED BY THE CITY OF LONG BEACH RESOLUTION NO. RES-07-0133 ON OCTOBER 2, 2007, RECORDED DECEMBER 28, 2007 AS INSTRUMENT NO. 20072857194 AND OCTOBER 20, 2009 AS INSTRUMENT NO. 20091586470, BOTH OF OFFICIAL RECORDS OF SAID COUNTY.

EXCEPT THOSE PORTIONS OF SAID BLOCKS LYING WESTERLY OF THE EASTERLY RIGHT-OF-WAY OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT CHANNEL.

PARCEL 4:

THOSE PORTIONS OF 14TH STREET (FORMERLY CHICAGO AVENUE), COWLES STREET (FORMERLY KANSAS AVENUE), 15TH STREET (FORMERLY CALIFORNIA AVENUE) AND 16TH STREET (FORMERLY PACIFIC AVENUE) AS SHOWN ON THE MAP OF THE TOWN OF SEABRIGHT, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 23 PAGE 43 ET SEQ. AND IN BOOK 55 PAGE 2, BOTH OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING WESTERLY OF THE WESTERLY LINE OF SAN FRANCISCO AVENUE (FORMERLY FRISCO STREET) AND LYING EASTERLY OF THE EASTERLY RIGHT-OF-WAY OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT CHANNEL.

PARCEL 5:

THOSE PORTIONS OF LOTS 7 AND 8 OF SUNSET VILLA TRACT NO. 1, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 10 PAGE 11 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF LOS ANGELES, LYING SOUTHERLY OF THE SOUTHERLY LINE OF PACIFIC COAST HIGHWAY, 100 FEET IN WIDTH, AS ESTABLISHED BY FINAL ORDER OF CONDEMNATION RECORDED IN BOOK 15501 PAGE 148 OF OFFICIAL RECORDS, IN THE OFFICE OF SAID COUNTY RECORDER; AND THAT EASTERLY PORTION OF LOT 6, SAID TRACT, LYING EASTERLY OF THE LOS ANGELES COUNTY FLOOD CONTROL CHANNEL, AS DESCRIBED IN DEED RECORDED IN BOOK 6890 PAGE 239 OF DEEDS, WITH A FRONTAGE OF 13.01 FEET ON SAID ESTABLISHED SOUTHERLY LINE OF PACIFIC COAST HIGHWAY AND 13.58 FEET ON ALLEY IN REAR OF SAID LOT 6; AND THAT PORTION OF LOT 9, SAID TRACT, BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID LOT 9, LYING 20.02 FEET SOUTHERLY ALONG SAID WESTERLY LINE FROM THE SOUTHERLY LINE OF PACIFIC COAST HIGHWAY, 100 FEET IN WIDTH; THENCE NORTHERLY ALONG SAID WESTERLY LINE TO SAID SOUTHERLY LINE OF PACIFIC COAST HIGHWAY; THENCE EASTERLY ALONG SAID SOUTHERLY LINE OF PACIFIC COAST HIGHWAY, 20.02 FEET TO THE POINT OF CUSP OF A TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 20 FEET; THENCE SOUTHWESTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 31.44 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THAT PORTION OF THAT CERTAIN EAST-WEST ALLEY, 15 FEET WIDE, VACATED BY CITY OF LONG BEACH RESOLUTION NO. C-25238, RECORDED MARCH 3, 1993 AS INSTRUMENT NO. 93-406100 OF OFFICIAL RECORDS, WHICH WOULD PASS BY OPERATION OF LAW WITH A CONVEYANCE OF THE ABOVE DESCRIBED LAND.

EXCEPT ALL OIL, GAS, MINERALS AND HYDROCARBON SUBSTANCES (WITHOUT RIGHT OF SURFACE ENTRY) AS RESERVED BY AARON EATON, ALSO KNOWN AS A. L. EATON AND ELSIE EATON, HUSBAND AND WIFE, IN DEED RECORDED APRIL 21, 1947 IN BOOK 24408 PAGE 182 OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL 6:

AN EASEMENT FOR LIGHT AND AIR OVER AND UPON THAT PORTION OF THE WESTERLY FIVE FEET OF LOT 9 IN SAID SUNSET VILLA TRACT NO. 1 LYING SOUTHERLY OF THAT PORTION OF SAID LOT 9 DESCRIBED IN PARCEL 5.

PARCEL 7:

LOTS 36 TO 48 INCLUSIVE IN BLOCK 12 OF THE TOWN OF SEABRIGHT IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 23 PAGE 43 ET SEQ. AND IN BOOK 55 PAGE 2, BOTH OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

TOGETHER WITH THOSE CERTAIN STREETS AND ALLEYS LOCATED WITHIN SAID BLOCK, VACATED BY THE CITY OF LONG BEACH RESOLUTION NO. RES-07-0133 ON OCTOBER 2, 2007, RECORDED DECEMBER 28, 2007 AS INSTRUMENT NO. 20072857194 AND OCTOBER 20, 2009 AS INSTRUMENT NO. 20091586470, BOTH OF OFFICIAL RECORDS OF SAID COUNTY.

EXCEPT THAT PORTION OF SAID LOT 36 LYING WESTERLY OF THE EASTERLY RIGHT-OF-WAY OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT CHANNEL.

Schedule 1

Contracts

~~None.~~

There are no contracts.