

# 23509

## THIRD AMENDMENT TO LEASE NO. 23509

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2 This Third Amendment to Lease No. 23509 ("Amendment") is made and  
3 entered, in duplicate, pursuant to a minute order adopted by the City Council of the City  
4 of Long Beach on April 20, 2010, by and between the CITY OF LONG BEACH, a  
5 municipal corporation ("City" or "Lessor") and BANCAP MARINA CENTER, INC., a  
6 California corporation ("Lessee").

7 WHEREAS, City and Lessee previously entered into (i) a Master Lease  
8 dated June 24, 1994, (ii) a First Amendment to Master Lease dated October 28, 1994,  
9 and (ii) a Second Amendment to Master Lease dated January 20, 1995 (collectively, the  
10 "Lease"); and

11 WHEREAS, City and Lessee now desire to further amend the Lease to  
12 reflect a temporary rental reduction;

13 NOW, THEREFORE, Lessor and Lessee mutually agree as follows:

14 1. This Amendment shall be effective as of the date on which this  
15 Amendment is executed by both parties (the "Effective Date"). All capitalized terms used  
16 herein without definition shall have the meanings given them in the Lease.

17 2. Pursuant to Section 3.2 and Exhibit F of the Lease, Lessee currently  
18 pays base rent in the amount of \$37,803 per month. Commencing on May 1, 2010 and  
19 terminating on April 30, 2012 ("Temporary Rent Reduction Period"), Lessee's monthly  
20 base rent obligation shall be reduced by \$3,000 per month, to \$34,803 per month.  
21 Immediately upon expiration of the Temporary Rent Reduction Period, Lessee's monthly  
22 base rent shall resume at the amount called for in the Lease, computed as though the  
23 Temporary Rent Reduction Period never occurred, and monthly base rent shall thereafter  
24 be subject to adjustment each October 1<sup>st</sup> as provided in the Lease.

25 3. During the entirety of the Temporary Rent Reduction Period and in  
26 addition to Base Rent and Percentage Rent and any other rental payments called for  
27 under the Lease, Lessee shall make additional quarterly payments (in accordance with  
28 Lessee's past practice of making quarterly payments of Percentage Rent under the

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1 Lease) to Lessor ("Priority Payments") in an amount equal to \$2,700 per quarter;  
2 provided, however, that in no event shall any quarterly Priority Payment exceed thirty  
3 percent (30%) of Lessee's Net Operating Income less Base Rent and Repayment of  
4 Financing applicable to a given quarter. If in any given quarter the Priority Payment is  
5 less than \$2,700, then the shortfall shall be carried over to the next quarter until such  
6 shortfall is repaid or the Temporary Rent Reduction Period expires, in which case Lessee  
7 shall have no obligation to make any further Priority Payments.

8           4.     The initial and ongoing effectiveness of this Amendment shall be  
9 conditioned upon Lessee providing at least a \$3,000 reduction to the monthly rent  
10 payable by the Seal Beach Yacht Club ("SBYC") under the current sublease between  
11 Lessee, as sublessor, and the SBYC, as sublessee.

12           5.     All terms, covenants, and conditions of the Lease and amendments  
13 thereto, except as amended herein, shall remain unchanged and in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment.

"Lessor"

CITY OF LONG BEACH, a California municipal corporation

By: [Signature] Assistant City Manager

Name: Patrick H. West

Title: City Manager

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

"Lessee"

BANCAP MARINA CENTER, INC., a California corporation

By: [Signature]

Name: John W. Hanulek

Title: President

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to form this 27 day of April, 2010.

ROBERT E. SHANNON, City Attorney

By: [Signature]  
Deputy

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