

LEASE NO. 915

GRANTED BY THE CITY OF LOS ANGELES

TO

SAN PEDRO PUBLIC MARKET LLC

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**LEASE NO. 915 GRANTED BY
THE CITY OF LOS ANGELES TO SAN PEDRO PUBLIC MARKET LLC**

THIS GROUND LEASE (“Lease”) is made and entered into this _____ day of _____, 20___, by and between the CITY OF LOS ANGELES, a municipal corporation (“City”) acting by and through its Board of Harbor Commissioners (“Board”) (referred to as “City” or “Board”) and SAN PEDRO PUBLIC MARKET LLC, a California limited liability company (“Lessee”) (individually referred to as a “Party” and collectively referred to herein as the “Parties”).

RECITALS

WHEREAS, the City has adopted the 2009 San Pedro Waterfront Project Final EIR/EIS as amended or supplemented (“2009 EIR/EIS”) which includes redevelopment of the Ports O’ Call site at the Port of Los Angeles (“Port”); and

WHEREAS, the City desires that the Premises (as hereinafter defined) be redeveloped for commercial, retail, restaurant, and entertainment purposes with adjacent parking; and

WHEREAS, such a redevelopment must be consistent with the Act; and

WHEREAS, the City has determined that the Premises can best be redeveloped, managed and maintained by a developer with commercial, retail and restaurant expertise; and

WHEREAS, the City solicited proposals for a master developer and selected Lessee and entered into an “exclusive negotiation agreement” (“ENA”) and a Term Sheet dated July 9, 2015 (“Term Sheet Date”) with Lessee; and

WHEREAS, The Ratkovich Company and Jerico Development, Inc. or their affiliates are the initial managers or members of Lessee; and

WHEREAS, the City has agreed to make certain infrastructure improvements on and around the Premises; and

WHEREAS, the Parties desire that commercial operations remain in effect during the course of construction by the City as set forth herein.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

ARTICLE 1 – OPTION

Section 1. Option.

1.1 General. The City hereby grants Lessee the option to lease, for the term and upon the provisions set forth herein, the Premises (“Option”). Lessee and City shall perform all duties, obligations and responsibilities as set forth in Article 1, Sections 1 and 2 of this Lease; provided, however, the commencement of Article 2 obligations shall be conditioned upon the Lessee’s exercise of the Option. Should the Lessee fail to perform its obligations during the Option Period (as defined below) as set forth herein, Lessee shall have no right to exercise the Option and any and all rights of Lessee to the Premises and development project shall terminate and this Lease shall no longer be effective, unless otherwise amended by the Parties. All initially capitalized terms used and not otherwise defined in this Lease shall have the meaning ascribed to them in the Exhibit A attached hereto.

1.2 Option Period. The term of the Option period (“Option Period”) shall commence on the Effective Date, as defined in Article 2, Section 3.2, and shall be for forty-two (42) months as may be extended by the tolling of the running of the term as set forth in subpart 1.2.2 and by the option extension described in subpart 1.2.1, and shall expire upon the earlier occurrence of: (i) expiration of the Option Period as may be extended (“Option Period Expiration Date”); and (ii) Lessee’s exercise of the Option.

1.2.1 Option Extension. Lessee shall have the right to an additional six (6) months added to the Option Period, as may be otherwise extended under Section 1.2.2, provided Lessee provides evidence of a total investment in the development project equal to or exceeding Two Million Dollars (\$2,000,000) specifically related to tasks required to develop this Lease and to prepare the Premises for development, including but not limited to preparation of the project concept plans, financial pro formas, project cost estimates, CEQA related costs, project design plans, and other internal and external documented costs related to the Project and incurred by Lessee subsequent to the Term Sheet Date (the “Development Costs”).

1.2.2 City Construction Obligations/Delays During Option Period. During the Option Period, City shall diligently pursue its construction obligations as described in Exhibit D and as set forth in the PSEs, as hereinafter defined. In the event of City’s delay in the demolition of the Existing Improvements set forth on Exhibit C or delivery of the City Improvements set forth in Exhibit D or of the site preparation beyond the Option Period, the Option Period shall be tolled.

1.2.3 Lessee Review of Plans, Specifications, and Estimates. Lessee shall review plans, specifications, and estimates (“PSE”) prepared by the Harbor Department or third-parties at the direction of the Harbor Department for the construction of City Improvements (as defined below) in accordance with the LA Waterfront Design Guidelines and the Sustainability Design and Construction

Guidelines referenced in Article 2, Section 6.3.2.1. City shall deliver the respective PSE for the City Improvements on or off the Premises for Lessee review. Lessee shall have thirty (30) days from the date of receipt to submit comments to the PSE. Lessee acknowledges the Executive Director shall have the right to consider or decline any Lessee comments. In the event Lessee fails to provide any comments during the thirty (30) days, the Harbor Department shall use the respective PSE as part of its construction, and Lessee shall have no further right to submit comments. Lessee shall review and concur with the conceptual plans for the Promenade on or before June 30, 2016 or be deemed to have waived any objections thereto, provided Lessee shall have had thirty (30) days to review such conceptual plans for the Promenade.

1.2.4 Lessee Expenditures. Within eighteen (18) months of the Effective Date, unless extended for Force Majeure as set forth in Article 2, Section 18, Lessee shall have exercised the Option or incurred Development Costs in excess of Two Million Dollars (\$2,000,000).

1.3 Exercise of Option. All rights, responsibilities and obligations contained in Article 2 of this Lease shall become effective upon Lessee's exercise of the Option for the portion of the Premises delivered by City to Lessee as set forth in Article 1, Sections 1 and 2.

1.4 No Possessory Interest. Lessee shall not receive any possessory interest or right to rent or occupy the Premises during the Option Period, nor for any portion of the Premises which has not been delivered to Lessee. In the event that Lessee requires or desires access to the Premises for work related to the Project prior to the delivery of a portion of the Premises, such access and work shall be pursuant to a separate Access Agreement which shall be attached as Exhibit L.

Section 2. Option Conditions

2.1 Lessee's Conditions. The following conditions for the Lessee's benefit shall be satisfied prior to the exercise of the Option.

2.1.1 Financing Contingencies. Lessee shall have obtained an acceptable construction and term loan in an amount determined by Lessee on a legally defined parcel satisfactory for the issuance of a lessee/owner's and lender's title insurance policies and in connection therewith, City through its Executive Director or his/her designee shall provide an affidavit of no actual knowledge of any leases or rights of occupancy except as reserved or accepted as set forth in Article 2. City shall have the right to review the construction and term loan obtained by Lessee and City shall provide a legal description adequate to obtain such policy within three (3) months of the Effective Date.

2.1.2 Project Labor Agreement. Lessee shall have entered into a Project Labor Agreement as hereinafter described.

2.1.3 City Construction. City shall have provided Lessee six (6) months notice prior to Substantial Completion (“Delivery Notice”) of City’s completion of a designated portion of the Premises and shall be continuing construction of the designated area and the balance of the Premises.

2.1.4 Trust Approval. Lessee shall have received confirmation in a form reasonably acceptable to Lessee by a Government Agency that the Permitted Uses and the Project are allowed under the Act.

2.1.5 City’s Representations. The City’s representations set forth herein shall be true and correct.

2.2 Delivery Condition. The portion of the Premises, as agreed between the Parties per Section 2.3 below, designated by the Delivery Notice shall be in the following condition:

2.2.1 New City Improvements constituting public infrastructure and site preparation shall be at a stage of progress to be completed as specified in the Delivery Notice and as set forth in the attached Exhibit D (“City Improvements”), including, but not limited to, the following:

(a) To the extent adjacent or affecting the portion of the Premises being delivered, the public pedestrian Promenade along main channel, excluding finishes to be added after completion of Lessee’s adjacent construction;

(b) Realignment of the public right of way and construction of the new 7th Street/Harbor Blvd., and Sampson Way intersection project and associated intersection and related public road improvements at Sampson Way;

(c) The Town Square improvements which may be managed, if elected by Lessee, by Lessee pursuant to a separate agreement upon terms and conditions agreed upon by the Parties;

(d) Demolition of the Existing City Improvements shown in Exhibit C leaving the Premises free of debris and in a level, graded condition;

(e) Delivery of the Premises or portions thereof in an environmental condition suitable for the construction and commercial operation of the Lessee Improvements and the Permitted Uses meeting the Applicable Law and environmental standards set forth on Exhibit Y, whichever is more stringent, and including a baseline report for waterside hazardous materials in the sediment upon and adjoining the Premises;

(f) Primary electrical service for the Premises. Such primary electrical service shall have sufficient capacity to service the electrical requirements

reasonably expected to be needed for the complete buildout of the Premises as described in the 2009 EIR/EIS;

(g) Waterside demolition as described in Exhibit C, and repairs and improvements as designated on Exhibit D to be agreed upon by the Parties;

(h) Shall be a contiguous land area of not less than 75,000 square feet of land area designated for leasing to third parties (or such lesser area as may be elected by Lessee) with adequate ingress, egress and parking; and

(i) Free and clear of any leases or occupancy rights and City has no actual knowledge of any title deficiencies regarding the Premises except as otherwise specifically set forth in this Lease and provided that the City shall have acquired 100% of the railway rights including but not limited to those rights necessary from the City of Long Beach and the Port of Long Beach.

2.3 Phases. City expects to deliver the Premises to Lessee in accordance with Exhibit G and Article 2, Section 6 or as may be otherwise agreed between the Parties. Upon exercise of the Option with respect to the portion of the Premises designated in the Delivery Notice, or upon exercise by Lessee of its rights under Section 2.4, the right to lease shall remain in full force and effect with respect to the balance of the Premises and City will provide additional Delivery Notices with respect thereto, which Lessee shall be obligated to accept provided that the conditions set forth in Section 2.2 (other than subpart (h)) above have been met.

2.4 Lessee's Early Exercise. Notwithstanding the failure to satisfy all of the conditions precedent set forth in Section 2.1, in order to allow for continuous operation of all or a portion of the existing business or otherwise, Lessee, from time to time upon thirty (30) days prior written notice, may, as an exercise of the Option in its sole election, designate a portion of the Premises to be delivered to Lessee to allow for Lessee's construction of a portion of the Lessee's Improvements as set forth in Exhibit E ("Lessee's Improvements") in accordance with this Lease.

Such written designation shall be in accordance with the following:

- (a) Reasonably designate the portion of the Premises to be delivered to Lessee's control;
- (b) Be subject to the terms and provisions of this Lease, as applicable solely to the designated area; and
- (c) Not unreasonably interfere with the City's construction obligations;

Within thirty (30) days of receipt of such designation, City will approve such area as being leased hereunder or provide specific objection or requested changes to Lessee's designated area.

Thereafter, Lessee shall promptly advise City whether it will make such changes as may be required by the City or postpone the exercise of its Option. If Lessee exercises the Option, Article 2 of this Lease shall be in effect for the portion of the Premises designated by Lessee and the Option shall remain in effect for the remainder of the Premises.

2.5 Lessee's Failure to Exercise. In the event that the conditions set forth in Section 2.1 above have been satisfied and Lessee fails to exercise the Option within ninety (90) days of receipt of the initial Delivery Notice and a ten (10) day written reminder notice, this Lease shall terminate without further liability for either Party except that Lessee shall pay to City the difference between Two Million Dollars (\$2,000,000) and the Development Costs through the date ninety (90) days after receipt of the initial Delivery Notice. If Lessee has incurred Development Costs of not less than Two Million Dollars (\$2,000,000), no amounts shall be due to City. If the parties are unable to reach agreement regarding the difference due, City may institute an action to recover the amount. In the event that the City has instituted an action to recover the difference, the prevailing party shall be entitled to recover the costs of collection, including reasonable attorneys' fees.

2.6 City's Failure to Complete. The timely performance of the City's construction obligations set forth in Exhibit D and above is critical to the operation of an integrated development. In the event that the City's performance of its obligations is delayed beyond the initial 42 months of the Option Period and no Delivery Notice has been delivered, City shall promptly advise Lessee. In such event, Lessee may terminate this Lease, and City shall reimburse Lessee for Lessee's Development Costs not to exceed Four Million Dollars (\$4,000,000) supported by written documentation. City shall have the right to request further reasonable information as necessary. The obligation for reimbursement shall expire upon the delivery of the portion of the Premises identified in the first Delivery Notice, consistent with the requirements of Article 1, Section 2.2. If the parties are unable to reach agreement regarding the amount due, Lessee may institute an action to recover the amount. In the event that the Lessee has instituted an action to recover the difference, the prevailing party shall be entitled to recover the costs of collection, including reasonable attorneys' fees.

ARTICLE 2 - LEASE

Section 1. Agreement.

1.1 For good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Parties, City shall deliver, and Lessee shall accept, the Premises hereinafter described, or the portion thereof for which Lessee has exercised the Option, subject to the terms, limitations, conditions, restrictions, and reservations contained herein and in the Charter and the Act. Lessee shall be responsible for the planning, design, construction, development, financing, operation, and maintenance for the Premises in accordance with the terms and conditions of this Lease.

Section 2. Premises.

2.1 Description. Subject to Article 1, Section 2.3 and Article 2, Section 6.2, the premises granted by this Lease which shall be more particularly described on Exhibit B-2 attached hereto and are delineated on Drawing No. _____ (“Premises”) attached hereto as Exhibit B-1. Such drawing is on file in the office of the Chief Harbor Engineer of the Harbor Department of the City of Los Angeles. In the event of a conflict between Exhibits B-1 and B-2, Exhibit B-2 shall control. The area of the Premises is approximately 1,831,057 square feet. In the event Exhibit B-1 requires modification pursuant to the delivery of different phases as described in Article 1, Section 2.3 and Article 2, Section 6.2, to the extent that the final measurements differ from Exhibit B-1, the Chief Harbor Engineer shall: (i) revise Exhibit B-1 to reflect the correct measurements of the Premises; (ii) renumber the revised Exhibit B as Exhibit B-1(a); and (iii) transmit Exhibit B-1(a) to Lessee. Upon City’s transmittal to Lessee, such revised and renumbered Exhibit B-1(a) shall be deemed to: (i) be incorporated into this Lease without further action of the Board or the Council; and (ii) supersede Exhibit B-1.

2.2 Existing Improvements. The improvements on the Premises as of the Effective Date (as defined below), which improvements are or will be owned by the City and subject to this Lease, are identified in Exhibit C (“Existing City Improvements”) attached hereto. The Parties acknowledge that as part of this Lease, City shall demolish the Existing City Improvements as listed in Exhibit C, and City shall construct the City Improvements, all pursuant to the construction schedule set forth on Exhibit G. In the event Lessee determines a specific Existing City Improvement may be used for its Project, Lessee may request that the City cease demolition plans of the specific Existing City Improvement and accept the Existing City Improvements as part of its Premises. Lessee shall accept the specific improvement “AS IS”, “WHERE AS,” with all faults and limitations and comply with all relevant approval requirements as set forth in this Lease. Lessee shall submit the aforementioned request in a timely manner prior to City’s actual demolition and the City shall approve such request so long as approval does not hinder or delay City’s work on City’s Improvements.

2.3 Lessee’s Improvements. Lessee shall construct pursuant to Article 2, Section 6 the Lessee’s Improvements pursuant to the schedule made a part of Exhibit G.

2.4 Acceptance and Surrender. Except for the work to be performed by the City as set forth in Exhibit D and as provided in this Lease, it is understood and agreed that Lessee accepts the Premises “AS IS”, “WHERE IS”, with all faults and limitations, provided that nothing herein shall be construed to negate any provision of this Lease. Lessee agrees to surrender the Premises upon the expiration or earlier termination of this Lease in conformance with the terms and conditions of this Lease.

2.5 Premises Subject to Tariff. Lessee accepts the Premises and shall undertake the Permitted Uses set forth in Article 2, Section 5 subject to each and every of the terms and conditions provided herein, and to the applicable rates, terms and

conditions of Tariff No. 4 of the Harbor Department as it now exists or may be amended or superseded ("Tariff"). Lessee represents and warrants that it has received, read and understands the rates, terms and conditions of the Tariff. A copy of the Tariff may be obtained by going on the Harbor Department website. Except as otherwise set forth in this Lease, Lessee is contractually bound by all Tariff rates, terms and conditions as if the same were set forth in full herein. Notwithstanding the foregoing, if a conflict exists at any time between a provision of this Lease and a Tariff provision this Lease shall at all times prevail. The Rent payable by Lessee hereunder shall supplant and be in lieu of any and all monetary consideration, including current and future charges or fees which are due City under the Tariff. Otherwise, pursuant to this Section, all terms and conditions of the Tariff shall at all times apply to this Lease, Lessee's use and occupancy of the Premises and Lessee's undertaking of the Permitted Uses. In the event the Tariff is modified, either City or Lessee may request a meeting to discuss such Tariff item. In the event City and Lessee come to a mutual agreement, both parties acknowledge such mutual agreement may require amendment to this Lease subject to the approval of the Board and Council in their sole discretion. Nothing herein shall be interpreted to excuse or relieve Lessee from compliance with Laws applicable to Lessee's business. If a conflict exists at any time between an Applicable Law and the Tariff, the Applicable Law shall at all times prevail. Lessee acknowledges that in the event vessels, ships, or boats using the Premises pursuant to the Permitted Uses enter international waters, the rules and regulations of The Shipping Act of 1984 shall govern and prevail.

2.6 Exceptions. This Lease and the Premises are and shall be at all times subject to the exceptions listed below existing on or under the Premises as of the Effective Date:

2.6.1 Utilities or other Rights-of-Way. Rights-of-way for sewers, pipelines (public or private), electric, gas, and power lines, pump station, electrical substations and its related areas as shown on the attached utility map set forth as Exhibit B-3, including the right to enter upon, above, below or through the surface to construct, maintain, replace, repair, upgrade as needed or otherwise utilize the Premises for such purpose, without compensation to Lessee or abatement of rent. The exercise of such rights shall not materially interfere with the Permitted Uses, including ingress, egress, and parking areas.

2.6.2 Streets and Highways. Rights-of-way for streets, including the Red Car right of way depicted in Exhibit B-4, to be relocated at a new location as agreed between City and Lessee, and other highways which shall have been duly established as of the Effective Date or which are expressly reserved herein. The exercise of such rights shall not materially interfere with the Permitted Uses including ingress, egress and parking areas.

2.6.3 Matters of Record. All exceptions, reservations, grants, easements, leases, or licenses of any kind whatsoever that appear of record in

the Office of the Recorder of Los Angeles County, California as of the Effective Date.

2.6.4 Mineral Rights. All minerals and mineral rights of every kind and character now known to exist or hereafter discovered, including, without limiting the generality of the foregoing, oil, gas and water rights, together with the full, exclusive and perpetual rights to explore for, remove and dispose of said minerals, or any part thereof, from the Premises, without, however, the right of surface entry on the Premises and provided, however, that the exercise of such rights shall not interfere with the Permitted Uses, including ingress, egress, and parking areas.

In connection with all of the above exceptions, Lessee shall not have any operation, repair or replacement obligations. All Premises public rights of way, including the utilities located therein, shall be maintained, repaired or replaced by the City in a good operating condition with no material effect on Lessee's operation of, or ingress or egress to, the Premises.

2.6.5 Mudflat. City intends to construct the Promenade such that it does not trigger relocation or mitigation of the mudflat located at Berth 78 as contemplated in the 2009 EIR/EIS. Lessee intends to construct Lessee's Improvements without triggering relocation or mitigation of the mudflat. If either Party triggers such relocation or mitigation, such Party shall be responsible for the cost incurred in connection with such relocation or mitigation.

2.7 Reservations. This Lease and the Premises are and shall at all times be subject to the City's reservations as set forth below.

2.7.1 Homeland Security. Access, temporary occupancy and other rights reasonably necessary to comply with homeland security or related requirements of local, state and federal law enforcement agencies or the Harbor Department. City reserves the right to install, maintain and operate on the Premises equipment related to homeland security and/or public safety at City's cost with seventy-two (72) hours prior written notice to Lessee without compensation or abatement of Rent unless otherwise agreed to in writing by the City. The exercise of such rights shall not materially interfere with the Permitted Uses including ingress, egress, and parking areas.

2.7.2 Environmental Initiatives. Access, temporary occupancy and other rights reasonably necessary to comply with environmental initiatives and/or policies of City, local, state and federal agencies or the Harbor Department, provided that the exercise of such rights do not materially interfere with the Permitted Uses including ingress, egress, and parking areas.

2.7.3 Underground Utilities. City shall have the right to enter upon, above, below or through the surface to construct, maintain, replace, repair, or

upgrade as needed rights-of-way for sewers, pipelines (public or private), electric, gas, and power lines, pump station, electrical substations and all related areas as may from time to time be determined to be reasonably necessary by the Board and without compensation or abatement of rent in accordance with Article 2, Section 8.9 unless such exercise materially interferes with Lessee's use and operation of the Premises. The exercise of such rights shall not materially interfere with the Permitted Uses including ingress, egress, and parking areas. City shall be responsible for the replacement and/or update of the sewer pump station as currently located on the site reflected in Exhibit B-3 as of the Effective Date of this Lease. Should the pump station require relocation to a different site at the request of Lessee, Lessee shall be responsible for any and all incremental costs associated with the relocation.

2.7.4 Railway, Street Car, Roadway, and Pedestrian Right-of-Way. Any railway, roadway or pedestrian right-of-way shall be located at a location agreed upon by City and Lessee. Location of railways, roadways, and pedestrian right-of-ways shall not materially interfere with the Permitted Uses including ingress, egress and parking areas.

2.8 Inspection by Lessee; No Warranties by City. Lessee has inspected the Premises in contemplation of entering into this Lease and occupying the Premises for the Permitted Uses, including the construction of improvements, and acknowledges and agrees that:

(a) Lessee is accepting the Premises as set forth in Article 2, Section 2.4, Acceptance and Surrender, without representation or warranty with respect thereto, expressed or implied, except as set forth in this Lease, with regard to the physical or other condition of the Premises, including the existence of any Hazardous Substances thereon, soils condition, the presence or absence of archeological or historical remains or suitability for the intended use;

(b) Lessee has determined for itself that the Premises are suitable for the Permitted Uses; and

(c) No individual of, or affiliated with, City has made any representation or warranty with respect to the Premises or improvements existing or planned or to the suitability of the Premises for the Permitted Uses, unless the nature and extent of such representation or warranty is set forth in this Lease.

2.9 Modification of Premises and Documents. Addition or deletion of Premises subject to the Lease, not to exceed a cumulative total of ten percent (10%) of the originally designated Premises, may be made by mutual agreement of City and Lessee. Such addition or deletion shall be by written amendment and shall specify appropriate adjustments in Rent, if any, and shall not require approval by Board or Council unless the modification involves a rental amount in excess of \$150,000 per year, in which case prior Board approval shall be required. The Executive Director shall

revise (with Lessee's approval) and replace the following: (i) Article 2, Section 2, Premises, (ii) Article 2, Section 4, Rent and Other Lessee Payments, and (iii) Exhibit B-1, as necessary to conform to these modifications.

2.9.1 In the future Lessee or City may desire to construct additional improvements not enumerated in Exhibits D and E. If an improvement is added to the Premises as approved by Lessee, the Chief Harbor Engineer shall: (i) revise Exhibits D and E to include both the depiction of such additional improvements and a statement identifying such improvement's ownership (which revisions shall be approved by Lessee); (ii) renumber the revised Exhibits D and E (such that, for example, Exhibit D becomes Exhibit D-1); and, (iii) transmit such revised and renumbered Exhibit D to Lessee. City and Lessee acknowledge any such additional improvements may require prior City approval. Upon City's transmittal to Lessee, such revised and renumbered Exhibits D and E shall be deemed to supersede any earlier issued iterations.

2.10 No Conveyance of Fee Estate. The Parties acknowledge and agree that this Lease does not transfer or convey the Fee Estate, and that any grant or conveyance under this Lease is solely of the leasehold estate in the Premises.

Section 3. Term; Effective Date and Holdover.

3.1 Term. The term of this Lease, including the Option Period, ("Term") shall be for a maximum of and in no event shall exceed a total of fifty (50) years. The Term will commence on the Effective Date (as defined below) and shall terminate on that date which is fifty (50) years following the Effective Date ("Expiration Date"), unless sooner terminated in accordance with Article 2, Section 19, of this Lease. The Executive Director shall confirm the Expiration Date in a writing transmitted to Lessee following determination of the Effective Date. The written document confirmation dates shall be attached hereto as Exhibit X without further action of the Board.

3.2 Effective Date. This Lease shall become effective on the date of execution of the Lease by the Executive Director upon authorization by the Board and Council ("Effective Date").

3.3 Holdover. Should Lessee remain in possession of all or any part of the Premises after the expiration of this Lease, with or without the express or implied consent of City, such occupancy shall be considered to be a "holdover" from month to month only, and not a renewal of this Lease nor an extension for any further term, and in such case, rent or other monetary sums due hereunder for such expired Premises shall be payable in the amount of: (i) one hundred twenty five percent (125%) of the Rent (as defined in Section 4) payable for the last month of the term of this Lease, plus (ii) other charges payable hereunder at the time specified in this Lease, and such month to month occupancy shall be subject to every other provision, covenant and agreement contained herein, including any applicable Rental adjustments set forth in Section 4. The foregoing provisions of this Subsection are in addition to and do not affect the right of re-entry or any right of City hereunder or as otherwise provided by law, and in no way

shall such provisions affect any right which City may otherwise have to recover damages, to the extent permissible by Applicable Law, from Lessee for loss or liability incurred by City resulting from the failure by Lessee to surrender the Premises. Nothing contained in this Subsection shall be construed as consent by City to any holding over by Lessee, and City expressly reserves the right to require Lessee to surrender possession of the Premises to City as provided in this Lease, and to the extent permissible by Applicable Law, upon the expiration of this Lease.

3.4 Periodic Evaluation. Lessee and City shall meet to discuss and evaluate the following provisions of the Lease commencing on the fifth anniversary of the Effective Date and every five (5) years thereafter.

- 3.4.1 Tiered Compensation (Article 2, Section 4.2.2.3)
- 3.4.2 ECP (Article 2, Section 7.7.2)
- 3.4.3 Capital Reserves (Article 2, Section 9.1.1)
- 3.4.4 Future Investment (Article 2, Section 9.2)
- 3.4.5 Indemnity and Insurance (Article 2, Section 14)

Section 4. Rent and Other Lessee Payments.

4.1 Definitions.

4.1.1 Compensation Year. “Compensation Year” shall mean a period of twelve (12) consecutive calendar months commencing on the first day of January and every twelve (12) consecutive calendar month period thereafter. Any period of less than twelve (12) consecutive calendar months shall be a partial year. For any partial year, the Rent shall be prorated on the basis of a three hundred sixty-five day year. For example, if the Rent Commencement Date is June 15, 2018, then the first Compensation Year shall commence January 1, 2019.

4.1.2 Tariff Charges. “Tariff Charges” shall mean all applicable charges that may otherwise be due and owing by Lessee under the Tariff, in accordance with Article 2, Section 2.5 on account of Lessee’s use and occupancy of the Premises, including use and occupancy by Lessee’s subtenants and invitees.

4.1.3 CPI-U. “CPI-U” shall mean the Consumer Price Index for All Items, All Urban Consumers for the Los Angeles-Riverside-Orange County, California area, 1982-84=100 as published by the U.S Department of Labor, Bureau of Labor Statistics, or a successor index selected by the Executive Director in the Executive Director’s reasonable discretion.

4.1.4 Base Rent. “Base Rent” shall mean the monetary sum, in U.S. Dollars, Lessee shall pay to City for its use and occupancy of the Premises in a Compensation Year pursuant to Article 2, Section 4.2 below, excluding applicable Tariff Charges and other Additional Rent.

4.1.5 Additional Rent. “Additional Rent” shall mean all monetary sums, in U.S. Dollars, Lessee shall pay to City for applicable impositions, taxes, liens and fees imposed on the Premises or Lessee’s leasehold interest in the Premises, including but not limited to late fees as provided in this Lease, and any additional monetary payments which Lessee is required to pay to City as more fully set forth in this Lease.

4.1.6 Rent Commencement Date. “Rent Commencement Date” shall mean the day the Lessee exercises the Option as described in Article 1, Section 1.3.

4.1.7 MAG Commencement Date. “MAG Commencement Date” shall mean the fifth (5th) anniversary of the commencement of the first Compensation Year. Example: Rent Commencement Date is March 15, 2018, then MAG Commencement Date is January 1, 2024.

4.2 Base Rent Payments. As consideration for rights granted in this Lease, Lessee shall pay to City in the manner herein described without abatement, deduction or offset, except as provided in the Lease, the following:

4.2.1 Annual Rent. Lessee shall pay to the City the greater of (a) percentage rent as set forth in Section 4.2.2 (the “Percentage Rent”) to be paid monthly as provided in Section 4.7.7.1 below or (b) a minimum annual guaranteed rent (“MAG”) as set forth in this Section 4.2.1, to be paid annually as provided in Section 4.7.7.2. The MAG payable under this Lease shall be re-set each successive five (5) year period, pursuant to the method set forth below.

4.2.1.1 Rent Commencement Date to MAG Commencement Date: For the period from the Rent Commencement Date until the day prior to the MAG Commencement Date, no MAG shall be paid by the Lessee to the City.

4.2.1.2 MAG Commencement Date to Fifth Anniversary of MAG Commencement Date: Commencing on the MAG Commencement Date until the fifth anniversary of the MAG Commencement Date, MAG shall be fifty percent (50%) of the average annual Base Rent paid over the preceding five (5) Compensation Years.

4.2.1.3 Fifth Anniversary of MAG Commencement Date - Thereafter: Commencing on the fifth anniversary of MAG Commencement Date and every five (5) years thereafter, the MAG shall be adjusted to be the sum total of (i) fifty percent (50%) of the average annual Base Rent paid (percentage or MAG) over the preceding five (5) years; plus (ii) the aggregate of the cumulative compounded annual CPI-U adjustments to MAG (the “Annual CPI-U Adjustments”) for the previous five (5) years calculated as set forth in Article 2, Section 4.3.1, provided

that no Annual CPI-U calculation shall exceed four percent (4%) in any one year.

4.2.2 Percentage Rent. Subject to Section 4.2.2.3 below, Lessee shall pay, without offset or deduction against the Percentage Rent unless provided herein, a Percentage Rent as follows:

4.2.2.1 Rent Commencement Date to MAG Commencement Date: For the period from the Rent Commencement Date until the day prior to the MAG Commencement Date, Lessee shall pay 3% of annual Gross Receipts.

4.2.2.2 MAG Commencement Date – Thereafter: For the period from the MAG Commencement Date and thereafter, Lessee shall pay the greater of 3% of Gross Receipts or the MAG.

4.2.2.3 Tiered Percentage Rent. Lessee shall pay to City as Percentage Rent:

(a) 3% of annual “Gross Receipts” until the ROC Return Hurdle (defined below) is achieved; and

(b) If the ROC Return Hurdle is achieved:

(i) 3% of annual Gross Receipts up to the ROC Return Hurdle; and

(ii) 33% of annual Gross Receipts above the ROC Return Hurdle.

“ROC Return Hurdle” shall mean a twelve percent (12%) Return on Costs.

“Return on Costs” shall mean the amount calculated by dividing the Project’s Net Operating Income by the Project Development Costs.

“Net Operating Income” shall mean the total of (A) sources of revenue consisting of (i) rents and other contracted revenue (including but not limited to percentage rent and tenant reimbursement revenue) actually received by Lessee under bona fide agreements at the Premises, (ii) other operating income from the Premises, including parking income, event, sponsorships, filming, signage revenue, and other income line items related to the Premises actually received by Lessee and that are generally considered recurring income under BOMA standards; less

(B) expenses normally considered a property expense under BOMA standards including but not limited to (i) repairs and maintenance costs, (ii) utilities costs, (iii) security costs, (iv) cleaning and janitorial costs, (v) cost of parking operations, (vi) landscaping costs, (vii) administrative costs, (viii) property taxes, (ix) insurance including earthquake and terrorism coverage if carried, (x) a management fee at a market rate not to exceed 3.5%, and (xi) ground lease payments. All such revenues and expenses shall be determined in accordance with GAAP (expressly excluding depreciation, amortization and other non-cash items, debt service payments on the loan, and capital expenditures).

“Project Development Costs” shall mean the total of (A) hard and soft costs for the initial construction of the Project, plus (B) construction financing costs related to the initial construction of the Project, plus (C) any additional capital investments related to the Project (including tenant improvements and commissions). The costs associated with (A) and (B) will be established following Project Completion. The costs associated with (C) will be reported along with regular Rent reports.

“BOMA” shall mean the Building Owners and Managers Association or its successor.

“GAAP” shall mean generally accepted accounting principles.

4.3 Rental Adjustment.

4.3.1 Annual Adjustments. For the Annual CPI-U Adjustments pursuant to Section 4.2.1.3 above, the respective MAG shall equal the prior year’s annual MAG adjusted for inflation by multiplying the prior year’s annual MAG by the CPI-U of the current year and then dividing it by the CPI-U of the prior year (adjusted annual MAG = annual MAG x (CPI-U July 20CY (CY=Current Year) ÷ CPI-U July 20PY (PY=Prior Year)). For accounting purposes, the CPI-U adjustment shall be rounded to the nearest thousandth. The Annual CPI-U Adjustment shall not exceed four percent (4%) for any one year.

4.3.2 Five-Year Rate Adjustments. Compensation shall be readjusted every five (5) years in accordance with Article 2, Sections 4.2.1.2 and 4.2.1.3 hereof.

4.4 Additional Rent; Definition of Rent. In addition to any other consideration under this Lease, including without limitation any Base Rent, Lessee shall pay to City, at the address specified herein, all Additional Rent when due. Base Rent and Additional Rent shall collectively be referred to herein as “Rent.”

4.5 Rent on Lessee's Improvements. With respect to additions, improvements or alterations to leasehold structures authorized by City and made by Lessee during the Term Lessee shall not be charged rent for the rental value thereof except pursuant to Section 3.3.

4.6 Additional Payments by Lessee; Impositions; Taxes.

4.6.1 Utilities and Services. Lessee shall be liable for and shall pay all charges for utilities and services furnished to the Premises, including, without limitation, heat, power, telephone, water, light, janitorial services, security services and trash collection services, sewer and sewer discharge fees, and any other utilities or services in connection with its occupancy of the Premises, including, without limitation, deposits, connection fees or charges and meter rentals required by the supplier of any such service. If any such utilities or services are not separately metered or billed to Lessee, Lessee shall pay a reasonable proportion, to be determined by City, of all charges jointly metered or billed. There shall be no abatement of Rent and City, in its Proprietary Capacity, shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond the Harbor Department's reasonable control or in cooperation with governmental request or directions. To the extent such utilities and services are provided by City, payment for same shall be Additional Rent.

4.6.2 Impositions. For any period within the Term (with daily proration for periods partially within the Term and partially outside the Term), Lessee shall pay and discharge all Impositions, before delinquency (but subject to the terms of this Lease, including any applicable cure periods). If Lessee fails to pay any Imposition before the expiration of any applicable cure period, and such failure results in a Lessee Default under this Lease, City shall be entitled to require Lessee to deposit sufficient funds in monthly installments into a depository account in advance of the next succeeding Imposition due date to avoid such succeeding delinquency. The rights of City under any such depository account shall be subject to the rights of all Leasehold Mortgagees. For the purposes of this Lease, "Imposition" shall be defined as a tax, duty, charge, and related encumbrance placed on the Lessee.

4.6.3 Taxes

4.6.3.1 Sales Tax Origin. Lessee shall use reasonable efforts to require its contractors, subcontractors, vendors, sublessees and other third parties under its control or with whom it enjoys privity of contract to designate the City as the point of sale for California sales and use tax purposes (to the extent the payment of sales and use tax is required by Applicable Law), for all purchases of materials, fixtures, furniture, machinery, equipment and supplies for the Premises during the

construction thereof and for all sales of tickets, food, merchandise and other items in connection with the Premises operations and events.

4.6.3.2 Personal Property Taxes. Lessee shall pay, or cause to be paid, before delinquency, any and all taxes levied or assessed, and which become payable during the Term hereof, upon any of Lessee's leasehold improvements, equipment, furniture, fixtures and personal property located on the Premises.

4.6.3.3 Possessory Interest Tax. By executing this Lease and accepting the benefits thereof, a property interest may be created known as "possessory interest" and such property interest will be subject to property taxation. Lessee, as the party in whom the possessory interest is vested, may be subject to the payment of the property taxes levied upon such interest. Lessee shall not be liable for any possessory interest for portions of the Premises not delivered to Lessee. Lessee acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

4.6.3.4 All Taxes. Lessee shall timely pay all taxes imposed with respect to this Lease, Lessee's use or the operation of the Premises, including, without limitation, any documentary or other transfer or sales taxes, property or possessory interest taxes and any City of Los Angeles Business Tax applicable to the use and operation of the Premises. City reserves the right, without being obligated to do so, to pay the amount any such taxes, which if not paid may result in a lien on the Premises, not timely paid by Lessee, and the amount so paid by City shall be deemed Additional Rent hereunder, due and payable by Lessee immediately upon demand by City.

4.6.3.5 No Waiver. Notwithstanding this Subsection 4.6.3, Lessee does not waive its right to contest the amount of such tax or seek relief from a court of competent jurisdiction to the extent that such tax, assessment, fee or charges are contrary to Applicable Law.

4.6.4 Other Amounts. Lessee shall pay any amounts due and owing that arise from or are related to its undertaking of the Permitted Uses or its occupancy of the Premises, including, without limitation, service charges for services provided by the Harbor Department.

4.7 Requirements Applicable to Lessee's Payment of Rent.

4.7.1 Lessee's Obligation to Pay; No Set-Off. Lessee's obligations to pay Rent to City according to the terms and conditions of this Section 4 shall be absolute and unconditional except as set forth in this Lease and shall be unaffected by any circumstance, including, without limitation, off-set,

counterclaim, recoupment, defense or other right which Lessee may have against City except as set forth in this Lease.

4.7.2 Payments. Lessee shall render its payments at the Harbor Department Administration Building or any other place that City from time to time may designate in writing. Payment of Rent shall be made in U.S. Dollars, either in the form of a check (drawn on a bank located in the State of California) or via electronically transmitted funds. Payments of Rent are due on a monthly basis as may be specified in this Lease whether or not City has sent an invoice for same.

4.7.3 Proration of Payments. If any payment by Lessee is for a period shorter than one calendar month, the Rent for that fractional calendar month shall accrue on a daily basis for each day of that fractional month at a daily rate equal to 1/365 of the total annual Rent. All other payments or adjustments that are required to be made under the terms of this Lease and that require proration on a time basis shall be prorated on the same basis.

4.7.4 Labor Disturbance. If, by reason of strikes, other labor disputes, lockouts, or other work stoppages of which Lessee did not directly or indirectly cause and/or to which Lessee is not a party ("labor disturbance"), occurring at or near the Premises and lasting more than fifteen (15) days, Lessee is prevented from making substantial use of Premises to undertake the Permitted Uses, the Rent for the period during which the labor disturbance occurs shall be proportionately adjusted, commencing the sixteenth (16th) day after commencement of such labor disturbance, provided Lessee has, prior to such date, given City written notice of such labor disturbance, including its assertion that it has not caused such disturbance, and such reduction shall be applicable from and after said sixteenth (16th) day until Lessee is able to make substantial uses of the Premises to undertake the Permitted Uses.

4.7.5 Force Majeure Not Applicable. Any Force Majeure provision or principle, other than as set forth in this Lease, shall not apply to any of Lessee's Rent payment obligations under this Section 4; and further provided, however, if there is a directive, order, or policy issued by the Executive Director and exclusive to the Harbor District property only, rather than a change in law affecting all businesses within the City of Los Angeles, which has an economic effect resulting in a cost of compliance of more than \$10,000, Lessee shall be entitled to deduct or offset against Rent coming due in an amount not to exceed \$150,000 annually ("Rent Offset"), provided Lessee support such Rent Offset with invoices or further written documentation as may be reasonably requested by City evidencing such costs. In the event the total Rent Offset exceeds \$150,000 annually, Lessee and City will enter into negotiations on a rent credit amount to offset a portion of or all direct costs, which may require amendment to this Lease subject to the approval of the Board and Council in their sole discretion. In the event the Parties are unable to reach agreement, City or Lessee may seek arbitration by third-party arbiter to determine the respective offset. Arbitration shall be complete within sixty

(60) days unless extended by mutual agreement of the Parties. The arbitration shall be binding on the Parties.

4.7.6 Delinquent Payments. Rent payments required to be made by this Section 4 which have not been paid within ten (10) calendar days of the date such payments are due ("grace period") shall be subject to a service charge assessed as simple interest at the rate of 1/30 of two percent (2%) of the amount remaining unpaid after the tenth (10th) calendar day. Lessee acknowledges that it knows the day of the month its Rent payments hereunder are due and that the grace period commences from the date such Rent payments are due to be made, not the date of City's invoice, if any.

4.7.7 Rent Payment Provisions.

4.7.7.1 Monthly Gross Receipts Statements. Lessee shall have prepared and delivered to City within thirty (30) calendar days after the end of each month, on a commercially reasonable form prepared by the Harbor Department or in a format approved by the Harbor Department, a written statement signed by Lessee's duly authorized officer or a representative showing in reasonable detail the elements and amount of Gross Receipts received during the prior month and cumulative during the Compensation Year. Monthly payment of the Percentage Rent shall accompany the written statement detailing the Gross Receipts.

4.7.7.2 Annual Gross Receipts Statements. Lessee shall further have prepared and delivered to City on or before the one hundred eightieth (180th) day following the end of each Compensation Year, and on or before the one hundred eightieth (180th) day after the end of the Term, a complete, certified, annual statement, signed by Lessee's duly authorized officer or representative, showing in reasonable detail the elements and amounts of Gross Receipts during the preceding Compensation Year or fraction thereof together with a list of all sublessees and licensees and a description of their respective businesses. At the time the annual statement is submitted by Lessee to City, Lessee shall pay to City an amount equal to the greater of the Percentage Rent or MAG relating to the subject Compensation Year, if any, due. In the event that such annual statement reflects an overpayment, such overpayment shall be credited against the Rent next coming due or reimbursed to Lessee if the Lease has terminated provided no rent is due and owed to City under this Lease.

4.7.7.3 Percentage Rent Due. The Percentage Rent is due and payable within thirty (30) calendar days following the end of the preceding month. Should the Rent Commencement Date of this Lease commence on a day other than the first day of a calendar month, the Percentage Rent for the first fractional month and the month beginning immediately

thereafter shall be due within thirty (30) calendar days following the end of the month beginning immediately after the first fractional month. The initial Percentage Rent payment shall be due on January 1st following the Effective Date. The Percentage Rent payment for the last fractional month shall be made within thirty (30) calendar days following the end of the Term.

4.7.7.4 Holdover Period. Rent for any month-to-month tenancy beyond the Term shall be paid in the same manner as if the term of this Lease had commenced with the first day of such holdover. In the event the period of holdover lasts longer than one year, the Rent paid shall be subject to monthly reconciliation pursuant to Article 2, Section 4.7.7.1 and an annual reconciliation pursuant to Article 2, Section 4.7.7.2.

Section 5. Use of Premises

5.1 Permitted Uses. The Premises shall be used for the following purposes and no others: The uses permitted for the Premises as set forth in the 2009 EIR/EIS ("Permitted Uses"). Lessee shall not, and shall require its sublessees to not, engage in the transportation of cargo or people in international commerce.

5.1.1 City agrees that the Permitted Uses are consistent with the 2009 EIR/EIS as amended.

5.1.2 City agrees that it has no knowledge of any lease, other possessory interest, or encumbrance that affects the Premises except as stated in this Lease.

5.2 Non-Permitted Uses. Lessee shall not use or allow the Premises or any part thereof to be used for purposes other than the Permitted Uses without the prior written approval of the Board (which approval may be withheld by the Board in its sole and absolute discretion), and subject to such reasonable restrictions, limitations, and conditions as may be imposed by the Board.

5.3 Operating Covenant. Lessee shall manage and operate the Premises or cause the Premises to be managed and operated, as a retail, restaurant, commercial, including office, and waterfront recreational facility, in a manner consistent with the manner and standards by which Comparable Facilities are managed and operated, and shall perform maintenance and capital improvements necessary to maintain the Premises in a manner comparable to that in which Comparable Facilities are maintained. Lessee shall operate the Premises in a commercially reasonable manner. For purposes of this Article 2, Section 5.3, "commercially reasonable" refers to the standard generally established by other operators of Comparable Facilities. In connection with its waterside operations, Lessee shall, from time to time, establish operational rules, fees and regulations for its waterside operations.

5.4 Responsibility for Financing. Lessee covenants that any financing required in connection with the development of Lessee's Improvements and the operation of the Premises shall be the sole responsibility and cost of Lessee.

5.5 Lessee to Supply Necessary Labor and Equipment. Lessee shall, at its sole cost and expense, provide all labor and equipment necessary to undertake its obligations hereunder.

5.6 Quiet Enjoyment. Subject to the rights reserved in favor of City under this Lease, Lessee, upon payment of Rent hereunder and upon observing and keeping the conditions and covenants of this Lease on its part to be observed and kept, shall lawfully and quietly hold, use and enjoy the Premises during the term of this Lease.

5.7 Waste or Nuisance. Lessee shall not use the Premises in any manner that constitutes waste or nuisance.

5.8 Radio Equipment. Lessee shall coordinate with the Harbor Department and any other applicable Governmental Agencies prior to installing any radio or telecommunications equipment to ensure that frequencies do not interfere with public safety communications or radio frequencies.

5.9 Maintenance Areas. Lessee shall not conduct or permit any maintenance of mobile or portable equipment on the Premises except in full compliance with all Applicable Laws and any requirements set forth in this Lease.

5.10 Compliance with Applicable Laws. At all times in its use and occupancy of the Premises and in its conduct of operations thereon, Lessee shall comply with Applicable Laws.

5.11 Liens; Indemnity. Except where contested by Lessee in good faith in a court of competent jurisdiction, and except for non-delinquent liens arising from taxes or tax assessments, Lessee shall keep the Premises free from liens of any kind or nature arising out of its use and/or occupancy of the Premises, including any liens arising out of any labor performed for or materials furnished to or on behalf of Lessee on the Premises. Lessee agrees that it will at all times defend and indemnify City from and against all claims for labor or materials in connection with the construction, erection or installation of improvements made by Lessee upon the Premises, or from additions or alterations made to any improvements on the Premises, or the repair or upgrade of the same, by or at the direction of Lessee, and the costs of defending against any such claim, including reasonable attorneys' fees. If a mechanic's or other similar lien shall at any time be filed against City's interest in the Premises, which is not contested by Lessee in good faith in a court of competent jurisdiction, Lessee shall cause the same to be discharged of record within sixty (60) days after the date of filing the same or otherwise free the Premises from such claim or lien and any action brought to foreclose such lien or Lessee shall promptly furnish City with a bond in the amount of the lien plus twenty-five percent (25%) thereof issued by a surety company reasonably acceptable to

the Executive Director, securing City against payment of such lien and against any and all loss or damage whatsoever in any way arising from the failure of Lessee to discharge such lien.

5.12 Property of Lessee. All property brought onto the Premises by Lessee, or in the care, custody or control of Lessee, to undertake the Permitted Uses or otherwise shall be and remain the property of Lessee, subject to the terms and conditions contained herein, and shall be there at the sole risk of Lessee. Lessee hereby waives all claims against City with respect to such property, except for injury or damage to such property caused by City's acts arising from its negligence or willful misconduct.

5.13 Local Job Participation; Living Wage. In furtherance of the policies of the Board and the Council, Lessee shall use reasonable efforts to achieve the goals of local job participation in the use and operation of the Premises and the Living Wage Ordinance of the City of Los Angeles as defined in the City of Los Angeles Administrative Code Section 10.37.

5.14 Provision of Safe Environment. Lessee shall use its reasonable efforts to provide for a safe environment on the Premises and follow the Harbor Department's Homeland Security rules and regulations, including without limitation, Tariff Section 2, item 298, and all other Applicable Laws.

Section 6. Construction of City's Improvements.

6.1 City's Construction.

6.1.1 City Improvements. City shall be responsible for the construction and completion of the City Improvements. Said improvements shall be constructed in accordance with the time line described in Exhibit G and the sections herein.

6.1.1.1 Sewer Lift Station. City shall replace the sewer lift station currently located on the Premises, which replacement shall be performed as part of the Promenade work, with sufficient capacity to handle the sewage reasonably expected to be generated by the complete buildout of the Premises as described in the 2009 EIR/EIS. In the event the sewer lift station requires relocation to a different site at the request of the Lessee, Lessee shall be responsible for any and all incremental costs associated with the relocation and in accordance with Section 8.9.1.1 of this Lease.

6.1.2 City License. Lessee shall grant to City a license, a form of which shall be attached to this Lease as Exhibit M, which shall allow City or third-parties as directed by the City the right to construct City Improvements on the certain portion of Premises where Lessee has taken possession, in accordance with the terms and conditions set forth in this Article 2, Section 6.

6.1.3 Schedule and Delays. Exhibit G reflects the estimated timeline for satisfaction of the construction of the City Improvements. In the event that a Party determines that a particular obligation will not be satisfied within the time period specified, it shall provide written notice to the other Party, but failure to give such notice will not be a default hereunder. In the event that the aggregate estimated and actual delays will exceed twelve (12) months, the Parties shall determine whether any amendment of this Lease is required to adjust for the delays. In the event that City's performance of its obligations is delayed after Lessee has exercised an option set forth in Article 1, Section 1.2, City shall promptly advise Lessee.

6.2 Phasing. Lessee and City acknowledge redevelopment of the Premises requires cohesive and simultaneous construction and such work requires a logical construction sequence with mutual joint effort and planning.

6.2.1 Delivery of Premises in Phases. In accordance with Exhibit G and as set forth in Article 1, Section 2.3, City shall deliver to Lessee portions of the Premises in phases (each a "Phase"). The date of delivery ("Delivery Date") shall be detailed in the Delivery Notice from the Executive Director to Lessee. Upon the Delivery Date of the respective Phase, Lessee shall design, construct, and develop the Lessee's Improvements on the portion of Premises described in the Delivery Notice at its sole cost and expense.

6.2.2 Continuing Obligation. Notwithstanding the delivery of a portion of the Premises, City shall diligently prosecute to Completion all of the City Improvements.

6.2.3 Enhancements. City shall expend an aggregate of Five Million Seven Hundred Thousand Dollars (\$5,700,000) for waterside improvements and enhancements of the City Improvements for the Project pursuant to Exhibit D and the schedule set forth in Exhibit G.

6.3 Lessee's Construction.

6.3.1 Lessee Construction Obligations.

6.3.1.1 General. Lessee shall be responsible for the development, design and construction of the Lessee's Improvements for the Premises in accordance with Exhibit E and F and the terms and conditions set forth in this Lease.

6.3.2 Design and Construction of Lessee's Improvements.

6.3.2.1 Standards for Design and Construction. Except as set forth in Exhibit E, Lessee, at its sole cost and expense, shall design

and construct all Lessee's Improvements for the Premises and shall do so in conformity to the extent applicable with the LA Waterfront Design Guidelines and the Port of Los Angeles Sustainability Design and Construction Guidelines, except as may be otherwise approved by the City. Lessee's improvements shall consist of the site work, private utilities, and other horizontal and vertical improvements required for the substantial completion of building shell and core construction, as necessary for the occupancy of the Premises by Lessee's sublessees. Sublessees' improvements are anticipated to be designed, permitted, and constructed by sublessees of the Premises, subject to the approval and oversight of Lessee and subject to the terms of this Lease.

6.3.2.2 Construction Approvals. Lessee shall obtain a Harbor Engineer's General Permit in accordance with Article 2, Section 6 of this Lease before constructing any of the Lessee's Improvements. Lessee shall submit and City shall provide reasonable written approval of, plans and specifications prepared by or on behalf of Lessee in connection with such improvements. Any modification, improvement, or addition to the Premises and any equipment installation or removal required by the Fire Department, Department of Building and Safety, South Coast Air Quality Management District, Regional Water Quality Control Board, U.S. Coast Guard, Environmental Protection Agency, US Army Corp of Engineers, or any other agency pursuant to Applicable Law in connection with the construction of the Lessee's Improvements, shall be constructed, installed, or removed at Lessee's sole expense.

6.3.2.2.1 Application for Port Permit. In order to obtain the Harbor Engineer's General Permit, Lessee shall submit to City a complete Application for Port Permits ("APP") that attaches a complete set of drawings, plans, and specifications reflecting the proposed Lessee's Improvements on the Premises. Such drawings, plans and specifications shall be prepared and stamped by a licensed engineer and/or architect registered in the State of California. Lessee bears sole responsibility for the completeness of such submittal. Lessee shall also be responsible for the respective APP for any sublessees.

6.3.2.2.2 Harbor Engineer Approval. The Chief Harbor Engineer shall have the right to require changes to the drawings, plans and specifications Lessee submits in connection with the required APP. If the Chief Harbor Engineer orders a change and Lessee believes that such a change will have any detrimental effect on the structural integrity of the works, project or improvements, or increase any hazard to life or property, Lessee shall promptly notify the Chief Harbor Engineer. If Lessee fails to provide such notification, the drawings, plans and specifications shall be treated

for all purposes as if they had been originally prepared by Lessee, as changed. The Chief Harbor Engineer's approval of Lessee's submittal, if any, will be reflected by issuance of a Harbor Engineer's General Permit.

6.3.2.2.3 Non-Harbor Department Permits. Lessee acknowledges that, in addition to obtaining a Harbor Engineer's General Permit, Lessee additionally may be required to obtain permits and authorizations with respect to the Lessee's Improvements from City, federal and state bodies ("Non-Harbor Department Permits"), the issuance of which the Harbor Department does not control. In any event, obtaining the Harbor Engineer's General Permit and any Non-Harbor Department Permits necessary to undertake the proposed Alteration is and shall be the sole responsibility of Lessee. Pursuant to Article 2, Section 5.10, all construction by Lessee shall conform with Applicable Laws, as well as with the plans and specifications as approved by the Chief Harbor Engineer.

6.3.2.2.4 Conditions of Approval. Lessee acknowledges that issuance of the Harbor Engineer's General Permit by City's Harbor Department shall be conditioned upon Lessee's demonstration that it has obtained all Non-Harbor Department Permits as may be required by entities other than City's Harbor Department; provided, however, Lessee shall not be required to obtain the Harbor Engineer's approval for revisions or changes mandated by Non-Harbor Department permitting Governmental Agencies.

6.3.3 Construction Deadlines. Lessee shall commence construction of the Lessee's Improvements in accordance with Article 2, Section 6.3 and Exhibit F and, in accordance with this Lease, construct the Lessee's Improvements on the Premises which have been delivered to the Lessee under the initial Delivery Notice, all at its sole cost and expense, as soon as reasonably practicable and shall prosecute the same diligently to Completion, using all commercially reasonable efforts to complete the Lessee's Improvements. Notwithstanding any other provision of this Lease, if Lessee has not commenced construction of the Lessee's Improvements within eight (8) months after the initial Delivery Notice, subject to extension on a day-for-day basis on account of Force Majeure Events, then City shall have the right to terminate this Lease with respect to the portion of the Premises designated in the Delivery Notice, by written 30-day notice from the Executive Director.

6.3.4 Construction Contracting.

6.3.4.1 Cost of Permits. Lessee, at its sole cost and expense, shall obtain all permits necessary for construction of the Lessee's Improvements.

6.3.4.2 Cost of Construction. All construction by Lessee pursuant to this Section 6 shall be at Lessee's sole cost and expense.

6.3.4.3 Construction Contractors. Lessee shall require by contract that its construction contractors and subcontractors comply with all Applicable Laws.

6.3.4.4 Project Labor Agreement. A Project Labor Agreement ("PLA") will be required during the construction of the Lessee's Improvements on Harbor Department property. The purpose for the PLA is to promote efficiency of construction operations during construction and provide for orderly settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring timely and economical completion of the Lessee's Improvements. Lessee shall set up a PLA with the Los Angeles/Orange Counties Building and Construction Trade Council where they are a signatory.

6.3.5 Cooperation by City. Unless inconsistent with or contrary to the terms and provisions of this Lease, upon Lessee's request, City acting in its Proprietary Capacity, shall, without substantial cost to City or a third-party working on behalf of the City, promptly join in and execute any instruments including, but not limited to, applications for building permits, demolition permits, alteration permits, appropriate consents, zoning, rezoning or use approvals, amendments and variances relating to the Premises, and such other instruments as Lessee may from time to time reasonably request to enable Lessee to use, develop, improve and construct improvements on the Premises during the Term consistent with the standards and use restrictions set forth in this Lease and the Law, provided each of the foregoing is in reasonable and customary form and does not cause the Fee Estate to be encumbered as security for any obligation and does not expose the Fee Estate to any risk of forfeiture during the Term. City, in its Proprietary Capacity, agrees not to oppose or object to any applications filed by Lessee with any Government Agency in connection with development, operation or alteration of any improvements located on the Premises which are consistent with the standards set forth in this Lease and the Applicable Law. Nothing in this Article 2, Section 6.3.5 shall be construed to limit City's police powers or discretionary review and approval processes in its Governmental Capacity.

6.3.6 Payment of City Fees and Reimbursement of City Costs. Lessee acknowledges that City will incur costs in processing Lessee's APP and agrees

that such reasonable costs are the sole responsibility of Lessee. Lessee shall submit any fees established by the Harbor Department for processing APPs.

6.3.7 As-Built Plans. Upon completion of all work necessary to construct the Lessee's Improvements, Lessee shall provide City with written confirmation that such work conforms with all permits issued and Lessee shall provide City with "as-built" plans and/or drawings for such work in a form acceptable to the Chief Harbor Engineer. Lessee acknowledges that City may perform inspections of the improvements to ensure that they conform with the permits issued. Lessee shall undertake any corrective measures reasonably requested by City as a result of such inspections.

6.4 Prevailing Wage.

6.4.1 Work performed on Port property may require payment of prevailing wages. Lessee is obligated to make that determination, and will be bound by and comply with the applicable provisions of the California Labor Code and Federal, State, and local laws related to the prevailing wage and labor. Lessee will indemnify and pay or reimburse the Harbor Department for any damages, penalties or fines (including but not limited to, attorney's fees and costs of litigation) that the Harbor Department incurs, or pays, as a result of noncompliance with applicable prevailing wage laws in connection with the work performed by Lessee under this Lease.

6.4.2 The "General Prevailing Wage Rates" will be those rates as determined by the Director of the Department of Industrial Relations of the State of California. The general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification, predetermined increases, if applicable, or type of workman needed to execute the work performed under this Lease are from the State of California Director of the Department of Industrial Relations, and may be obtained by going to the website. Copies of these rates are also on file in the Office of Contract Compliance, Bureau of Contract Administration, telephone (213) 847-1922 (the contact information is provided for convenience only, but it is Lessee's responsibility to obtain the current applicable phone numbers and websites in the event that those provided are no longer correct).

6.5 Improvement Payment and Performance Bond.

6.5.1 After award of the construction contract for the Lessee's Improvements, but before any work is performed under the contract, Lessee will be required to file a payment bond with the Harbor Department to be approved by the City. Lessee or its contractor shall provide the payment bond on a commercially reasonable form provided by the Harbor Department. The payment bond shall be for not less than 100 percent of the amount of the work of improvement proposed by the contractor to satisfy claims of material suppliers, mechanics, laborers, and subcontractors employed by it on the work. The

payment bond shall be issued by a surety who is authorized to issue bonds in California.

6.5.2 After award of the construction contract for the Lessee's Improvements, but before any work is performed under the contract, Lessee will be required to file a performance bond with the Harbor Department to be approved by the City. Lessee or its contractor shall provide the performance bond on a commercially reasonable form provided by the Harbor Department. The performance bond shall be for 100 percent of the amount of the work of improvement proposed by the contractor to guaranty faithful performance of all work. The performance bond shall be issued by a surety who is authorized to issue bonds in California.

Section 7. Lessee's Environmental Obligations During Term of Lease.

7.1 Definitions. All defined terms are contained in the Glossary in Exhibit A and below.

7.1.1 Term Release. "Term Release" shall mean a spill, discharge or any other type of release of Environmentally Regulated Material that occurs on any portion of the Premises delivered to Lessee during the period commencing upon delivery of such portion to the Expiration Date of this Lease, as may be amended, or any holdover whether to the extent caused by Lessee (its agents, employees, contractors, tenants or invitees) or a third-party, other than the City or the City's Parties, that contaminates or threatens to contaminate the Premises, adjacent harbor waters, soil, sediment, groundwater or air of those adjacent premises (including soil, sediment, groundwater, or air of those adjacent premises).

7.1.2 Term Contamination. "Term Contamination" shall mean all contamination of improvements, adjacent harbor waters, soil, sediment, groundwater or air of the Premises or of adjacent premises (including soil, sediment, groundwater or air of those adjacent premises) resulting from all Term Releases.

7.1.3 Term Characterization Work Plan. "Term Characterization Work Plan" shall mean the written work plan submitted by Lessee to City, the sufficiency of which is subject to City's reasonable approval, that details all work (including sampling and analysis) necessary to generate a written characterization of the nature and extent of contamination (including contamination of air, soil, and water) caused by a Term Release or Term Releases and that includes detailed programs for sampling and chemical analysis of soil and ground water, which programs shall conform with Environmental Laws, accepted principles of environmental science, established regulatory protocols and the Port of Los Angeles "Site Characterization Guidance Manual" as it exists as of the Effective Date or as it may be subsequently

amended (“Manual”). Lessee acknowledges receipt of a copy of such Manual. Following the Effective Date, Lessee shall be solely responsible for obtaining and maintaining the current version of the Manual.

7.1.4 Term Characterization Report. “Term Characterization Report” shall mean the written report submitted by Lessee to City, the sufficiency of which is subject to City’s reasonable approval, that details all findings made as a result of performing the Term Characterization Work Plan and that is in conformance with the Manual.

7.1.5 Term Remediation Action Plan. “Term Remediation Action Plan” shall mean the written plan submitted by Lessee to City, the sufficiency of which is subject to City’s reasonable approval, that addresses remediation of all Contamination caused by Environmentally Regulated Material in soil, harbor waters, groundwater, and sediment as identified in the Term Characterization Report, that conforms with Lessee’s’ obligations as set forth below in Article 2, Section 7.6, and that included a discussion of remedial action alternatives for restoration of the Premises to its condition prior to the Term Contamination, and a timetable for each phase of restoration. The Term Remediation Action Plan shall comply with Environmental Laws, established regulatory protocols, accepted principles of environmental science, and the Manual.

7.1.6 City’s Reasonable Approval. If Lessee provides the City with a Term Characterization Work Plan, a Term Characterization Report, or Term Remediation Action Plan for approval pursuant to Sections 7.1.3, 7.1.4, or 7.1.5, and City fails to approve or provide specific comments or requested revisions to that work plan, report, or action plan within thirty (30) days, City is deemed to have approved the work plan, report, or action plan as sufficient under Sections 7.1.3, 7.1.4, or 7.1.5, as applicable.

7.2 Baseline Condition of the Premises.

7.2.1 Baseline Conditions, City’s Baseline Report. Lessee acknowledges and agrees that it has reviewed the document referred to as the “City’s Baseline Report” which constitutes the City’s written depiction of the known environmental condition of the Premises on the Effective Date (“Baseline Condition”). The City’s Baseline Report is incorporated by reference into this Lease and the Executive Summary section of the City’s Baseline Report is attached hereto as Exhibit I. Lessee and City agree that the City’s Baseline Report may be amended upon the completion of the parties construction of the project set forth in Exhibit D and E and acknowledge the amended report shall be incorporated into this Lease and shall be the final City’s Baseline Report. Lessee and City further agree that upon completion of construction, there shall be no further amendment of the City’s Baseline Report. Lessee shall not be responsible for contamination identified at the levels for those contaminants covered in the City’s Baseline Report or for any other contamination that does not constitute a Term Release.

7.3 Lessee Responsibility for Term Contamination.

7.3.1 Remediation. Lessee shall remediate or cause the remediation of any Term Releases, to the extent required by Applicable Law and the standards set forth in Exhibit Y whichever is more stringent, by removing or effecting the removal or other remediation of all contaminated soil, water, groundwater, sediment or other material it may place or may have placed on the Premises such that no encumbrances, such as deed or land use restrictions, be imposed on the Premises as a result of such Term Releases and/or Term Contamination. As between City and Lessee, Lessee shall bear sole responsibility for all Term Contamination and any costs related thereto.

7.3.2 Lessee Responsibility; Indemnity. Subject to Section 7, except for conditions on the portion of the Premises delivered to Lessee that existed prior to the delivery of such portion of the Premises, Lessee bears sole responsibility for full compliance with any and all Applicable Laws regarding the use, storage, handling, distribution, processing, and/or disposal of Environmentally Regulated Material involved in Lessee's possession of the Premises, regardless of whether the obligation for such compliance or responsibility is placed on the owner of the land, on the owner of any improvements on the Premises, on the user of the land, or on the user of the improvements. Lessee agrees that any claims, damages, fines or other penalties asserted against or levied on City and/or Lessee as a result of noncompliance by Lessee, its subtenants or its invitees with any Applicable Laws shall be the sole responsibility of Lessee and that Lessee shall indemnify and hold City harmless from any and all such claims, damages, fines and penalties, as well as any costs expended to defend against such claims, damages, fines and penalties, including attorneys' fees. City, at its sole option, may pay such claims, damages, fines and penalties resulting from Lessee's noncompliance with any of the aforementioned authorities and Lessee shall promptly reimburse City for any such payments.

7.4 Existing Contamination. City acknowledges that prior to the Effective Date, the Premises were constructed and occupied by others, including the City, and that as a result of such construction and prior use and occupancy, the portions of the Premises when delivered to Lessee possess levels of contamination including, without limitation, that which is depicted in the City's Baseline Report as may be amended or supplemented ("Existing Contamination"). Lessee bears no responsibility for Existing Contamination whether or not such Existing Contamination may be set forth in the City's Baseline Report, which Existing Contamination shall be the City's responsibility.

7.5 Environmentally Regulated Material on Premises. Lessee shall not cause or permit any Environmentally Regulated Material to be generated, brought onto, handled, used, stored, transported from, received or disposed of (hereinafter sometimes collectively referred to as "handle" or "handled") in or about the Premises, except for: (i) commercially reasonable quantities for the Permitted Uses of Environmentally Regulated Material; and (ii) Environmentally Regulated Material handled in conformity

with Lessee's ECP as referenced in Section 7.7.2. Lessee shall handle all such Environmentally Regulated Material in compliance with Environmental Laws in effect during the Term or any holdover.

7.6 Lessee Obligations In the Event of a Term Release.

7.6.1 Generally. Upon occurrence of a Term Release, Lessee, at its sole cost and expense, shall initiate and complete the procedure set forth in Sections 7.6.2 through 7.6.11 below. Executive Director may alter, supplement or delete any of the procedures set forth in Sections 7.6.2 through 7.6.11 at Executive Director's reasonable discretion provided that such action is in accordance with Applicable Law and standards attached hereto as Exhibit Y whichever is more stringent.

7.6.2 Reporting Obligations. Immediately, to facilitate emergency or other response, and in accordance with Environmental Laws and in no event later than fourteen (14) calendar days following its discovery of the Term Release, Lessee shall provide a written report to City that details all known information regarding such release and any resultant contamination, which information shall include but not be limited to: (i) the date, time and specific location of the release; (ii) the specific type and quantities of materials released if known or reasonably ascertainable; (iii) the cause(s) or suspected cause(s) of the release; (iv) photographs of the release and any and all equipment or fixtures involved; (v) corrective action taken or planned to be taken by or on behalf of Lessee to address the cause or suspected cause of the release; and (vi) the names and contact information of individuals and entities acting for or on behalf of Lessee to address the release, including environmental consultants.

7.6.3 Corrective Actions. According to a schedule prescribed in writing by Executive Director or the applicable governmental agency with jurisdiction, Lessee shall make or cause to be made any and all necessary corrective actions to address the cause or suspected cause of the Term Release, including but not limited to equipment repairs and/or replacements.

7.6.4 Notification to Regulatory Agencies. Within thirty (30) calendar days following its discovery of the Term Release, Lessee shall provide written notification of the Term Release and any resultant contamination to all applicable regulatory agencies as required by Environmental Laws, with copies of such notification(s) to City.

7.6.5 Notification of Consultants. Within thirty (30) calendar days following its discovery of the Term Release, Lessee shall provide written notification to City of the consultant(s), if any, Lessee plans to utilize in connection with the Term Characterization Work Plan. Such written notification shall set forth the names of the individuals forming the consultant team, and their qualifications.

7.6.6 Term Characterization Work Plan. Subject to any schedule or protocol required by any Governmental Agency with jurisdiction which schedule or protocol shall take precedence over these Sections 7.6.6 through and including 7.6.11, within sixty (60) calendar days following City's approval of Lessee's consultant, Lessee shall submit the Term Characterization Work Plan to City for its written approval. Provided Lessee delivers to City a complete Term Characterization Work Plan as hereinabove required, City shall use its best reasonable efforts to expeditiously approve or disapprove such plan. Lessee shall provide additional information upon request of City if City deems the Term Characterization Work Plan inadequate.

7.6.7 Investigation and Testing. Within forty-five (45) calendar days following City's transmittal of its written approval of the Term Characterization Work Plan, Lessee shall commence and complete investigation and testing in accordance with the plan, and shall provide to City the results of such investigation and tests as they become available.

7.6.8 Term Characterization Report. Within one hundred twenty (120) calendar days following City's written approval of the Term Characterization Work Plan, Lessee shall submit the Term Characterization Report to City for its written approval. Lessee shall provide additional information upon request of City if City deems the Term Characterization Report inadequate. Concurrently, Lessee shall submit a report detailing all corrective action taken by Lessee to address the cause or suspected cause of the Term Release. Lessee shall supplement such corrective action if so requested by City.

7.6.9 Term Remediation Action Plan. If so requested in writing by Executive Director, within sixty (60) calendar days following such request, Lessee shall prepare at its sole cost and expense and submit to City for its approval the Term Remediation Action Plan, together with a list of the consultants Lessee proposes to execute such plan and such consultants' qualifications (both organizationally and broken down by consultant team member), both of which City shall approve in its sole reasonable discretion. Provided Lessee delivers to City a complete Term Remediation Action Plan, City shall use its best efforts to approve or disapprove such plan in a timely manner. Lessee shall provide additional information upon request of City if City deems the Term Remediation Action Plan inadequate.

7.6.10 Completion of Remediation. Within a timeframe reasonably established and communicated to Lessee by City following City's written approval of the Term Remediation Action Plan, Lessee shall complete or cause the completion of all work contemplated by the Term Remediation Action Plan. If, in the reasonable determination of the Executive Director, such contamination resulting from the Term Release cannot be remediated on site to the reasonable satisfaction of City, Lessee shall remove and properly dispose of all soil, water, groundwater, sediment or other material contaminated by the Term Release and,

in the cases of soil or sediment contamination, replace same with clean soil or other material suitable to City.

7.6.11 Adequacy of Remediation. Unless another Governmental Agency has exercised its jurisdiction to a Term Remediation Action Plan, the adequacy of Lessee's execution of any Term Remediation Action Plan shall be within the Executive Director's reasonable discretion in accordance with Applicable Law and the standards attached hereto as Exhibit Y whichever is more stringent. Lessee shall notify Executive Director in writing when it believes it has completed all work contemplated by the Term Remediation Action Plan. If, upon investigation, Executive Director reasonably concludes that additional tasks must be fulfilled in order to complete all work contemplated by the Term Remediation Action Plan, Executive Director shall specify such additional tasks and the basis therefor. Lessee shall complete such tasks forthwith. Upon fulfillment of such tasks, Lessee again shall notify Executive Director in writing, which will re-initiate the approval process for execution of a Term Remediation Action Plan.

7.6.12 City's Rights to Remediate. If Lessee fails to wholly or partially fulfill any obligation set forth in the preceding Sections 7.6.2 through 7.6.11, City may (but shall not be required to) take all steps it deems necessary to fulfill such obligation. Any action taken by City shall be at Lessee's sole cost and expense and Lessee shall indemnify and pay for and/or reimburse City for any and all commercially reasonable costs (including any administrative costs) City incurs as a result of any such action it takes.

7.6.13 Compliance with Government Agency Orders. If Applicable Law requires Lessee to report a Term Release to a Governmental Agency, Lessee shall so report and thereafter, if such Governmental Agency asserts jurisdiction over such Term Release, Lessee shall, at its sole cost and expense as between City and Lessee, manage the Term Release consistent with Environmental Laws or the Governmental Agencies with jurisdiction, if any. If a schedule for such Term Release management is not prescribed by Environmental Laws, or by the Governmental Agencies with jurisdiction if any, the Harbor Department shall reasonably prescribe such schedule in consultation with Lessee.

7.6.14 Site Characterization. Whether a Governmental Agency asserts jurisdiction over Term Contamination or not, Lessee shall characterize (including sampling and analysis) and remediate all Term Contamination in conformity with Environmental Laws, and the Manual, to the extent it does not conflict with protocols established by any other Governmental Agency asserting jurisdiction over the Term Contamination.

7.6.15 Copies to City. Lessee shall provide copies to City of all communications between Lessee (and any third-parties acting for or on its behalf), and any Governmental Agency with jurisdiction regarding all Term Releases and Term Contamination.

7.7 Environmental Compliance.

7.7.1 Generally. In its use and occupancy of the Premises, Lessee shall comply (and shall promptly halt and remedy any incident of non-compliance) with: (a) Environmental Laws; (b) all applicable environmental policies, rules and directives of City's Harbor Department ("Port Environmental Policies") as set forth on Exhibit J hereto; and (c) the environmental mitigation measures ("Mitigation Measures") and Mitigation Monitoring and Reporting Program set forth collectively in Exhibit K hereto. Lessee shall promptly upon receipt provide copies of any notices or orders or similar notifications received from any Governmental Agency regarding compliance with any Environmental Laws. Lessee shall be responsible for operational mitigation measures related to the Lessee's proposed development, construction and operation as set forth in the 2009 EIR/EIS or any subsequent environmental assessment required to construct or operate the proposed development. City shall comply with the requirements of the 2009 EIR/EIS and any subsequent environmental assessment.

7.7.2 ECP. Lessee shall establish and thereafter observe and maintain a written program to facilitate such compliance in accordance with the format and content and other requirements set forth in Section 7.7.1 and 7.7.2.1 herein, which program shall be referred to as the "Environmental Compliance Program" or "ECP." The ECP shall be incorporated as Exhibit Z without further action of the Board or the City Council upon written approval thereof by the Harbor Department, which approval shall not be unreasonably withheld. The Lessee shall submit the ECP every five (5) years to City for City review. City's review and approval of such ECP shall not relieve Lessee of its obligations pursuant to this Section 7.7.

7.7.2.1 ECP Requirements. The ECP shall contain the following:

(i) Annual year-by-year catalogue of all uses, either by Lessee or sublessees, taking place on the Premises.

(ii) Lessee's compliance with the construction and operational mitigation measures under the 2009 EIR/EIS and related to the Project.

7.7.3 Revision of Mitigation Measures. Following the Effective Date, upon mutual written agreement of the Board and Lessee, the Board may revise Exhibit K.

7.8 Environmental Audits. Upon request of the City, Lessee shall perform a written audit of its ECP not more frequently than every five (5) years. The results of such audits shall be maintained on Premises for review by City. City shall have the right to conduct, at its sole cost and expense, periodic audits of Lessee's compliance with the

ECP and management of Environmentally Regulated Material. Lessee shall provide access to backup materials supporting the ECP necessary for City to conduct such audits. City shall provide Lessee with copies of any written reports or results of such audits promptly upon completion of such documents.

7.9 Waste Disposal. In discharging its obligations under this Section 7, if Lessee disposes of any soil, material or groundwater contaminated with Environmentally Regulated Material, within thirty (30) days of Lessee's receipt of original documents, Lessee shall provide City copies of all records, including a copy of each uniform hazardous waste manifest indicating the quantity and type of material being disposed of, the method of transportation of the material to the disposal site and the location of the disposal site. The name of the City of Los Angeles, the Port of Los Angeles or the Harbor Department shall not appear on any manifest document as a generator of such material except for Existing Contamination or as may be required by Applicable Law.

7.10 Laboratory Testing. In discharging its obligations under this Section 7, Lessee shall perform or cause to be performed any tests using a State of California Department of Health Services certified testing laboratory or other similar laboratory of which Executive Director shall approve in writing. Lessee hereby shall cause any such laboratory to provide City, upon written request from City, copies of all of its reports, test results, and data gathered.

7.11 Survival of Obligations. Except as otherwise provided in this Article 2, Section 7, the obligations under this Section 7 shall survive the expiration or earlier termination of this Lease.

Section 8. Alterations of Premises.

8.1 Alterations Require City Authorization. Lessee acknowledges City's interest in controlling the manner in which physical changes are made to the Premises after completion of the Lessee's Improvements and as set forth in Exhibit E and covenants that, other than maintenance and repair undertaken in compliance with Article 2, Section 9, or other capital expenditures contemplated in the original development plan or any additions or supplements thereto (i.e. construction phases), it shall not make, subject to Section 8.2 below, any material, exterior improvements, alterations, modifications, additions or changes to the Premises, after construction of the Lessee's Improvements, including but not limited to the construction of works or improvements such as foundations, structures, pipelines, electrical improvements and other structural improvements or the changing of the grade of the Premises ("Alteration") without obtaining City's prior written authorization to undertake such Alteration and which authorization shall not be unreasonably withheld, conditioned, or delayed.

8.2 Authorization Procedure. When so required, Lessee shall obtain written authorization to undertake an Alteration whose cumulative total cost of all proposed

work exceeds 25% of (i) the original cost of the Lessee's Improvements, plus (ii) the cost of Alterations previously approved hereunder according to the following procedure:

8.2.1 Application for Port Permits. If Lessee desires to undertake an Alteration, Lessee shall submit to City a complete APP that attaches a complete set of drawings, plans, and specifications reflecting the proposed Alteration. Such drawings, plans and specifications shall be prepared and stamped by a licensed engineer or architect registered in the State of California. Lessee bears sole responsibility for the completeness of such submittal.

8.2.2 Harbor Engineer's General Permit. The Chief Harbor Engineer shall have the right to require changes to the drawings, plans and specifications Lessee submits in connection with the APP. If the Chief Harbor Engineer orders such a change and Lessee believes that such a change will have any detrimental effect on the structural integrity of the works, project or improvements, or increase any hazard to life or property, Lessee shall promptly notify the Chief Harbor Engineer. If Lessee fails to provide such notification, the drawings, plans and specifications shall be treated for all purposes as if they had been originally prepared by Lessee, as changed. Chief Harbor Engineer's approval of Lessee's submittal, if any, will be reflected by issuance of a Harbor Engineer's General Permit.

8.2.3 Non-Harbor Department Permits. Lessee acknowledges that, in addition to obtaining a Harbor Engineer's General Permit, Lessee may be required to obtain Non-Harbor Department Permits. In any event, obtaining the Harbor Engineer's General Permit and any Non-Harbor Department Permits necessary to undertake the proposed Alteration is and shall be the sole responsibility of Lessee. Pursuant to Section 5.10, every Alteration made by Lessee shall conform with Applicable Laws, as well as with the plans and specifications as approved by Chief Harbor Engineer. City shall be reasonably cooperative with Lessee in processing any such Non-Harbor Department Permits.

8.2.4 Lessee's Obligation to Obtain All Permits. Lessee acknowledges that issuance of the Harbor Engineer's General Permit by the Harbor Department shall be conditioned upon Lessee's demonstration that it has obtained all Non-Harbor Department Permits as may be required by entities other than the Harbor Department; provided, however, Lessee shall not be required to obtain the Harbor Engineer's approval for revisions or changes mandated by Non-Harbor Department Permits.

8.2.5 City Inspection; Corrective Action. Lessee acknowledges that City may perform inspections of the Alteration to ensure that such Alteration conforms with the permits issued. Lessee shall undertake any corrective measures reasonably requested by City as a result of such inspections.

8.2.6 Lessee's Obligation to Obtain All Environmental Clearances. Lessee acknowledges that the Alterations may require compliance with all Environmental Laws, including, but not limited to, compliance with CEQA and NEPA. Lessee shall reimburse City for all expenses it incurs in conjunction with the review and preparation of any needed environmental clearance for the Alterations.

8.3 Notice of Commencement and Completion of Work. Lessee shall give advance written notice to Chief Harbor Engineer of the date it will commence any Alteration. Within ninety (90) days of completion of construction, Lessee shall provide written notice to Chief Harbor Engineer of the date of such completion, copies of "as-built" plans and/or drawings for such construction in a form reasonably acceptable to the Chief Harbor Engineer, copies of all permits issued in connection with such construction and copies of all documentation issued in connection with such completed construction, including but not limited to inspection reports and certificates of occupancy.

8.4 Cost of Permits. Lessee, at its sole cost and expense, shall obtain all permits necessary for such construction

8.5 Cost of Construction. All construction by Lessee pursuant to this Section 8 shall be at Lessee's sole cost and expense.

8.6 Payment of City Fees and Reimbursement of City Cost; Lessee's Cost for Processing Approval of Lessee's Improvements and Governmental Agency Requirements. Lessee acknowledges that City will incur costs in processing Lessee's APP and agrees that such reasonable costs are the sole responsibility of Lessee. Lessee shall submit any fees established by the Harbor Department for processing APPs. Additionally, within forty five (45) days of receiving an invoice by City, Lessee shall reimburse City for any extraordinary costs not covered by such fees, including without limitation, costs incurred in preparing and processing any environmental clearance for the proposed Alterations.

8.7 Lessee's Cost for Governmental Agency Requirements. Any modification, improvement, or addition to the Premises and any equipment installation reasonably required by the City Fire Department, City Department of Building and Safety, Air Quality Management District, State or Regional Water Quality Control Board, United States Coast Guard, Environmental Protection Agency, Department of Homeland Security or any other local, regional, state or federal agency pursuant to Applicable Law in connection with Lessee's undertaking of the Permitted Uses shall be constructed or installed at Lessee's sole cost and expense.

8.8 Construction Contractors. Lessee shall require by contract that its construction contractors and subcontractors comply with all Applicable Laws.

8.9 Utilities.

8.9.1 Generally. Lessee shall maintain on the Premises as-built drawings that identify the precise location of any pipelines, utilities or similar improvements of any type (which, for the purposes of this Section 8.9 are hereinafter referred to as “utilities”), that Lessee places on the Premises, Upon forty-eight (48) hours’ written notice by the Harbor Department, Lessee shall undertake at its sole cost and expense whatever measures are reasonably necessary, including subsurface exploration for any utilities placed on the Premises by Lessee, or placed by others and accepted by Lessee for use of the Premises, to precisely locate the position of such items if the Harbor Department considers the as-built drawings as insufficient to locate such utilities. Lessee agrees any work necessary to locate such items or any damage which may result from the location being incorrectly described, whether incurred by Lessee or the Harbor Department, shall be borne exclusively by Lessee. Exploration and preparation of all documentation recording the location of utilities shall be completed within the time specified in said notice, which time shall be commercially reasonable. The subsurface exploration shall verify the vertical as well as the horizontal location of all utilities. Documentation reflecting the results of said exploration shall be filed with the Chief Harbor Engineer.

8.9.1.1 Sewer Lift Station and Mainline Sewer. Notwithstanding Article 2, Section 8.9.1, City shall be responsible for the maintenance, repair, and any other related work for the sewer lift station and mainline, sewer located on the Premises as reflected on Exhibit B-3. Lessee shall not be responsible for any costs associated with such work. City shall have access to the sewer lift station and sewer in accordance Article 2, Section 2.6.1. Lessee shall be responsible for any incremental cost incurred as a result of Lessee’s relocation of the sewer lift station from its current location.

8.9.1.2 Storm Drain and Existing Utilities. City shall also be responsible for the maintenance, repair, and any other related work for the storm drain outfall that drains Sampson Way and the existing utilities crossing the channel as reflected on Exhibit B-3.

8.9.1.3 Lessee’s Utilities. Lessee shall be responsible for maintaining, repairing, or replacing Utilities exclusively serving the Premises.

8.9.2 Harbor Department Right to Locate. If Lessee neglects, fails or refuses to timely begin or fails to prosecute diligently to complete the work of locating any such utilities, the Harbor Department shall provide written notice to Lessee which shall specify such neglect, failure or refusal. Upon delivery of the notice specifying Lessee’s, neglect, failure or refusal, Lessee shall have such time as is reasonably necessary to cure such neglect, failure or refusal so long

as Lessee commences the cure within thirty (30) days following receipt of such notice and thereafter diligently prosecutes such cure to completion. If Lessee fails to cure in a timely and diligent manner, City shall have the right to enter the Premises to identify the precise location of any utilities accepted by Lessee for use of the Premises, whether placed above or below ground. Lessee shall be solely responsible for City Costs associated with the right set forth in this Section 8.9.2 and shall pay City, as Additional Rent, within thirty (30) days of receiving an invoice for payment from City.

8.9.3 Relocation of Utilities; Harbor Department Right to Relocate. At any time during the term of this Lease, the Board shall have the right to make any change in the route or location of any utility constructed or maintained on the Premises by Lessee pursuant to the authority of this Lease as may be required or made necessary for the progress of harbor development or the performance of any work or improvement within the jurisdiction of the Board. If the Board shall determine that any such change or relocation is necessary, the Board shall give at least ninety (90) days' written notice to Lessee and the work of removal and relocation shall be completed within such commercially reasonable time after said written notice as shall be fixed in said notice. The cost of any such removal and relocation shall be borne by City. If Lessee neglects, fails or refuses within the time specified in said notice to begin or fails to prosecute diligently to complete the work of relocating the utilities, the Harbor Department shall provide written notice to Lessee which shall specify such neglect, failure or refusal. Upon delivery of the notice specifying Lessee's neglect, failure or refusal, Lessee shall have such time as is reasonably necessary to cure such neglect, failure or refusal so long as Lessee commences the cure within such thirty (30) day period and thereafter diligently prosecutes such cure to completion. If Lessee fails to cure in a timely and diligent manner, City shall have the right to enter the Premises and relocate the utility at its expense.

8.9.4 Rules Governing Utilities. After installation, and in any event for the duration of this Lease, Lessee shall comply with the Applicable Laws regarding utilities testing and inspection requirements regarding utilities installed by or under control and responsibility of Lessee.

Section 9. Maintenance and Repair.

9.1 Maintenance Obligations. Except for those improvements which shall be maintained by the City pursuant to Article 2, Sections 9.6 and 9.7, at all times, Lessee, at its sole cost and expense, shall keep and maintain the Premises, and all buildings, works and improvements of any kind including, without limitation, new underground pipelines thereon, installed by Lessee and the Lessee's Improvements, in good and substantial repair and condition in a commercially reasonable manner and shall be responsible for and perform all necessary inspection, maintenance and repair thereof, including preventive maintenance, using materials and workmanship of similar quality to the original improvements. Lessee shall obtain any permits, including but not limited to

those issued by City, necessary for such maintenance and repair. City shall reimburse Lessee for any repairs made necessary by use of the Premises by a temporary user.

9.1.1 Capital Reserve Fund. Commencing on the second year after Completion of the Lessee's Improvements and every year thereafter, Lessee shall establish and maintain a capital reserve account ("Capital Reserve Fund") separate and apart from any operating or other Lessee accounts to set aside sufficient capital from annual gross revenues to maintain adequate funding to cover on-going capital expenditures, which Capital Reserve Fund shall be consistent with Lessee's collective equity and debt financing requirements.

9.2 Upgrade Obligations. At any time during the Term, but no later than twenty (20) years after execution of this Lease, the Executive Director and Lessee will meet and negotiate in good faith with respect to additional capital investments on the Premises to repair, renew and replace the improvements. In connection with such reinvestment, the Parties shall consider the requirements for any further adjustments in rent and the required terms for recapture of, and a market rate return on, any such reinvestment. Any resulting agreement will be subject and adherent to any and all approvals and/or requirements of the Charter and the Act.

9.3 Failure to Maintain. If Lessee fails to make any repairs or to perform required maintenance within ninety (90) days after receipt of written notice specifying such failure from City to do so, City may, but shall not be obligated to, make such repairs or perform such maintenance. Lessee shall reimburse City for City's Costs within sixty (60) days after receipt of City's invoice for work performed. In the event Lessee shall commence such repairs or maintenance and diligently prosecute the same to completion or shall begin to perform the required repair or maintenance within the sixty (60) day period, City shall refrain from commencing or prosecuting further any repairs or performing any required maintenance until the work has been completed by Lessee. The making of any repairs or the performance of maintenance by City, which is the responsibility of Lessee, shall in no event be construed as a waiver of the duty or obligation of Lessee to make future repairs or perform required maintenance as herein provided.

9.4 Litter and Debris. Lessee, at its sole cost and expense, shall provide sufficient dumpsters or other like containers for trash collection and disposal and keep the Premises free and clear of rubbish, debris and litter at all times. Lessee shall perform periodic inspections and cleaning of the storm water catch basins (including filters), maintenance holes, and drains, and shall maintain the submerged land underlying the water berthing area at the Premises free and clear of debris from the wharf and from vessels in connection with the Permitted Uses. Lessee, at its sole cost and expense, further shall keep and maintain the Premises in a safe, clean and sanitary condition in accordance with all Applicable Laws.

9.5 Fire Protection Systems. All fire protection sprinkler systems, standpipe systems, fire hoses, fire alarm systems, portable fire extinguishers and other fire-

protective or extinguishing systems, with the exception of hydrant systems, or appliances which have been or may be installed on the Premises shall be maintained and repaired by Lessee, at its cost, pursuant to Applicable Laws, in an operative condition at all times.

9.6 City Maintenance Obligations. City shall be responsible at its cost and expense for the maintenance, repair and replacement of the seawall bulkhead, Promenade (as specified in Section 9.7 below), the Town Square improvements, and other public improvements. The City shall also be responsible, at its cost and expense, for the maintenance, repair and replacement of all public rights of way, road and utilities servicing or providing ingress and egress to the Premises in a good condition. In the event that City fails to maintain and repair and such failure affects ingress and egress to the Premises or the operation of the Premises, after thirty (30) days written notice to the City, Lessee may undertake such repair and maintenance and deduct the cost from the Rent next coming due.

9.7 Promenade. Lessee shall keep the Promenade free of trash and debris and is responsible for any normal and routine maintenance of the Promenade during the Term. Lessee shall repair and maintain the Promenade and areas reflected in Exhibit H of this Lease except for repairs or replacement of the structures or failures of the City's construction, all of which shall remain the City's obligation.

9.8 Compliance with 2009 EIR/EIS. Lessee shall comply with the construction and operational requirements of the 2009 EIR/EIS as applicable to the Project.

Section 10. Ownership of Improvements.

10.1 Generally. During the Term, title to all structures, improvements, facilities, or alterations constructed or installed by Lessee shall remain in Lessee. Upon termination of this Lease, said structures, improvements, facilities, or alterations, other than machines, equipment, trade fixtures and similar installations of a type normally removed without structural damage to the Premises, shall become a part of the land upon which they are constructed, or of the building on which they are affixed, and title thereto shall thereupon vest in City unless, however, City requests Lessee to remove some or all of said improvements, in which case Lessee shall promptly remove such improvements at City's sole cost and expense.

Section 11. Damage or Destruction of Improvements.

11.1 Notice; No Rent Abatement. Lessee shall promptly give City notice of any material damage or destruction of any or all of the improvements on the Premises ("Casualty") generally describing the nature and extent thereof. There shall be no abatement or reduction of Rent on account of any Casualty and all obligations of Lessee under this Lease shall remain unchanged and in full force and effect. In the case of a Major Casualty, provided that the Major Casualty was not caused by the act or omission of Lessee or any of its employees, agents, licensees or sublessees, until the repair and restoration of the Premises is completed, Lessee shall be required to pay

rent only for that part of the Premises that Lessee is able to use while repairs are being made, based on the ratio that the amount of usable rentable area bears to the total rentable area of the Premises.

11.2 Minor Casualty. In the event of any Minor Casualty at any time during the Term of this Lease, and regardless of whether such Minor Casualty is insured or uninsured, Lessee shall be obligated to repair, rebuild or restore the damaged improvements.

11.3 Casualty Covered by Insurance. If, during the Term of this Lease, any buildings, structures, or improvements on the Premises are partially or totally destroyed from a risk covered by the insurance required under this Lease, thereby rendering the Premises partially or totally inaccessible or unusable, Lessee must restore the improvements to substantially the same condition as they were immediately before destruction.

11.4 Casualty Not Covered by Insurance. If, during the Term of this Lease, improvements on the Premises are partially or totally destroyed from a risk not covered by the fire and extended coverage insurance required under this Lease thereby rendering said Premises partially or totally inaccessible or unusable, such destruction shall not automatically terminate this Lease. If, however, the cost of restoration exceeds twenty percent (20%) of the full replacement value of improvements, as said value existed immediately before said destruction, Lessee may, at Lessee's option, terminate this Lease by giving written notice to City within ninety (90) days from the date of destruction. If Lessee elects to terminate as above provided, Lessee shall be obligated, unless otherwise directed by City, to demolish all damaged improvements and remove all debris from the Premises, and otherwise comply with the Restoration and Surrender obligations contained in this Lease at Lessee's sole cost. If Lessee fails to exercise its right to terminate this Lease, this Lease shall continue in full force and effect for the remainder of the Term specified herein and Lessee shall restore the improvements to substantially the same condition as they were in immediately before the damage or destruction.

11.5 Inapplicability of Civil Code Sections. The provisions of California Civil Code §§1932(2) and 1933(4), and any successor statutes, are inapplicable with respect to any destruction of any part of the Premises; such sections provide that a lease terminates on the destruction of the Premises unless otherwise agreed between the Parties to the contrary.

Section 12. Restoration and Surrender of Premises.

12.1 Lessee's Restoration Obligations.

12.1.1 Generally. By the Expiration Date, or any sooner termination of this Lease, Lessee shall quit and surrender possession of the Premises and shall be obligated to, as directed by the Executive Director, in the Executive Director's

reasonable discretion, either (i) return the Premises to City in good and usable condition, said condition to be consistent with a comparable retail, dining, and entertainment facility of a comparable age ("Comparable Facilities") as repaired, maintained or upgraded by Lessee pursuant to Section 9, ordinary wear and tear excepted, or (ii) pay the cost of repair to City if City chooses to perform the work itself or have the work performed on its behalf. If City terminates this Lease due to Lessee's default, Lessee is still obligated to repair the Premises as provided in this Section 12 or to pay the cost of restoration if City chooses to perform the work. Within sixty (60) days prior to the Expiration Date and not later than sixty (60) days after the Expiration Date, Executive Director shall provide written notice with specific details of any requirement to repair the Premises to comply with Lessee's maintenance obligations under this Lease. Such notice shall be binding upon the City.

12.1.2 Water Restoration. Lessee agrees to remove all debris and sunken hulks from channels, slips and water areas within or fronting upon the Premises caused by Lessee or its sublessees, licensees or invitees. Lessee expressly waives the benefits of the "Wreck Act" (Act of March 3, 1899) 33 U.S.C. Section 401 et seq. and the Limitation of Liability Acts (March 3, 1851, c. 43, 9 Stat. 635) (June 26, 1884, c. 121, Sec. 18, 23 Stat. 57) 46 U.S.C. 189 (Feb. 13, 1893, c. 105, 27 Stat. 445) 46 U.S.C. Sec. 190-196 and any amendments to these acts if it is entitled to claim the benefits of such acts.

12.1.3 Restoration Requirements. Following the Expiration Date, in connection with Section 12.1.1 and 12.1.2, Lessee, at its sole cost and expense, shall restore the Premises (including the soil, groundwater and sediment) such that, on the Expiration Date, or earlier termination date, the Premises will be returned to City:

(a) Free of Term Contamination. As between City and Lessee, Lessee shall bear sole responsibility for Term Contamination and any costs related thereto;

(b) Free of Encumbrance. The Premises shall be free and clear of any encumbrances created or caused by Lessee or relating to Lessee's use of the Premises, including but not limited to deed or use restrictions as a result of any Term Release and/or any liens (UCC, federal or state tax or otherwise) on the Premises or on fixtures or equipment, or personal property left on the Premises.

12.2 Permits. Lessee shall obtain at its sole cost and expense all permits required for the completion of its repair obligations pursuant to Section 12.

12.3 Restoration Indemnity. Following the Expiration Date, in addition to and not as a substitute for any remedies provided by this Lease or at law or equity, Lessee shall defend, indemnify and hold harmless City from any and all claims and/or causes of

action brought against City and from all damages and costs which arise out of or are related to:

(a) Claims brought by holders of liens on the Premises, structures, and/or on improvements, fixtures and/or equipment or property left on the Premises; and

(b) Claims, causes of action, orders or enforcement actions pending against or in connection with the Premises, the Permitted Uses and/or this Lease.

This indemnity is intended to and shall survive the expiration or earlier termination of this Lease.

12.4 No Relocation Assistance. Nothing contained in this Lease shall create any right in Lessee or any sublessees of Lessee for relocation assistance or payment from City upon expiration or termination of this Lease (whether by lapse of time or otherwise). Lessee acknowledges and agrees that it shall not be entitled to any relocation assistance or payment pursuant to the provisions of any state or federal law, including Title 1, Division 7, Chapter 16 of the California Government Code (Sections 7260 et seq.) with respect to any relocation of its business or activities upon the expiration of the Term of this Lease or upon its earlier termination or upon the termination of any holdover.

Section 13. Supervision of Business Practice Standard of Service and Control of Rates and Charges.

13.1 Days and Hours of Operation. Lessee acknowledges City's desire to have a vibrant facility open to the public seven days a week in accordance with the operation of Comparable Facilities.

13.2 Standard of Service. Lessee acknowledges that although the Premises will be leased to Lessee, and subleased to others, the operation and maintenance of the Premises will reflect on the Harbor Department in particular, and the City in general, and will impact the public's desire to utilize the facilities and attractions along the Promenade and the Promenade itself. Therefore, Lessee will develop rules and regulations for the use of the Premises and said rules and regulations must meet the standards of comparable commercial facilities.

13.3 No Live-Aboards. Lessee acknowledges that the Premises which are located on the main channels are not appropriate for live-aboard use of boat slips. Therefore, notwithstanding any other policy of City, Lessee shall not permit the slips to be used for live-aboard boats. Notwithstanding the foregoing, continuous manning of commercial vessels shall be allowed.

13.4 Event Policy. The Parties shall jointly establish any event policy for the Premises and public improvements.

13.5 Programming. Lessee and City shall use reasonable efforts to jointly arrange and organize any programming with respect to the neighboring City properties, including the Town Square and Downtown Harbor.

Section 14. Indemnity and Insurance.

14.1 Indemnity.

14.1.1 Indemnity for Onsite Premises.

(a) During and after construction of Lessee's Improvements and during operation of the Premises, except as may arise from the acts or omissions arising from the negligence or willful misconduct of City or City's Parties, Lessee shall at all times relieve, indemnify, protect and save harmless City and any and all of its boards, officers, agents and employees from any and all claims and demands, actions, proceedings, losses, liens, costs and judgments of any kind and nature whatsoever, including cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), for death of or injury to persons, or damage to property occurring on the Premises, including property owned by or under the care and custody of City, and for civil fines and penalties that may arise from or be caused directly or indirectly by:

(i) Any dangerous, hazardous, unsafe or defective condition of, in or on the Premises, of any nature whatsoever, which may exist by reason of any act, omission, neglect, or any use or occupation of the Premises by Lessee, its officers, agents, employees, sublessees, licensees or invitees;

(ii) Any operation conducted upon or any use or occupation of the Premises by Lessee, its officers, agents, employees, sublessees, licensees or invitees under or pursuant to the provisions of this Lease or otherwise;

(iii) Any act, error, omission, willful misconduct or negligence related to the use or operation of the Premises of Lessee, its officers, agents, employees, sublessees, licensees or invitees;

(iv) Any failure of Lessee, its officers, agents or employees to comply with any of the terms or conditions of this

Lease or any applicable federal, state, regional, or municipal law, ordinance, rule or regulation; or

(v) Any act, error, omission, negligence, willful misconduct arising from the manufacture, distribution, sale, serving or furnishing alcoholic beverages or alcoholic-containing consumables by Lessee, its sublessees, or licensees.

(b) This Section 14.1.1 shall not be limited to the amount of insurance coverage available to Lessee under the insurance policies required to be in effect under this Lease and shall be applicable at all times, during and after Lessee's construction, including the period of operation of the Premises.

14.1.2 Indemnity for Offsite Premises-Harbor District.

14.1.2.1 During Construction of Lessee's Improvements.

(a) During the period of construction of Lessee's Improvements, except as may arise from the sole or gross negligence or willful misconduct of City or City's Parties, Lessee shall at all times relieve, indemnify, protect and save harmless City and any and all of its boards, officers, agents and employees from any and all claims and demands, actions, proceedings, losses, liens, costs and judgments of any kind and nature whatsoever, including cost of litigation (including all actual litigation costs incurred by the City, including but not limited to, costs of experts and consultants), for death of or injury to persons, or damage to property, including property owned by or under the care and custody of City, and for civil fines and penalties that may arise from or be caused directly or indirectly by the conditions, operations, use, acts, omissions or negligence referred to in subsections (i) through (v) set forth in Section 14.1.1(a) above, within the "Harbor District," as defined in the Charter but outside of the Premises and in accordance with the terms and conditions further stated in this Section 14.1.2.

(b) Lessee's liability under this Section 14.1.2.1(a) shall be limited to the coverage under the insurance policies required to be in effect under this Lease, even if such insurance is not in effect or in place as stated herein at the time.

14.1.2.2 After Construction of Lessee's Improvements and/or During Operation of Premises.

(a) Following completion of Lessee's Improvements and/or during Lessee's operation of any part of the Premises, Lessee shall be

subject to the indemnity obligations as provided in Section 14.1.2.1(a) for offsite claims subject to the limitations set forth below

(i) The indemnity shall be limited to the amounts of insurance coverage as described in Exhibit O under the insurance policies required to be in effect under this Lease.

(ii) Lessee's indemnity as set forth in Section 14.1.2.1 shall only be applicable if such coverage is commercially available at commercially reasonable rates.

(b) The parties shall assess the availability of the aforementioned insurance coverage every five (5) years in accordance with Article 2, Section 3.4 of this Lease.

14.1.3 City Third-Party Insurance Requirement. City shall require all its third-party contractors performing work on the Premises at all times to indemnify, defend and hold harmless Lessee and the Lessee's Parties from any and all claims, demands, actions, proceedings or losses, costs (including attorneys' fees) or judgments for death or injury to persons or damage to property and shall require such contractors to name Lessee as an additional insured on all policies required by the City in connection with such work with the exception of worker's compensation and employer's liability insurance.

14.1.4 Term Contamination Losses.

(a) Lessee shall also indemnify, defend and hold City harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution of the value of the Premises, damages for loss or restriction on use of rentable or useable space or of any amenity of the Premises, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Lease term as a result of Term Contamination for which Lessee is otherwise responsible for under the terms of this Lease. This indemnification of City by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean up, remedial, removal or restoration work required by any federal, state or local governmental agency because of Term Contamination present in the soil or groundwater on or under the Premises.

(b) The indemnity under this 14.1.4 shall be limited to the amount of insurance proceeds available to Lessee under the insurance policies required to be in effect under this Lease.

14.1.5 Survival of Obligations. The indemnity obligations in this Section 14.1 shall survive the expiration or earlier termination of this Lease.

14.2 Insurance.

14.2.1 Insurance Requirements. Lessee shall procure and maintain at its expense and keep in force at all times during the term of this Lease the types and amounts of insurance specified on Insurance, Exhibit O, attached hereto and incorporated by reference. If Lessee maintains higher limits than the minimums shown in Exhibit O, City shall be entitled to coverage for the higher limits maintained by Lessee.

(a) With the exception of professional liability insurance, worker's compensation and employer liability insurance required by this Section 14.2, all specific liability insurance shall also, either by provisions in the policies, by City's endorsement form or by other endorsement attached to such policies, include and insure City, its Harbor Department, its Board and all of City's officers, employees, and agents, their successors and assigns, as additional insureds, against the areas of risk described in Exhibit O and below, with respect to Lessee's operation, use, and occupancy of the Premises or other related functions performed by or on behalf of Lessee in, on, or about the Harbor District subject to the limitations set forth in this Lease.

(b) In the event a third-party claimant asserts a claim against the Lessee and against one or more additional insureds on Lessee's policies, no such additional insured may enter into a settlement with the third-party claimant that would reduce the remaining limits of insurance available to Lessee for the claim to less than the amount of the claim against Lessee without the written consent of Lessee. However, in the event of an uninsured claim, the City of Los Angeles Harbor Department shall not be required to obtain written consent of the Lessee and shall enter into any third-party settlement as determined in the City's reasonable discretion and without consideration of the respective settlement's impact on Lessee's limits of insurance. The types of insurance which are required must meet the following conditions during the term of this Lease and any hold-over periods:

14.2.1.1 Commercial General Liability.

Commercial general liability insurance, including contractual liability, products and completed operations, and property damage insurance with Lessee's normal limits of liability, but not less than the insurance limits specified on Exhibit O for property damage not covered under Sections 14.2.1.7 and 14.2.1.8 for each accident or occurrence. This coverage shall also include a Cross Liability or Separation of Insured clause. The City's Harbor Department shall be named as Additional Insureds with a CG 2010 and CG 2037 endorsement (or its equivalent). A blanket Additional Insured form will NOT satisfy this requirement. In

accordance with Article 1, Section 2.2.1(j), the comprehensive general liability policy shall include the railroad exclusion. In the event a rail is subsequently added to the Premises and Section 14.2.1.5 of this Lease does not provide coverage of such rail, the railroad exclusion shall be deleted. Said limits shall provide first dollar coverage except that the Executive Director may permit a self-insured retention or self-insurance in those cases where, in his or her judgment, such retention or self-insurance is justified by the net worth of Lessee. The retention or self-insurance provided shall provide that any other insurance maintained by the Department shall be excess of Lessee's insurance and shall not contribute to it. In all cases, regardless of any deductible or retention, said insurance shall contain a defense of suits provision and a severability of interest clause.

14.2.1.2 Ocean Marine Liability Insurance.

Where Lessee, its sublessees or licensees operate watercraft, liability coverage for such craft must be provided as follows:

(a) Hull and machinery coverage for the value of each vessel which will call at the Premises during the term of this Lease; and

(b) Protection and indemnity coverage shall be provided as per Exhibit O with combined single limits per occurrence for bodily injury, illness, death, loss of or damage to the property of another, Jones Act risks or equivalent thereto internationally, including pollution liability and removal of wreck to which it is agreed that the additional insured and cancellation notice provisions as required and described below must be included. Pollution liability shall include coverage for bodily injury, including death and mental anguish, property damage, defense costs and cleanup costs. Such coverage shall contain a defense of suits provision and a severability of interest clause.

(c) Vessel pollution liability shall be provided for spills from vessels, per the limits shown in Exhibit O and includes, but is not limited to clean-up, third party damage, loss of public services, defense, investigation, advertising, civil penalties, fines, defense and interest.

14.2.1.3 Fire Legal Liability.

In addition to and concurrently with the aforesaid insurance coverage, Lessee shall also secure and maintain, either by an endorsement thereto or by a separate policy, fire legal liability

insurance as per Exhibit O, covering legal liability of Lessee for damage or destruction to the works, buildings, and improvements on the Premises, with waiver of subrogation in favor of Lessee so long as permitted by the Board's fire insurance policy, upon thirty (30) days' prior written notice thereof to Lessee at any time during the term of this Lease.

14.2.1.4 Host or Liquor Liability Insurance Coverage.

Where Lessee's sublessees, or licensees manufacture, distribute, sell, serve, or furnish alcoholic beverages and/or alcohol-containing consumables, Lessee shall require such sublessees or licensees who are conducting alcohol related business to obtain Liquor Liability or Host Liquor Liability coverage, as appropriate, to be provided as above, with limits as set forth in Exhibit O.

14.2.1.5 Auto and Street Car Liability Insurance.

Auto liability insurance for the ownership, operation, maintenance, use, loading or unloading of any auto and/or street car owned, leased, hired, or borrowed by the Lessee or its consultants and sublessees shall be provided with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1) with Lessee's normal limits of liability, but not less than the insurance limits specified on Exhibit O.

Where Lessee utilizes streetcars, liability coverage for such streetcar must be provided as above. Alternatively, insurance coverage for the street car may be provided by a rail insurer, purchased through a railroad liability market, in lieu of an auto insurer, that meets the standards A.M. Best's standards noted in Section 14.2.2(b).

14.2.1.6 Workers' Compensation.

Lessee shall secure the payment of compensation to Lessee's employees injured while performing work or labor necessary for and incidental to performance under this Lease in accordance with Section 3700 of the Labor Code of the State of California, or any successor statute. If applicable, Lessee shall file with City one of the following: 1) a certificate of consent to self-insure issued by the Director of Industrial Relations, State of California; 2) a certificate of Workers' Compensation insurance issued by an admitted carrier; or 3) an exact copy or duplicate thereof of the policy certified by the Director or the insurer. Such documents shall be filed prior to delivery of Premises. Where Lessee has employees who are covered by the United States Longshore and Harbor

Workers' Compensation Act, Lessee shall furnish proof of such coverage to the City. It is suggested that Lessee consult an insurance professional of its choosing to determine whether its proposed operation methods will render its employees subject to coverage under such Act. All Workers' Compensation insurance submitted to City shall include an endorsement providing that any carrier paying benefits agrees to waive any right of subrogation it may have against City.

14.2.1.7 All Risk Property Insurance.

Lessee shall secure, and shall maintain at all times during the Term, All Risk Property insurance excluding earthquake and terrorism insurance that insures the works, structures and improvements erected by Lessee on the premises on an "All Risk" basis equal to the full replacement cost of the works, structures or improvements with no coinsurance clause with such provision in the policies issued to cover the same, or in riders attached thereto, as will provide for all losses over Twenty-Five Thousand Dollars (\$25,000) to be payable to Lessee to be held in trust for reconstruction to be disbursed as such reconstruction is progressing. In the event of loss or damage by fire to any of such buildings or improvements, Lessee shall undertake replacement or reconditioning of such items within ninety (90) days following any such loss. Upon the completion of such replacement or reconditioning to the reasonable satisfaction of Executive Director, any balance thereof remaining shall be paid to Lessee forthwith. In the event Lessee fails to undertake such replacement or reconditioning within said period of ninety (90) days, such proceeds shall be released to the City. Additionally, Lessee shall maintain Business Interruption and Extra Expense insurance in such amounts as required by its lenders.

14.2.1.8 All Risk Builder's Risk Insurance.

During renovation and construction, All Risk Builders Risk Insurance excluding earthquake and terrorism insurance shall be purchased. This insurance shall include coverage for all contractors and sub-contractors of every tier.

The Builder's Risk deductible shall not be greater than \$25,000 per claim. The Lessee shall be responsible for the payment of all property/Builder's Risk deductibles. Under no circumstances shall the City of Los Angeles Harbor Department be responsible for the payment of policy deductibles.

14.2.1.9 Contractors Pollution Liability Insurance and Environmental Impairment Liability.

- (a) During construction, Lessee will cause its project contractors to provide Contractors Pollution Liability covering new or exacerbated conditions caused by the construction operations, with limits as specified in Exhibit O.
- (b) Should Lessee's operations involve the storage or use of any type of hazardous materials or pollutants beyond ordinary business operations, the Lessee will be required to maintain environmental impairment liability insurance which shall include coverage for bodily injury, property damage, including third-party claims for on-site and off-site bodily injury and property damage, clean-up and defense, with limits as specified in Exhibit O per occurrence, which is to remain in effect at least five (5) years after the termination of the Lease, provided such coverage is commercially available.

14.2.1.10 Professional Liability.

Lessee shall cause its project architect and project engineer to maintain Architect and Engineers Professional Liability as specified in Exhibit O, per claim and in the aggregate with respect to negligent or wrongful acts, errors or omissions, or failure to render services in connection with the professional services to be provided under this Lease which covers work to be performed pursuant to this Agreement and that it will keep such insurance or its equivalent in effect at all times during performance of said Lease and until three (3) years following Completion of Lessee's improvements. This insurance shall protect against claims arising from professional services of such consultants, or by its employees, agents, or contractors, and include coverage (or no exclusion) for contractual liability. Lessee shall certify that its current design consultants maintain such insurance.

14.2.2 Insurance Features. The insurance policies are to contain, or be endorsed to contain, the following provisions:

- (a) Acceptability of Insurers. Insurance is to be written by an insurance company authorized to do business in the State of California, or approved by the California Department of Insurance as a surplus lines insurer eligible to do business in California, rated VII, A- or better in Best's Insurance Guide (or an alternate guide acceptable to City if a Best's Rating is not available)

(b) Primary Coverage. The coverage provided by the policy to which this endorsement is attached is primary coverage and any other insurance carried by City is excess coverage;

(c) Severability of Interest. In the event of one of the named insureds incurring liability to any other of the named insureds, this policy shall provide protection for each named insured against whom claim is or may be made, including claims by other named insureds, in the same manner as if separate policies had been issued to each named insured. Nothing contained herein shall operate to increase the company's limit of liability.

(d) Notice. "Notice of occurrences or claims under the policy shall be made to the Risk Manager of City's Harbor Department with copies to the City Attorney's Office; and"

(e) Waiver of Subrogation. Said policies shall include a waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

(f) Notice of Cancellation. Each insurance policy described above shall provide that it will not be cancelled or reduced in coverage until after the Risk Manager has been given a ten (10) days' written notice of cancellation for nonpayment of premium and a thirty (30) days' written notice of cancellation for any other reason.

14.2.3 Acceptable Evidence and Approval of Insurance. Electronic submission is the required method of submitting Lessee's insurance documents. Track4LA® is City's online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used primarily by insurance brokers and agents as they submit client insurance certificates directly to City. It uses the standard insurance industry form known as the ACORD 25 Certificate of Liability Insurance in electronic format. The advantages of Track4LA® include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. Lessee's insurance broker or agent shall obtain access to Track4LA® at <http://track4la.lacity.org/> and follow the instructions to register and submit the appropriate proof of insurance on Lessee's behalf.

14.2.4 Renewal of Policies. Prior to the expiration of each policy, Lessee shall show through submitting to Track4LA® that the policy has been renewed or extended or, if new insurance has been obtained, submit the appropriate proof of insurance to Track4LA®. If Lessee neglects or fails to secure or maintain the required insurance, or if Lessee fails to submit proof of insurance as required above, the City's Harbor Department may, at its option and at the expense of Lessee, may obtain such insurance for Lessee.

14.2.5 Modification of Coverage. Executive Director, at her or his discretion, based upon recommendation of independent insurance consultants to City, may request that Lessee increase or decrease amounts and types of insurance coverage required hereunder at any time during the term hereof, but in no event be less than every five (5) years in accordance with Article 2, Section 3.4.5 of this Lease, by giving ninety (90) days' prior written notice to Lessee. Lessee shall not be obligated to comply with such request if, in its sole reasonable discretion, obtaining a policy with such adjusted limits is not commercially available at reasonable rates. In the event Lessee makes such a determination, it shall provide written notice to City within thirty (30) days following City's written request.

14.2.5.1 Policy Copies. If a claim has been filed, City may request Lessee to furnish a full copy of the applicable policy of any insurance policy required herein. Such request may occur outside of termination and/or expiration date of this contract.

14.2.6 Accident Reports. Lessee shall report in writing to Executive Director within thirty (30) days after it, its officers or managing agents have knowledge of any accident or occurrence involving death of or injury to any person or persons, or damage in excess of Twenty Five Thousand Dollars (\$25,000) to property, occurring upon the Premises, or elsewhere within the Harbor District, if Lessee's officers, agents or employees are involved in such an accident or occurrence while undertaking the Permitted Uses. Such report shall contain to the extent available: (1) the name and address of the persons involved; (2) a general statement as to the nature and extent of injury or damage; (3) the date and hour of occurrence; (4) the names and addresses of known witnesses; and (5) such other information as may be known to Lessee, its officers or managing agents.

14.2.7 Right to Self-Insure. Upon written approval by the Executive Director, Lessee may self-insure if the following conditions are met:

(a) Lessee has a formal self-insurance program in place prior to execution of this Lease. If a corporation, Lessee must have a formal resolution of its board of directors authorizing self-insurance;

(b) Lessee agrees to protect the City, its boards, officers, agents and employees at the same level as would be provided by full insurance with respect to types of coverage and minimum limits of liability required by this Lease;

(c) Lessee agrees to defend the City, its boards, officers, agents and employees in any lawsuit that would otherwise be defended by an insurance carrier;

(d) Lessee agrees that any insurance carried by Department is excess of Lessee's self-insurance and will not contribute to it;

(e) Lessee provides the name and address of its claims administrator;

(f) Lessee submits its most recently filed 10-Q and its 10-K or audited annual financial statements for the three most recent fiscal years prior to the Executive Director's consideration of approval of self-insurance and annually thereafter;

(g) Lessee agrees to inform Department in writing immediately of any change in its status or policy which would materially affect the protection afforded Department by this self-insurance; and

(h) Lessee has complied with all laws pertaining to self-insurance.

14.2.8 Increased Insurance Risks. Following the Effective Date, should an event occurring in or about the Premises cause either cancellation or increased rates with respect to any insurance that City may have on the Premises or on adjacent premises, or cause either cancellation or increased rates with respect to any other insurance coverage for the Premises or adjacent premises, upon receipt of written notice from City that cancellation of insurance or increased insurance rates is threatened or has occurred, Lessee promptly shall take appropriate steps to ensure that City is not adversely affected. In City's sole reasonable discretion, such steps may include Lessee: correcting the condition; providing any necessary insurance; paying the increased cost of City's insurance; and/or indemnifying City against any uninsured or underinsured loss on a claim.

Section 15. Lessee's Transfer of Interests.

15.1 Transfers; City's Consent Required.

15.1.1 Generally. Subject to Article 2, Sections 15.7, 15.8, and 16 Lessee shall not in any manner, transfer or assign this Lease, or any interest therein or any right or privilege thereunder, voluntary or involuntarily, without the prior written consent of the Board, nor license or permit the use of the same, in whole or in part, other than a Sublease pursuant to Section 16, below, without the prior written consent of the Executive Director (collectively referred to as a "Transfer") which consent shall not be unreasonably withheld, delayed, or conditioned.

15.1.2 Consent Required. Subject to Article 2, Sections 15.7, 15.8, and 16, no Transfer of this Lease, or any interest therein or any right or privilege thereunder, regardless of whether accomplished by a separate agreement, sale of stock or assets, merger or consolidation or reorganization by or of Lessee, or accomplished in any other manner, whether voluntary or by operation of law, including but not limited to assignment, sublease, transfer, gift, hypothecation or grant of total or partial control, or any encumbrance of this Lease, shall be valid or effective for any purpose unless (i) Lessee received the prior written consent of the Board not to be unreasonably withheld, conditioned, or delayed and (ii) Lessee satisfies the requirements in Section 15.2 below. Consent to one Transfer shall not be deemed a consent to any other Transfer. For purposes of this Section 15, the term "by operation of law" includes but is not limited to: (1) the placement of all or substantially all of Lessee's assets in the hands of a receiver or trustee; or (2) a transfer by Lessee for the benefit of creditors; or (3) transfers resulting from the death or incapacity of any individual who is a Lessee or of a general partner of a Lessee (except as provided in Section 15.8.2 below). Lessee acknowledges and agrees that it shall be required to pay the City for all City Costs reasonably incurred to review all documents submitted in response to a request to Transfer.

15.2 Procedure to Obtain Consent to Transfer. If Lessee desires to undertake a Transfer requiring the City's consent, it may seek City's consent thereto which will be subject to the requirements set forth in this Section 15. Lessee covenants that before entering into or permitting any Transfer, it shall provide to City written notice at least sixty (60) days before the proposed effective date of the Transfer. Notwithstanding the foregoing, City reserves the right to allow Lessee, on a case-by-case basis, to submit to City for City's consent Transfers that would have become effective but for Lessee's failure to seek City's consent. In any event, Lessee's written request to City for consent shall hereinafter be referred to as "Transfer Notice."

15.2.1 Transfer Notice. Lessee's Transfer Notice shall contain each of the following:

- (a) Specific identification of the entity or entities with whom Lessee proposes to undertake the Transfer ("Transferee");
- (b) Specific and detailed description of the Transferee's entity type, ownership (including identification of all parent and subsidiary entities), background/history, nature of the Transferee's business, Transferee's reputation and experience in the operations proposed;
- (c) Specific and detailed description of the type of Transfer proposed (e.g., assignment, grant of control, etc.) and the rights proposed to be transferred;

(d) Specific and detailed description of the operations proposed to be undertaken at the Premises by Transferee if other than the Permitted Uses if City consents to the Transfer;

(e) The effective date of the proposed Transfer document;

(f) A business plan including a general description of any planned Alterations or improvements to the Premises; and

(g) A description of the net worth of the proposed Transferee including an audited or certified financial statement.

15.2.2 Limitations of City's Consent. If City consents to a Transfer, the following limits apply:

(a) Unless otherwise agreed in writing, City does not agree to waive or modify the terms and conditions of this Lease;

(b) Such consent does not constitute either consent to any further or other Transfer by either Lessee or Transferee or a bar disqualifying submittal of additional Transfer Notices in accordance with the terms of this Lease following such consent;

(c) If, following such consent, Lessee remains a party to this Lease, Lessee shall remain liable under this Lease;

(d) Lessee may enter into that Transfer in accordance with this Section 15 if: (a) the Transfer occurs within six (6) months after City's consent; (b) the Transfer, in the Executive Director's reasonable discretion, is on substantially the same terms as specified in the Transfer Notice; and (c) Lessee delivers to City promptly after execution an original executed copy of all documentation pertaining to the Transfer;

(e) If the Transfer occurs more than six (6) months after City's consent or, in the Executive Director's reasonable discretion, the terms of the Transfer materially change from those in the Transfer Notice, Lessee shall submit a new Transfer Notice under this Section 15, requesting City's consent. A material change for purposes of this Section 15 is one the terms of which would have entitled City to refuse to consent to the Transfer initially;

(g) Lessee and/or Transferee, upon City's written request, shall provide proof, in a form satisfactory in the Executive Director's reasonable discretion, demonstrating that insurance of the type and limits required by Section 14 is and shall be in full effect at all times in or around the time period in which the proposed Transfer is anticipated to occur; and

(h) Transferee shall execute and deliver a written acceptance of assignment in a form acceptable to City in which Transferee expressly assumes all of Lessee's obligations under this Lease, upon which acceptance Lessee shall be released from all further liability under this Lease.

15.3 Charter and Administrative Code. Lessee acknowledges that this Lease is subject to the Charter and the Administrative Code of City and that approval of a Transfer may require action by several separate entities, including but not limited to the Council.

15.4 Lessee Remedies. If Lessee believes City has wrongfully denied or conditioned its consent, Lessee may seek only declaratory and/or injunctive relief or seek arbitration as set forth below. Lessee specifically waives any damage claims against City in connection with the withholding or conditioning of consent. Arbitration shall be complete within sixty (60) days unless extended by mutual agreement of the Parties. The prevailing party in arbitration shall be owed attorney fees expended for the arbitration process. Results of the arbitration shall be binding on the Parties and if City's consent has been deemed unreasonable by the arbiter, the transfer shall be deemed approved.

15.5 Indemnity in Favor of City. In addition to and not as a substitute for the indemnities Lessee provides to City pursuant to Section 14 of this Lease, Lessee shall indemnify, defend and hold harmless City and any and all of its boards, officers, agents, or employees from and against any and all claims and/or causes of action of any third-party (including but not limited to Transferee) arising out of or related to a proposed Transfer.

15.6 Rent or Performance. City in its sole discretion may accept Rent or performance of Lessee's obligations under this Lease from any person other than Lessee pending approval or disapproval of a Transfer. City's exercise of discretion to accept Rent or performance shall be reflected in writing.

15.7 Transfers of Ownership.

15.7.1 Ownership or Control. The transfer of more than forty-nine percent (49%) of the economic interest in Lessee in one or more transactions or the transfer by manager or managing member of Lessee, regardless of whether Lessee is a publicly or privately held entity, or a transfer by a lender after foreclosure, shall constitute a Transfer within the meaning of Section Article 2, Section 15.1 and Lessee may Transfer its interest as stated herein provided that Lessee obtains the prior written approval of the City, which approval may be withheld only on the basis of the transferee's character, financial capability, and experience, all as reasonably determined by the City in confirming that such

proposed transferee satisfies the three (3) criteria set forth in Section 15.7.1.1 below.

15.7.1.1 Factors Affecting Transfer. Where the City is required by this Article 2, Section 15 to be reasonable in determining whether to consent to a proposed Transfer, the City may withhold such consent solely upon the basis of the following three (3) factors:

(a) Character. The “Individual Owners” (as defined herein) of the Transferee must be a person or persons of good character and reputation; provided, however, that this test shall be deemed to have been met as long as none of the Individual Owners shall have been convicted in a federal or state felony criminal proceeding (including a conviction entered on a plea of nolo contendere) including a crime of moral turpitude, unless the same shall have been subsequently reversed, suspended, vacated, annulled, or otherwise rendered of no effect under applicable law. In determining the character of a foreign entity or person, any criminal conduct of such foreign entity or person shall be evaluated based upon the standards of the laws and regulations of the United States including the sanctions lists and files administered by the Office of Foreign Assets Control (“OFAC”) which the Transferee shall not be listed on such OFAC sanctions list or guidelines, the State of California, and the City of Los Angeles, regardless of whether or not such entity or person is actually subject to the jurisdiction of such laws and regulations. For the purposes of this Lease, the term “Individual Owner” shall mean (i) if the new owner or owners is or are an individual or individuals, then those of such individual or individuals owning the controlling ownership interest in the Transferee, and (ii) if the new owner or owners is or are an entity or entities, then those of such individual or individuals owning the controlling ownership interest in such controlling entity or entities, and (iii) in the case of either (i) or (ii) above, the senior-most executive of such new owner having significant involvement in the management and supervision of the construction and operation of the Project;

(b) Financial Capability. The Transferee must have sufficient verifiable financial resources or commitments to carry out the development and operation of the Project in accordance with the terms of this Lease. The Transferee shall not have been a debtor in a bankruptcy proceeding and has not defaulted under any other contract or lease with the Harbor Department. The determination as to financial capability must be based upon facts which the Lessee and Transferee shall have the right to address and rebut. If the Transferee has a verifiable net worth of Twenty-Five Million Dollars (adjusted every five (5) years of this Lease for CPI-U as defined in Article 2, Section 4.1.3) or more, it shall be deemed to have met this test; and

(c) Experience. The Transferee must have at least three (3) years' experience and in excess of One Million (1,000,000) square feet experience in any one of the following: (i) owning, operating, maintaining and developing (if the Lessee's Improvements have not yet been completed) retail centers, or (ii) owning, operating, maintaining, and developing (if the Lessee's Improvements have not yet been completed) dining, retail and entertainment venues, as applicable to the obligations which the assignee is assuming, and such experience must have occurred fully within the ten years preceding the proposed date of the Transfer.

15.7.2 Partnerships. If Lessee is a partnership, any transfer or attempted transfer by any general partner of Lessee of more than twenty-five percent (25%) of its partnership interest in Lessee in one or more transactions shall be a prohibited Transfer within the meaning of Section 15.1. Notwithstanding the foregoing, if any transfer of a general partner's interest is due to the death of a general partner and results in the transfer to the immediate members of the general partner's family, who will be personally involved in the operation of the partnership, the City will not unreasonably withhold, condition or delay its consent to such transfer.

15.7.3 Guarantor. If a parent or other entity has guaranteed or otherwise secured any or all of Lessee's obligations under this Lease and if the ownership, makeup or financial condition of such parent or other entity has, in the reasonable discretion of Executive Director, materially changed at any point during the term of this Lease, the right is reserved for City to require amendments of such guarantee, the provision of new security, or a combination thereof reasonably required by Executive Director to maintain the level of security as provided by the original guarantee. Following the Effective Date, Lessee shall have a continuing obligation to notify City in writing of any and all events that do or might constitute a material change within the meaning of this Article 2, Section 15.7.3.

15.8 Assignments for Security Purposes. Lessee's request to assign this Lease, or any part thereof, to a Leasehold Mortgagee, to secure financing of improvements on the Premises will require Board approval and will be considered on a case-by-case basis which approval shall not be unreasonably withheld, conditioned, or delayed. Consent to assignments for security purposes will be subject to the provisions set forth in Exhibit N and the following conditions:

(a) Monies borrowed must be in a fixed amount. New borrowings or refinancings require further Board approval.

(b) The collateral covered by the security agreement securing Lessee's loan shall cover only Lessee's leasehold interest and interest in the Lessee's Improvements on the Premises, not the interests of City Improvements.

(c) Nothing in the instrument which creates the security interest in the Leasehold Mortgagee shall amend, modify, or otherwise affect the rights of City under this Lease or any guaranty.

(d) In the event the Leasehold Mortgagee initiates any action to foreclose the interest of Lessee in this Lease, the Leasehold Mortgagee agrees to deliver to the Board in person or by registered mail a copy of any notice of default sent to Lessee and agrees, ten (10) calendar days in advance of any foreclosure sale, to give written notice to the Board by registered mail. Such notices shall be addressed as follows:

Board of Harbor Commissioners
c/o Director of Waterfront and Commercial Real Estate
P.O. Box 151
San Pedro, CA 90733-0151

Provided, however, the failure to give such notice shall not affect the Leasehold Mortgagee's rights and ability to proceed with a foreclosure. A subsequent transfer by a Leasehold Mortgagee after foreclosure or a deed in lieu of foreclosure shall be subject only to the consent requirements, if any, set forth in Section 15.7.1.

(e) Neither the foreclosure of the security interest, or acceptance of a deed in lieu of foreclosure, shall be subject to any restrictions set forth in Section 15.1.

15.9 Written Certificate. If requested in writing by Executive Director, Lessee shall, within ten (10) days of its receipt of such written request, certify under penalty of perjury under California law whether it has or has not undertaken a Transfer.

Section 16. Subleases.

16.1 Generally. Lessee, in the normal course of business, may enter, without the consent of the City, into any Sublease, license, concession agreement, or any other similar arrangement, or extend, renew or modify any such agreement, consent to any subleasing or further levels of subleasing (all of which shall be within the defined term "Sublease," and the occupants thereunder shall all be deemed "Sublessees"), terminate any Sublease or evict any Sublessee; provided, however, that any long-term ground sublease or further levels of subleasing or other lease or contract which in effect serves to transfer substantially all of Lessee's economic interest in this Lease or the Premises shall be deemed to be a transfer or assignment subject to Section 15, and not a Sublease, for purposes of this Section 16. The term of any Sublease (including renewal options) shall not extend beyond the Term, unless agreed to by City in writing in its sole and absolute discretion. Except as set forth in Article 2, Section 16.3, all Subleases and other agreements shall be subject and subordinate to this Lease.

16.2 No Release of Lessee upon Sublease. No Sublease shall affect or reduce any obligations of Lessee or rights of City under this Lease. All rights of City and obligations of Lessee under this Lease shall continue in full force and effect notwithstanding any Sublease.

16.3 Non-Disturbance and Attornment. Lessee may from time to time request that City enter into a Non-Disturbance and Attornment Agreement which shall be attached as Exhibit Q ("Non-Disturbance and Attornment Agreement") with respect to any Sublease. If Lessee makes such a request, Lessee shall provide City with a copy of such Sublease for City's review and approval not to be unreasonably withheld, delayed or conditioned as to: (a) the financial terms of the Sublease, (b) the financial capacity of the Sublessee and (c) compliance of the Sublease with the provisions of this Lease, including the use restrictions. City shall not be required to enter into any Non-Disturbance and Attornment Agreement with respect to any Sublease or Sublessee to which City has not consented. City shall respond (either positively or negatively) in writing to Lessee's request within thirty (30) days after City's receipt of the same.

Section 17. Marks.

17.1 City-Associated Name or Mark. A City-associated name or mark, as used in this Lease, shall mean any name or mark (collectively "Mark") that (i) contains, in whole or partly, name(s) and/or mark(s) (including service marks, trademarks, names, titles, descriptions, slogans, insignias, emblems or logos) of the City of Los Angeles or any department, agency or commission thereof; and (ii) imparts the color of authority of the City of Los Angeles; and/or (3) otherwise imparts association with or endorsement by the City of Los Angeles on any goods or services offered by Lessee under such name or mark.

17.2 City Approval of Lessee Name or Mark. City shall have the right of approval of names and marks coined or created by Lessee for use on the Premises to ensure that use of the Premises leased herein under is consistent with that of a public venue leased by a governmental entity. As of the Effective Date, City has approved the name, "San Pedro Public Market." City shall not approve names or marks that impart notions or contain elements that put the City in a false light or that are racist, sexist, derogatory to any legally protected groups/class or unfitting for public facilities.

17.3 No Assignment or Transfer of Intellectual Property. Nothing in this Lease shall be construed to transfer or assign to any party, signatory herein or not, any of the intellectual property rights of either Party, including but not limited to trademark rights. Rights not expressly granted by a Party herein are reserved by such Party. Other than as approved by City, Lessee has no right to use any of the City-Associated Marks.

Section 18. Force Majeure.

18.1 Generally. Except as otherwise provided in this Lease, whenever a day is established in this Lease on which, or a period of time, including a reasonable period of

time, is designated within which, either Party is required to do or complete any act, matter or thing, the time for the doing or completion thereof shall be extended by a period of time equal to the number of days on or during which such Party is prevented from, or is unreasonably interfered with, the doing or completion of such act, matter or thing because of acts of God, the public enemy or public riots; failures due to nonperformance or delay of performance by suppliers or contractors; strikes; labor disputes; labor stoppages; any order, directive or other interference by municipal, state, federal or other governmental official or agency (other than City's failure or refusal to issue permits for the construction, use or occupancy of City's Improvements or the Premises); any catastrophe resulting from the elements, flood, fire, explosion; or any other cause reasonably beyond the control of a Party but excluding strikes or other labor disputes, lockouts or work stoppages lasting less than fifteen (15) days or caused by the Party claiming Force Majeure ("Force Majeure"); provided, however, that this Section 18 shall not apply to the time for payment of Rent or any other monetary obligation. In the event of the happening of any of such events, the Party delayed by Force Majeure shall promptly give the other Party written notice of such contingency, specifying the cause for delay or failure, and such notice from the party delayed shall be prima facie evidence that the delay resulting from the causes specified in the notice is excusable. The Party delayed by Force Majeure shall use reasonable diligence to remove the cause of delay, and if and when the event which delayed or prevented the performance of a Party shall cease or be removed, the Party delayed shall notify the other Party immediately, and the delayed party shall recommence its performance of the terms, covenants and conditions of this Lease.

Section 19. Default and Remedies; Right of Termination.

19.1 Lessee's Default. The occurrence of any of the following shall constitute a default by Lessee under this Lease:

- (a) Lessee's failure to pay when due any Rent required to be paid under this Lease if the failure continues for five (5) business days after written notice of the failure from City to Lessee;
- (b) Lessee's failure to perform any other obligation under this Lease, if Lessee fails to commence to cure the failure within thirty (30) days after delivery of written notice of the failure from City to Lessee, or if the failure requires more than thirty (30) days to cure, Lessee fails to commence such cure within the thirty (30) day period and thereafter fails to diligently prosecute the cure to completion;
- (c) Lessee's abandonment of the Premises for three (3) business days (excluding Saturdays, Sundays, and California legal holidays) while in material default of any provision of this Lease;

(d) To the extent permitted by law:

(1) A general assignment by Lessee or any guarantor of the Lease for the benefit of the creditors without written consent of City;

(2) The filing by or against Lessee, or any guarantor, of any proceeding under an insolvency or bankruptcy law, unless (in the case of an involuntary proceeding) the proceeding is dismissed within sixty (60) days;

(3) The appointment of a trustee or receiver to take possession of all or substantially all the assets of Lessee or any guarantor, unless possession is unconditionally restored to Lessee or that guarantor within thirty (30) days and the trusteeship or receivership is dissolved;

(4) Any execution or other judicially authorized seizure of all or substantially all the assets of Lessee located on the Premises, or of Lessee's interest in this Lease, unless that seizure is discharged within thirty (30) days;

(e) The undertaking of an unpermitted use as otherwise set forth in Article 2, Section 5 on the Premises if Lessee fails to discontinue or take reasonable steps to cause any sublessee to discontinue, such use within fifteen (15) calendar days after delivery of written notice from City to Lessee demanding that Lessee cease and desist such unpermitted use.

19.2 [Intentionally Omitted.]

19.3 City's Remedies on Lessee's Default. On the occurrence of an ongoing default that has not been cured within the time specified, by Lessee, City shall have the right to pursue any one or more of the following remedies in addition to any other remedies now or later available to City at law or in equity. These remedies are not exclusive but are instead cumulative. Any monetary sums that result from application of this Article 2, Subsection 19.3 shall be deemed Additional Rent.

19.3.1 Termination of Lease. City may terminate this Lease and recover possession of the Premises. Once City has terminated this Lease, Lessee shall immediately surrender the Premises to City. On termination of this Lease, pursuant to Civil Code Section 1951.2 or its successor, City may recover from Lessee all of the following:

(a) The worth at the time of the award of any unpaid Rent that had been earned at the time of the termination, to be computed by allowing interest at the rate set forth in Item 270 of the Tariff but in no event greater than the rate provided under this Lease or in no case greater than the maximum amount of interest permitted by law;

(b) The worth at the time of the award of the amount by which the unpaid Rent that would have been earned between the time of the termination and the time of the award exceeds the amount of unpaid Rent that Lessee proves could reasonably have been avoided, to be computed by allowing interest at the rate set forth in Item 270 of the Tariff but in no event greater than the rate provided under this Lease or in no case greater than the maximum amount of interest permitted by law;

(c) The worth at the time of the award of the amount by which the unpaid Rent for the balance of the term of this Lease after the time of the award exceeds the amount of unpaid rent that Lessee proves could reasonably have been avoided, to be computed by discounting that amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award plus one percent (1%);

(d) Any other amount necessary to compensate City for all the detriment proximately caused by Lessee's failure to perform obligations under this Lease, including, without limitation, restoration expenses, expenses of improving the Premises for a new Lessee (whether for the same or a different use), brokerage commissions, and any special concessions made to obtain a new Lessee;

(e) Any other amounts, in addition to or in lieu of those listed above, that may be permitted by Applicable Law; and,

(f) To the extent that Lessee fails to surrender the Premises after Termination, Lessee agrees that the damages to City for such failure to surrender shall be as set forth in Article 2, Section 3.3.

19.3.2 Continuation of Lease in Effect. City shall have the remedy described in Civil Code Section 1951.4, which provides that, when a Lessee has the right to sublet or assign (subject only to reasonable limitations), the City may continue this Lease in effect after the Lessee's breach and abandonment and recover rent as it becomes due. Accordingly, if City does not elect to terminate this Lease on account of any default by Lessee, City may enforce all of City's rights and remedies under this Lease, including the right to recover all Rent as it becomes due.

19.3.3 Lessee's Subleases. If City elects to terminate this Lease on account of any default by Lessee, City may:

(a) If City has not executed a Non-Disturbance and Attornment Agreement, terminate any sublease, license, concession, or other consensual arrangement for possession entered into by Lessee and affecting the Premises; or

(b) Choose to succeed to Lessee's interest in such an arrangement. If City elects to succeed to Lessee's interest in such an arrangement, Lessee shall, as of the date of notice by City of that election, have no further right to, or interest in, the rent or other consideration receivable under that arrangement.

19.4 Form of Payment After Default. If Lessee fails to pay any amount due under this Lease within ten (10) days after the due date or if Lessee draws a check on an account with insufficient funds, City shall have the right to require that any subsequent amounts paid by Lessee to City under this Lease (to cure a default or otherwise) be paid in the form of wire transfer, or other form approved by City despite any prior practice of accepting payments in a different form.

19.5 Acceptance of Rent Without Waiving Rights. The City may accept Lessee's payments without waiving any rights under this Lease, including rights under a previously served notice of default. If City accepts payments after serving a notice of default, City may nevertheless commence and pursue an action to enforce rights and remedies under the previously served notice of default.

19.6 City's Default. The City's failure to perform any obligation under this Lease shall constitute a default hereunder, if City fails to cure the failure within thirty (30) days after delivery of written notice of the failure from Lessee to City, or if the failure requires more than thirty (30) days to cure, City fails to commence such cure within the thirty (30) day period and thereafter fails to diligently prosecute such cure to completion.

19.7 Lessee's Remedies. In the event of the City's default under its obligations or the failure of any of its representations and warranties, Lessee shall have such remedies as are available under Applicable Law or under this Lease. In the event the City has not performed its obligations to maintain public improvements or its other obligations hereunder, Lessee, upon ten (10) days written notice, shall have the right to undertake such repairs or obligations and may deduct the cost of such repair obligations from the Rent next coming due.

19.8 Limitation of Liability. Notwithstanding any other provision of the Lease, Lessee shall not have any liability under this Lease in excess of its interest in the Premises.

Section 20. Extent of Water Frontage.

20.1 In case this Lease or any improvements made hereunder or this Lease or any part thereof shall be assigned, transferred, leased or subleased and the control thereof be given or granted to any person, firm, or corporation so that such person, firm or corporation shall then own, hold or control more than the length of water frontage permitted or authorized under Section 654(a) of the Charter or if Lessee shall hold or

control such water frontage, then this Lease and all rights hereunder shall thereupon and thereby be absolutely terminated, and any such attempted or purported assignment, transfer or sublease, or giving or granting of control to any person, firm or corporation, which will then own, hold or control more than such permitted or authorized length of water frontage, shall be void and ineffectual for any purpose whatsoever. Based on the existing survey, the Parties have determined that the length of frontage is less than the amount specified under Section 654(a). In the event that it is determined that the frontage is exceeded, in lieu of termination, Lessee shall have the right to surrender to City control of the amount of frontage in excess of the allowable frontage.

Section 21. Recordkeeping, Inspection and Audit.

21.1 Operations. Lessee shall keep full and accurate books, records and accounts relating to its operations on the Premises and shall require its Sublessees to keep such records. City shall have the right and privilege, through its representatives, at all reasonable times and on reasonable notice, to inspect such books, records and accounts in order to audit and/or verify, without limitation, compliance with the terms and conditions of this Lease, and the accuracy of the sums due, owing and paid to City hereunder. Lessee agrees that such books, records and accounts shall be made available to City at Lessee's offices or at its property manager's office at the Premises. City shall protect, to the extent permitted by law, the confidentiality of any such books, records and/or accounts so inspected. Additionally, Lessee shall provide personnel to accompany City's representatives on periodic inspections of the Premises to determine Lessee's compliance with this Lease. The right of inspection hereby reserved to City shall impose no obligation on City to make inspections to ascertain the condition of the Premises, and shall impose no liability upon City for failure to make such inspection.

21.2 City Right of Inspection. City's authorized representatives shall have access to the Premises (a) with one (1) business day prior written notice at any and all reasonable times during business hours to determine whether or not Lessee is complying with the terms and conditions of this Agreement, subject to any security requirements of Lessee and (b) at any and all times, with or without notice, for fire, and police/ or homeland security purposes, to investigate any incidents involving personal injury or property damage, or for any other purpose incidental to the rights and/or duties of City. The right of inspection hereby reserved to City shall impose no obligation on City to make inspections to ascertain the condition of the Premises, and shall impose no liability upon City for failure to make such inspection. Lessee shall provide personnel to accompany City's representatives on periodic inspections of the Premises to determine Lessee's compliance with this Lease.

Section 22. Condemnation.

22.1 Generally. If, during the Term there is any taking of all or any part of the Premises by Condemnation, the rights and obligations of the parties shall be determined pursuant to this Article 2, Section 22.

22.2 Total Taking. Lessee may elect to treat as a Partial Taking any Taking that would otherwise qualify as a Total Taking. If a Total Taking of the Premises shall occur, and Lessee does not elect by Notice to City, within one hundred twenty (120) days thereafter, to treat the same as a Partial Taking, then this Lease shall terminate as of the effective date of such Total Taking, and the Rent shall be apportioned accordingly. The proceeds of the Total Taking shall be allocated between City and Lessee in accordance with their respective interests. A "Total Taking" shall mean a taking that includes more than Twenty-Five percent (25%) of the rentable portion of the improvements on the Premises or cause a material interference to the ingress, egress or parking to or on the Premises.

22.3 Partial Taking.

22.3.1 Effect on Lease; Award. If a Partial Taking shall occur, then any award or awards shall be applied first to repair, rebuilding or restoration of any remaining part of the improvements not so taken. Lessee shall perform such repair, rebuilding or restoration in accordance with the applicable requirements of this Lease. The balance of any such award or awards remaining after the repair, rebuilding or restoration shall be distributed to City and Lessee as if they were proceeds of a Total Taking affecting only a portion of the Premises taken. There shall be an equitable abatement or reduction of Rent or any other sum payable hereunder as a result of any Partial Taking based upon the effect on Lessee's use and occupation of the Premises. A "Partial Taking" shall mean a Condemnation or other governmental action which temporarily interferes with the use and occupancy of the Premises and which does qualify as a Total Taking or is less than Twenty-Five Percent (25%) of the rentable portion of the improvements on the Premises.

22.3.2 Improvements. Should Lessee terminate this Lease pursuant to this Section 22, title to all improvements, additions, alterations constructed or installed by Lessee upon the Premises and which have not already vested in City shall thereupon vest in City.

22.3.3 Waiver of CCP § 1265.130. Each Party waives the provisions of the California 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 Premises.

22.3.4 Extended Partial Taking. If a Partial Taking shall occur with respect to use or occupancy of the Premises for a period greater than 120 days, then Lessee shall, at its option, be entitled to terminate this Lease effective as of the commencement date of the Partial Taking. If the Partial Taking relates to a period of 120 days or less, or if Lessee does not elect within sixty (60) days after the 120th day of the Partial Taking, to terminate this Lease, then all proceeds of such Partial Taking (to the extent attributable to periods within the Term) shall be

paid to Lessee, and Lessee's obligations under this Lease shall not be affected in any way.

22.4 Severance Damages. The entire award of compensation paid for any severance damages, whether paid for impairment of access, for land, buildings, and/or improvements shall be the property of City, regardless of whether any buildings or improvements so damaged are owned or were constructed by City or Lessee. However, should City determine that improvements are to be restored, that portion of the severance damages necessary to pay the cost of restoration shall be paid to Lessee accompanied by evidence that the sum requested has been paid for said restoration and is a proper item of such cost and used for such purpose.

22.5 Other Condemnation. In the event of any condemnation action not resulting in a Taking but creating a right to compensation, this Lease shall continue in full force and effect without reduction or abatement of Rent, and the award or payment made in connection with such action shall be allocated between City and Lessee in accordance with their respective interests.

22.6 Settlement or Compromise. Neither City, in its Proprietary Capacity as Landlord under this Lease, nor Lessee shall settle or compromise any Taking award affecting the interests of the other Party without (a) the consent by such other party, such consent not to be unreasonably withheld, and (b) in the case of a Taking award affecting the interest of Lessee, without the consent of any Leasehold Mortgagee whose Leasehold Mortgage provides for such a right of consent. Each of City and Lessee shall be entitled to appear in all Taking proceedings affecting its respective interest, to participate in any settlement, arbitration or other proceeding involving such a Taking and to claim its Taking award under this Lease. Subject to the terms of its Leasehold Mortgage, any Leasehold Mortgagee shall also be entitled to appear in such proceedings and empowered to participate in any settlement, arbitration or other proceeding involving any Taking.

22.7 Prompt Notice. If either Party becomes aware of any Taking or threatened or contemplated Taking, then such party shall promptly give Notice thereof to the other Party.

22.8 Control of Funds after Partial Taking. In the event of a Partial Taking where Lessee is required to, or chooses to, repair, rebuild or restore the damaged improvements, the following provisions regarding control of funds shall apply:

22.8.1 Proceeds Less Than \$1,000,000. All proceeds from any Partial Taking less than \$1,000,000 shall be distributed to Lessee (subject to the provisions of any Leasehold Mortgage entered into by Lessee with a Leasehold Mortgagee), and shall be applied by Lessee in accordance with Section 22.3.

22.8.2 Proceeds Greater Than \$1,000,000.

22.8.2.1 When Fund Control Mechanism in Leasehold Mortgage Governs. If any Leasehold Mortgage entered into by Lessee and a Leasehold Mortgagee contains a fund control mechanism providing that all proceeds from any Partial Taking in excess of \$1,000,000 shall be deposited with such Leasehold Mortgagee or a third party depository specified in such Leasehold Mortgage to be disbursed to repair, rebuild or restore the Premises.

22.8.2.2 When Fund Control Mechanism in This Lease Governs. Subject to Section 22.8.2.1, if proceeds from any Partial Taking total in excess of \$1,000,000, then upon request of City all such proceeds shall be deposited with the Depository to be disbursed to repair, rebuild or restore the Premises in accordance with the procedures set forth in Section 14 and the balance, if any, of such proceeds shall be allocated between City and Lessee in accordance with their respective interests.

22.9 Waiver. The provisions of this Lease governing Condemnation are intended to supersede the application of Chapter 10, Article 2 of the California Code of Civil Procedure and all similar Laws, to the extent inconsistent with this Lease. Nothing in this Article 2, Section 22 shall be construed to limit City's powers with respect to Condemnation in its Governmental Capacity.

Section 23. License, Fees and Taxes.

23.1 Generally. Lessee shall pay all taxes and assessments of whatever character levied upon or charged against the interest of Lessee, if any, created by this Lease in the Premises or upon works, buildings, improvements or other property thereof, or upon Lessee's operations hereunder. Lessee shall also pay all license and permit fees required for the conduct of its operations hereunder.

23.2 POSSESSORY INTEREST TAX. LESSEE IS AWARE THAT THE GRANTING OF THIS LEASE TO LESSEE MAY CREATE A POSSESSORY PROPERTY INTEREST IN LESSEE AND THAT LESSEE MAY BE SUBJECT TO PAYMENT OF A POSSESSORY PROPERTY TAX IF SUCH AN INTEREST IS CREATED.

Section 24. Signs.

24.1 Generally. Lessee shall not erect or display, or agree to be erected or displayed, on the Premises any advertising matter of any kind, including signs, other than in compliance with Applicable Law including the LA Waterfront Construction Design Guidelines and the terms of this Lease.

Section 25. Notices.

25.1 The Parties shall send all notices or other communication necessary under this Agreement in writing by personal service, or express mail, Federal Express, DHL, UPS or any other similar form of airborne/overnight delivery service, or mailing in the United States mail, postage prepaid, certified and return receipt requested, addressed to the parties at their respective addresses as follows:

If to Lessee:

San Pedro Public Market LLC
c/o The Ratkovich Company
700 South Flower Street, Suite 2600
Los Angeles, CA 90017
Attn: Clare De Briere

with copies to:

Jerico Development Corporation
461 W. South Street, Suite 300
San Pedro, CA 90731

and to:

The Ratkovich Company
700 South Flower Street, Suite 2600
Los Angeles, CA 90017
Attn: Clare De Briere

and to:

DLA Piper LLP (US)
550 South Hope Street, Suite 2300
Los Angeles, CA 90071
Attn: Marshall M. Taylor, Esq.

If to City:

Harbor Department
425 South Palos Verdes Street
San Pedro, California 90731
Attn: Executive Director

with copies to:

Los Angeles City Attorney's Office
425 South Palos Verdes Street
San Pedro, California 90731

and to:

Port of Los Angeles
Real Estate Division
P.O. Box 151
San Pedro, CA 90733-0151

Any such notice shall be deemed to have been given upon delivery or two Business days after deposit in the mail as aforesaid. Either party may change the address at which it desires to receive notice upon giving written notice of such request to the other parties.

Section 26. Miscellaneous.

26.1 Definitions, Titles and Captions. Capitalized terms used herein, unless otherwise defined, shall have the respective meanings specified in Exhibit A. Unless otherwise indicated, references in this Lease to sections, subsections, paragraphs, clauses, exhibits and schedules are to the same contained in or attached to this Lease. Additionally, the Parties have inserted the section titles in this Lease only as a matter of convenience and for reference, and the section titles in no way define, limit, extend or describe the scope of this Lease or the intent of the Parties in including any particular provision in this Lease.

26.2 Construction of Lease. This Lease shall not be construed against the Party preparing the same, shall be construed without regard to the identity of the person who drafted such and shall be construed as if all Parties had jointly prepared this Lease and it shall be deemed their joint work product; each and every provision of this Lease shall be construed as though all of the Parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one Party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting Party shall not be applicable.

26.3 Entire Agreement; Amendments. This Lease and all exhibits referred to in this Lease constitute the final complete and exclusive statement of the terms of the agreement between City and Lessee pertaining to Lessee's use and occupancy of the Premises and supersedes all prior and contemporaneous understandings or agreements of the Parties. Neither Party has been induced to enter into this Lease by, and neither Party is relying on, any representation or warranty outside those expressly set forth in the application for this Lease.

26.4 Modification in Writing. This Lease may be modified only by written agreement of all Parties. Any such modifications are subject to all applicable approval processes set forth in City's Charter, City's Administrative Code, or elsewhere.

26.5 Exhibits. All exhibits to which reference is made in this Lease are deemed incorporated in this Lease, whether or not actually attached. References to sections are to sections of this Lease unless stated otherwise.

26.6 Waivers. A failure of any party to this Lease to enforce this Lease upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing. The subsequent acceptance of rent by the City shall not be deemed to be a waiver of any other breach by Lessee of any term, covenant or condition of this Lease, other than the failure of Lessee to timely make the particular rent payment so accepted, regardless of the City's knowledge of such other breach. No delay, failure or omission of either Party to execute any right, power, privilege or option arising from any default, nor subsequent acceptance of guarantee then or thereafter accrued, shall impair any such right, power, privilege, or option, or be construed to be a waiver of any such default or relinquishment thereof, or acquiescence therein, and no notice by either Party shall be required to restore or revive the time is of the essence provision hereof after waiver by the other Party or default in one or more instances. No option, right, power, remedy or privilege of either Party shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options or remedies given to City or Lessee by this Lease are cumulative, and no one of them shall be exclusive of the other or exclusive of any remedies provided by law, in that the exercise of one right, power, option or remedy by City or Lessee shall not impair its rights to any other right, power, option or remedy.

26.7 Governing Law and Venue. This Lease is made and entered into in the State of California and shall in all respects be construed, interpreted, enforced and governed under and by the laws of the State of California, without reference to choice of law rules. Any action or proceeding arising out of or related to this Lease shall be filed and litigated in the state or federal courts located in the County of Los Angeles, State of California, in the judicial district mandated by applicable court rules. If either Party files or attempts to litigate an action in violation of this Article 2, Section 26.8, the other Party shall be entitled to recover reasonable costs and attorneys' fees incurred to enforce this Section.

26.8 Joint and Several Obligations of Lessee. If more than one individual or entity comprises Lessee, the obligations imposed on each individual or entity that comprises Lessee under this Lease shall be join and several.

26.9 Visual Artists' Rights Act.

26.9.1 Generally. Lessee shall not install, or cause to be installed, any work of art subject to the Visual Artists' Rights Act of 1990 (as amended), 17 U.S.C. 106A, *et seq.*, or California Civil Code Section 980, *et seq.*, (hereinafter collectively "VARA") on or about the Premises without first obtaining a waiver in writing, of all rights under VARA, satisfactory to the Executive Director and approved as to form and legality by the City Attorney's Office, from the artist.

Said waiver shall be in full compliance with VARA and shall name City as a party for which the waiver applies.

26.9.2 Prohibition. Any work of art installed, or caused to be installed, by Lessee without the prior written authorization of the Executive Director shall be deemed a trespass, removable by City, by and through the Executive Director, upon three (3) days written notice, all costs, expenses and liability therefor to be borne exclusively by Lessee.

26.9.3 Indemnity. Lessee, in addition to other obligations to indemnify and hold City harmless, as more specifically set forth in this Lease, shall indemnify and hold harmless City from all liability resulting for Lessee's failure to obtain the artist's waiver of VARA and failure to comply with any portion of this Section 26.10.

26.9.4 Cumulative Remedy. The rights afforded the City under this Section 24.10 shall not replace any other rights afforded City in this Lease or otherwise, but shall be considered in addition to all its other rights.

26.10 Affirmative Action. Lessee agrees not to discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition. All assignments, subleases and transfers of interest in this Lease under or pursuant to this Lease shall contain this provision. The provisions of Section 10.8.4 of the Los Angeles Administrative Code as set forth in the attached Exhibit R are incorporated herein and made a part hereof.

26.11 Severability. Should any part, term, condition or provision of this Lease be declared or determined by any court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law, public policy, or charter, the validity of the remaining parts, terms, conditions or provisions of this Lease shall not be affected thereby, and such invalid, illegal or unenforceable part, term, condition or provision shall be treated as follows: (a) if such part, term, condition or provision is immaterial to this Lease, then such part, term, condition or provision shall be deemed not to be a part of this Lease; or (b) if such part, term, condition or provision is material to this Lease, then the Parties shall revise the part, term, condition or provision so as to comply with the Applicable Law or public policy and to effect the original intent of the parties as closely as possible.

26.12 Waiver of Claims. Lessee hereby waives any claim against City and the Board and its officers, agents or employees for damages or loss caused by any suit or proceedings directly or indirectly challenging the validity of this Lease, or any part thereof, or by any judgment or award in any suit or proceeding declaring this Lease null, void or voidable or delaying the same or any part thereof from being carried out unless arising or resulting from the sole or gross negligence or willful misconduct of the City.

26.13 Attorneys' Fees. In any legal action or other proceeding brought to enforce or interpret the terms of this Lease, the prevailing party shall be entitled to reasonable attorneys' fees and any other actually incurred costs and expenses, including but not limited to expert fees, incurred in that proceeding in addition to any other relief to which it is entitled. The reasonable attorneys' fees awarded under this Section 26.14 shall be determined by calculating the hours reasonably expended by each counsel for the prevailing party multiplied by the prevailing market hourly rate in Southern California for attorneys of comparable skill and experience.

26.14 Conflict of Interests. The Parties to this Lease have read and are aware of the provisions of Section 1090 *et seq.* and Section 87100 *et seq.* of the California Government Code relating to conflict of interest of public officers and employees, as well as the Conflict of Interest Code of City's Harbor Department. All Parties hereto agree that they are unaware of any financial or economic interest of any public officer or employee of City relating to this Lease. Notwithstanding any other provision of this Lease, it is further understood and agreed that if such a financial interest does exist at the inception of this Lease, City may immediately terminate this Lease by giving written notice thereof.

26.15 Business Tax Registration Certificate.

26.15.1 Lessee. Lessee represents that it has registered its business with the Office of Finance of the City of Los Angeles and has obtained and presently holds from that Office a Business Tax Registration Certificate, or a Business Tax Exemption Number, required by City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 *et seq.* of City's Municipal Code, or its successor) as set forth in the attached Exhibit T are incorporated herein and made a part hereof. Lessee shall maintain, or obtain as necessary, all such Certificates required of it under said Ordinance and shall not allow any such Certificate to be revoked or suspended during the Term of this Lease.

26.15.2 Contractors. Lessee represents that it will require its contractors and subcontractors to register their business with the Office of Finance of the City of Los Angeles and to obtain and hold from that Office a Business Tax Registration Certificate, or a Business Tax Exemption Number, required by City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 *et seq.* of City's Municipal Code, or its successor) for all work done on the Premises.

26.15.3 Sublessees. Lessee represents that it will include in all its subleases the requirement that the sublessee register its business with the Office of Finance of the City of Los Angeles and obtain and hold from that Office a Business Tax Registration Certificate, or a Business Tax Exemption Number, required by City's Business Tax Ordinance (Article 1, Chapter 2, Sections 21.00 *et seq.* of City's Municipal Code, or its successor) and further require that the sublessee maintain, or obtain as necessary, all such Certificates required of it

under said Ordinance and not allow any such Certificate to be revoked or suspended during the term of its sublease.

26.16 Service Contract Worker Retention Policy. The Board adopted Resolution No. 5771 on January 3, 1999, agreeing to adopt the provisions of Los Angeles City Ordinance No. 171004 relating to Service Contractor Worker Retention (“SCWR”), Section 10.36 *et seq.* of the Los Angeles Administrative Code, as the policy of City’s Harbor Department. Lessee shall comply with the policy wherever applicable. Violation of the SCWR shall entitle the City to terminate this Lease and otherwise pursue legal remedies that may be available, subject to rules, administrative procedures and practices of the Bureau of Contract Administration.

26.17 Wage and Earnings Assignment Orders/Notices of Assignments. Lessee is obligated to fully comply with all applicable state and federal employment reporting requirements for the Lessee and/or its employees. Lessee shall certify that the principal owner(s) are in compliance with any Wage and Earnings Assignment Orders/Notices of Assignments applicable to them personally. Lessee shall fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments in accordance with California Family Code Section 5230 *et seq.* Lessee shall maintain such compliance throughout the term of this Lease.

26.18 Equal Benefits Policy. The Board adopted Resolution No. 6328 on January 12, 2005, agreeing to adopt the provisions of Los Angeles City Ordinance No. 172,908, as amended, relating to Equal Benefits, Section 10.8.2.1 *et seq.* of the Los Angeles Administrative Code, as a policy of City’s Harbor Department which is attached as Exhibit S and incorporated herein and made a part hereof. Lessee shall comply with the policy wherever applicable. Subject to the rules, regulations and practices of the party enforcing such policy, violation of the policy shall entitle the City to terminate any agreement with Lessee and pursue any and all other legal remedies that may be available.

26.19 Living Wage Policy. City of Los Angeles Charter Section 378 requires compliance with the City’s Living Wage requirements as set forth by ordinance, Section 10.37 *et seq.* of the Los Angeles Administrative Code. Lessee shall comply with the policy wherever applicable. Subject to the rules and administrative procedures and practices of Bureau of Contract Administration, violation of this provision, where applicable, shall entitle the City to terminate this Lease and otherwise pursue legal remedies that may be available.

26.20 State Tidelands Act, Grant and Trust; City Charter. This Lease is entered into in furtherance of and as a benefit to the State Tidelands Grant and the trust created thereby. Therefore, this Lease, the Premises and Lessee’s use and occupancy thereof, is at all times subject to the limitations, conditions, restrictions and reservations contained in and prescribed by the Act of the Legislature of the State of California entitled “An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City”, approved June 3, 1919 (Stats.

1929, CH 651), as amended, ("Act") and provisions of Article VI of the Charter of the City of Los Angeles ("Charter") relating to such lands. Lessee agrees that any interpretation of this Lease and terms contained herein must be consistent with the limitations, conditions, restrictions and reservations of the Act and the Charter. Lessee further agrees that it shall not undertake any use of the Premises, which is or will be inconsistent with such limitations, conditions, restrictions and reservations.

26.21 Successors. This Lease shall be binding upon and shall inure to the benefit of the successors and assigns of City and shall be binding upon and inure to the benefit of the successors and permitted assigns and sublessees of Lessee.

26.22 No Third Party Beneficiaries. Nothing in this Lease shall be deemed to confer upon any Person (other than City, Lessee or Leasehold Mortgagees) any right to insist upon, or to enforce against City or Lessee, the performance or observance by either party of its obligations under this Lease.

26.23 Proprietary Capacity. The capacity of City in this Lease shall be as ground lessor only ("Proprietary Capacity"), and any obligations or restrictions imposed by this Lease on City shall be limited to that capacity and shall not relate to, constitute a waiver of, supersede or otherwise limit or affect the governmental capacities of City, including enacting laws, inspecting structures, reviewing and issuing permits, and all of the other legislative and administrative or enforcement functions of each pursuant to federal, State or local law ("Governmental Capacity"). Whenever not expressly otherwise stated, (a) City, when acting in its Proprietary Capacity, shall not unreasonably withhold or delay its approvals to matters requiring its approval hereunder, (b) Lessee shall not unreasonably withhold or delay its approval to matters requiring its approval hereunder and (c) City, when acting in its Governmental Capacity, shall be permitted to utilize its sole discretion with respect to matters requiring its approval hereunder.

26.24 No Subordination. City's rights in the Premises and this Lease, including without limitation, City's right to receive Base Rent and Additional Rent, shall not be subordinated to the rights of any Leasehold Mortgagee. No Leasehold Mortgage or other financing document shall provide any right for anyone to: (i) foreclose on the Fee Estate (including without limitation any right to receive deed-in-lieu of foreclosure with respect to the Fee Estate), (ii) acquire the Fee Estate by any means, or (iii) otherwise encumber the Fee Estate.

26.25 Estoppel Certificate. Each party hereto agrees, from time to time and within twenty (20) business days after request by the other party hereto, to deliver to the requesting party, or the requesting party's designee, an estoppel certificate in reasonable, normal and customary form, as reasonably requested by the requesting party, which shall be attached as Exhibit U, with such modifications as may be necessary to make such certificate factually accurate. Failure by the Party to whom such request has been made to timely execute and deliver such certificate shall

automatically constitute an acceptance by such Party that the statements included therein are true and correct without exception.

26.26 Time is of the Essence. Time shall be of the essence as to all dates and times of performance, and obligations set forth herein, whether or not a specific date is contained herein. If performance is required by the terms hereof on a Saturday, Sunday or legal holiday in California, the performance shall be made on the next business day.

26.27 Lessee Name Change. Lessee shall promptly notify City in writing of any changes to its name set forth in the preamble of this Lease.

26.28 Promotion of the Premises. Lessee shall in good faith and reasonable diligence use its commercially reasonable efforts by suitable advertising and other means to promote the use of the Premises granted by this Lease.

26.29 Executive Director Authority. Whenever this Lease refers to an action to be taken by the Executive Director, to the extent permitted by Applicable Law, that action may be taken by the Executive Director or the Executive Director's designee.

26.30 [Intentionally Omitted].

26.31 Load Limits. City warrants and represents that wharfs and paving on the Premises will support the load limits specified in Exhibit V. Lessee shall use its commercially reasonable efforts to allow no loading in the excess of such limits without the prior written consent of the Harbor Department, which consent may be provided by a Harbor Engineer's Permit and/or a Heavy Lift Permit. Upon receipt of a notice from City that the load limits on Exhibit V have been exceeded, Lessee immediately shall take all appropriate steps to correct such condition and, irrespective of such notice, shall, as between City and Lessee, be solely responsible for any cost, expense, or damage resulting from exceeding the load limits.

26.32 Wilmington Truck Route. City and Lessee acknowledge that Lessee does not directly control the trucks serving the Premises. However, Lessee shall make its commercially reasonable efforts to notify truck drivers, truck brokers, and trucking companies that trucks serving the Premises must confine their route to the designated Wilmington Truck Route ("Wilmington Truck Route" attached hereto as Exhibit W. The Wilmington Truck Route may be modified from time to time at the sole and absolute discretion of the Executive Director. The Harbor Department shall provide Lessee with notice of any modifications to the Wilmington Truck Route.

[signatures on next page]

IN WITNESS WHEREOF, the Parties hereto have executed this Lease on the date to the left of their signatures.

THE CITY OF LOS ANGELES, by
its Board of Harbor Commissioners

Dated: _____, 2016

By _____
Executive Director

Attest: _____
Board Secretary

SAN PEDRO PUBLIC MARKET LLC
a California limited liability company

Dated: May 17, 2016

By [Signature]
Authorized Signatory
(Print/type Name and Title)

Attest: [Signature]
Rita Senger Attorney
(Print/type Name and Title)

APPROVED AS TO FORM AND LEGALITY

May 18, 2016
MICHAEL N. FEUER, City Attorney

By [Signature]
JANNA B. SIDLEY, General Counsel

Account #	_____	W.O. #	_____
Ctr/Div #	_____	Job Fac. #	_____
Proj/Prog #	_____		
Budget		Amount:	
FY:	_____		_____
	_____		_____
	_____		_____
TOTAL			_____

For Acct/Budget Div. Use Only:

Verified by: _____

Verified Funds Available: _____

Date Approved: _____

Must Warehouse
** NO BUDGET STAMP REQUIRED*

EXHIBIT A – DEFINITIONS

Unless the context shall otherwise require, the following terms shall have the following respective meanings when used in this Lease. The following definitions are equally applicable both to the singular and plural forms and the feminine, masculine and neuter forms of the terms defined. Any agreement defined or referred to below shall include each amendment, modification and supplement thereto and waiver thereof entered into from time to time in compliance with the terms of the Lease.

All initially capitalized terms used and not otherwise defined herein shall have the meaning ascribed to them in the Lease to which this Exhibit is attached.

References to Sections shall refer to Sections in Article 2 unless otherwise specified.

“2009 EIR/EIS” shall have the meaning set forth in the Recitals.

“Act” shall have the meaning set forth in Section 26.21.

“Additional Rent” shall have the meaning set forth in Section 4.1.5.

“Alteration” shall have the meaning set forth in Section 8.1.

“Annual CPI-U Adjustment” shall have the meaning set forth in Section 4.2.1.3.

“APP” shall have the meaning set forth in Section 6.3.2.2.1.

“Applicable Law” or “Law(s)” shall mean all Governmental Agencies’ laws, statutes, and ordinances, including rules, order or regulations issued in connection with the foregoing, in force on the Effective Date or thereafter enacted, promulgated, or issued, which shall include but is not limited to Environmental Laws, CEQA, and NEPA.

“Baseline Condition” shall have the meaning set forth in Section 7.2.1.

“Base Rent” shall have the meaning set forth in Section 4.1.4.

“Board” shall have the meaning set forth in the first paragraph of this Lease.

“BOMA” shall have the meaning set forth in Section 4.2.2.3.

“Bureau of Contract Administration” shall mean the City of Los Angeles, Department of Public Works, Bureau of Contract Administration.

“Capital Reserve Fund” shall have the meaning set forth in Section 9.1.1.

“Casualty” shall have the meaning set forth in Section 11.1.

“Charter” shall have the meaning set forth in Section 26.21.

“Chief Harbor Engineer” shall mean the duly appointed Chief Harbor Engineer of the Harbor Department, or its designee.

“City” shall have the meaning set forth in the first paragraph of this Lease.

“City’s Baseline Report” shall have the meaning set forth in Section 7.2.1.

“City Costs” means, in City’s reasonable discretion, the actual, out of pocket cost of maintenance or repair, replacement or upgrade of property neglected, damaged or destroyed, or not otherwise maintained as required by this Lease, including reasonable allocated costs for labor, materials, services, and equipment usage arising from or related to maintenance, repair, replacement or upgrade work performed by or on behalf of City.

“City Improvements” shall have the meaning set forth in Article 1, Section 2.2.1.

“City’s Parties” means employees, agents, representatives of the City or contractors to the City.

“Comparable Facilities” shall have the meaning set forth in Section 12.1.1.

“Compensation Year” shall have the meaning set forth in Section 4.1.1.

“Complete”, “Completed” or “Completion” means the date upon which a temporary or permanent certificate of occupancy (whichever is earlier) is issued by the City for the work.

“Condemnation” means the exercise by a party having such power to occupy, use or obtain by the exercise of the right of eminent domain, the Premises or any portion thereof.

“Council” means the Council of the City of Los Angeles, the legislative body of the City pursuant to Section 20 of the Charter of the City of Los Angeles.

“CPI-U” shall have the meaning set forth in Section 4.1.3.

“Delivery Date” shall have the meaning set forth in Section 6.2.1.

“Delivery Notice” shall have the meaning set forth in Article 1, Section 2.1.3.

“Development Costs” shall have the meaning set forth in Article 1, Section 1.2.1.

“ECP” shall have the meaning set forth in Section 7.7.2.

“Effective Date” shall have the meaning set forth in Section 3.2.

“ENA” shall have the meaning set forth in the Recitals.

“Environmental Laws” means the environmental laws and implementing regulations which are a subset of the applicable laws and which are applicable to the Premises and/or Lessee’s use and/or occupancy thereof, in their form as of the Effective Date or as subsequently amended, or as may be promulgated during the Term or any holdover. Such Environmental Laws include but are not limited to:

- (a) CERCLA (as defined below) and its implementing regulations;
 - (b) RCRA (as defined below) and its implementing regulations;
 - (c) The federal Clean Water Act (33 U.S.C. Sections 1251–1376, et seq.) and its implementing regulations;
 - (d) The California Porter Cologne Water Quality Control Act (California Water Code, Division 7) and its implementing regulations;
 - (e) The federal Clean Air Act (42 U.S.C. Sections 7401-7601) and its implementing regulations;
 - (f) The California Clean Air Act of 1988 and its implementing regulations;
 - (g) The state Lewis Air Quality Act of 1976 and its implementing regulations;
- and
- (h) Any other applicable federal, state, or local law, regulation, ordinance or requirement (including consent decrees and administrative orders imposing liability or standard of conduct) now or hereinafter in effect which concerns Environmentally Regulated Material.

“Environmentally Regulated Material” means any hazardous or toxic substance, material, or waste at any concentration that is or becomes regulated by the United States, the State of California, or any local or governmental authority having jurisdiction over the Premises. Environmentally Regulated Material includes but is not limited to:

- (a) Any “hazardous substance” as that term is defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”) (42 U.S.C. Sections 9601-9675) in its present or successor form;
- (b) “Hazardous waste” as that term is defined in the Resource Conservation and Recovery Act of 1976 (“RCRA”) (42 U.S.C. Sections 6901-6992k) in its present or successor form;

(c) Any pollutant, contaminant, or hazardous, dangerous, or toxic chemical, material or substance, within the meaning of any other applicable federal, state, or local law, regulation, ordinance or requirement (including consent decrees and administrative orders imposing liability or standard of conduct concerning any hazardous, dangerous or toxic waste, substance or material, now or hereinafter in effect);

(d) Radioactive material, including any source, special nuclear, or byproduct material as defined in 42 U.S.C. Sections 2011-2297g-4 in its present or successor form;

(e) Asbestos in any form or condition;

(f) Polychlorinated biphenyls ("PCBs") and substances or compound containing PCBs; and

(g) Petroleum products.

"Executive Director" means the designated Executive Director of the Harbor Department.

"Existing City Improvement" shall have the meaning set forth in Section 2.2.

"Existing Contamination" shall have the meaning set forth in Section 7.4.

"Expiration Date" shall have the meaning set forth in Section 3.1.

"Fee Estate" means fee title to the Premises.

"Force Majeure" is as defined in Section 18.1.

"GAAP" shall have the meaning set forth in Section 4.2.2.3.

"Governmental Agencies" means any Federal, state or local entity collectively having jurisdiction with respect to the Premises.

"Governmental Capacity" shall have the meaning set forth in Section 26.23.

"grace period" shall have the meaning set forth in Section 4.7.6.

"Gross Receipts", except as herein otherwise provided in this Lease, means all money, cash receipts, or other things of value, including but not limited to charges, sales, rentals, fees and commissions received directly by Lessee from any business, use, occupation or any combination thereof, originating, transacted, or performed in whole or in part, on the Premises, including, but not limited to, rentals, the rendering or supplying of services and the sale of goods, wares or merchandise.

1. Except as otherwise set forth herein, there shall be no deduction from Gross Receipts for any overhead or cost or expense of operation, such as, without limitation, salaries, wages, costs of goods, interest, debt amortization, rent credit (but the value of any free rent period shall not be imputed as Gross Receipts), collection costs, discounts from credit card operations, insurance and taxes.

2. Gross Receipts shall not include direct taxes imposed upon the consumer and collected therefrom by Lessee such as, without limitation, retail sales taxes, excise taxes, or related direct taxes paid periodically by Lessee to a governmental agency accompanied by a tax return statement.

3. Gross Receipts reported by Lessee must include the usual charges for any services, goods, rentals or facilities provided by Lessee. Bona fide bad debts actually accrued by Lessee for amounts owed by subtenants, assignees, licensees concessionaires or permittees may be deducted from Gross Receipts to the extent that such amounts have been previously reported as Gross Receipts; however, there shall be no deduction for bad debts based on past experience or transfer to a bad debt reserve. Subsequent collection of bad debts previously not reported as Gross Receipts shall be included in Gross Receipts at the time they are collected.

4. Gross Receipts shall not include any of the following items:

a. goods returned to suppliers or which are delivered for resale (as opposed to delivery) to another retail location or to a warehouse or to any retailers without profit to Lessee, where such returns or deliveries are made solely for the convenient operation of the business of Lessee and not for the purpose of consummating a sale made in, about or from the Premises;

b. an amount equal to the cash refunded or credit allowed on merchandise returned by customers and accepted by Lessee, or the amount of cash refunded or credit allowed thereon in lieu of Lessee's acceptance thereof, but only to the extent that the sales relating to such merchandise were made in, about or from the Premises; provided that whenever Lessee accepts a credit slip as payment for goods or services, the amount of credit shall be included in Gross Receipts;

c. sales of fixtures, equipment or property which are not Lessee's stock in trade;

d. receipts from insurance claims other than rental interruption or business interruption insurance related to the replacement of Gross Receipts;

e. reimbursements for common area maintenance repairs or replacements, insurance costs, taxes and operating expenses;

f. interest earned by Lessee on funds arising from the Premises or the use thereof, deposited or maintained by Lessee in banks or similar financial institutions;

g. the cost of Lessee's Sublessee's submetered electricity. For the purpose of the foregoing sentence, the "cost" of the Sublessee's electricity shall mean the actual costs incurred by Lessee, plus any customary overhead and general and administrative expenses for administering and billing such costs. The terms and provisions of this paragraph (g) shall also be applicable to other submetered utility charges to the extent that it is customary for subtenants to be responsible for such other utility charges.

"Harbor Department" shall mean the "Harbor Department" of the City of Los Angeles.

"Impositions" shall have the meaning set forth in Section 4.6.2.

"Individual Owner(s)" shall have the meaning set forth in Section 15.7.1.1(a).

"labor disturbance" shall have the meaning set forth in Section 4.7.4.

"Lease" shall have the meaning set forth in the Preamble.

"Leasehold Mortgage" shall have the meaning set forth in Exhibit N.

"Leasehold Mortgagee" means the holder or holders from time to time of a promissory note or notes evidencing a bona fide loan and secured by a deed of trust or mortgage upon, among other things, the leasehold estate created by this Lease.

"Lessee" shall have the meaning set forth in the first paragraph of the Lease and its successors and assigns.

"Lessee's Improvements" shall have the meaning set forth in Article 1, Section 2.4.

"Lessee's Parties" shall mean the members, shareholders, partners, employees, affiliates and agents of Lessee.

"MAG" shall have the meaning set forth in Section 4.2.1.

"MAG Commencement Date" shall have the meaning set forth in Section 4.1.7.

"Major Casualty" means a casualty which affects more than 20% or more of the rentable area of the Premises and will take 12 months or more to rebuild and restore.

"Manual" shall have the meaning set forth in Section 7.1.3.

"Mark" shall have the meaning set forth in Section 17.1

“Minor Casualty” means a casualty in which less than 20% of the rentable area of the Premises is affected and will take less than 12 months to repair and rebuild.

“Mitigation Measures” shall have the meaning set forth in Section 7.7.1.

“Net Operating Income” shall have the meaning set forth in Section 4.2.2.3

“Non-Disturbance and Attornment Agreement” shall have the meaning set forth in Section 16.3.

“Non-Harbor Department Permits” shall have the meaning set forth in Section 6.3.2.2.3.

“OFAC” shall have the meaning set forth in Section 15.7.1.1(a).

“Option” shall have the meaning set forth in Article 1, Section 1.1.

“Option Period Expiration Date” shall mean the date described in Article 1, Section 1.2.

“Option Period” shall have the meaning set forth in Article 1, Section 1.2.

“Partial Taking” shall have the meaning set forth in Section 22.3.1.

“Party” or “Parties” shall have the meaning set forth in the first paragraph of this Lease.

“Percentage Rent” shall have the meaning set forth in Section 4.2.1.

“Person” means an individual, partnership, firm, association, corporation, trust and any other form of governmental or business entity.

“Permitted Uses” shall have the meaning set forth in Section 5.1.

“Phase” shall have the meaning set forth in Section 6.2.1.

“PLA” shall have the meaning set forth in Section 6.3.4.4.

“Port” shall have the meaning set forth in the Recitals.

“Port Environmental Policies” shall have the meaning set forth in Section 7.7.1.

“Premises” shall have the meaning set forth in Section 2.1

“Project” means the development to be constructed by the Lessee at the Premises.

“Project Development Costs” shall have the meaning set forth in Section 4.2.2.3.

“Promenade” shall mean the waterfront walkway including, but not limited to, hardscaping, landscaping, railing and lighting, identified on Exhibit D.

“Proprietary Capacity” shall have the meaning set forth in Section 26.23.

“PSE” shall have the meaning set forth in Article 1, Section 1.2.3.

“Rent” shall have the meaning set forth in Section 4.4.

“Rent Commencement Date” shall have the meaning set forth in Section 4.1.6.

“Rent Offset” shall have the meaning set forth in Section 4.7.5.

“Return on Costs” shall have the meaning set forth in Section 4.2.2.3.

“ROC Return Hurdle” shall have the meaning set forth in Section 4.2.2.3.

“Sublease” shall have the meaning set forth in Section 16.1.

“Sublessee” shall have the meaning set forth in Section 16.1.

“Substantial Completion” shall mean the date of the letter issued by the Chief Harbor Engineer of the Harbor Department’s Construction Division to its respective third-party contractor acknowledging substantial completion of the work. Substantial completion on designated portion of the work at which it is substantially complete shall not include items listed in the punchlist detailed in the aforementioned letter or any work specified in the letter as yet to be complete and remaining.

“SCWR” shall have the meaning set forth in Section 26.16.

“Tariff” shall have the meaning set forth in Article 2, Section 2.5.

“Tariff Charges” shall have the meaning set forth in Section 4.1.2.

“Term” shall have the meaning set forth in Section 3.1.

“Term Characterization Report” shall have the meaning set forth in Section 7.1.4.

“Term Characterization Work Plan” shall have the meaning set forth in Section 7.1.3.

“Term Contamination” shall have the meaning set forth in Section 7.1.2.

“Term Release” shall have the meaning set forth in Section 7.1.1.

“Term Remediation Action Plan” shall have the meaning set forth in Section 7.1.5.

“Term Sheet Date” shall have the meaning set forth in the Recitals.

“Total Taking” shall have the meaning set forth in Section 22.2.

“Transfer” shall have the meaning set forth in Section 15.1.1.

“Transferee” shall have the meaning set forth in Section 15.2.1(a).

“Transfer Notice” shall have the meaning set forth in Section 15.2.

“VARA” shall have the meaning set forth in Section 26.10.1.

“Wilmington Truck Route” shall have the meaning set forth in Section 26.32.

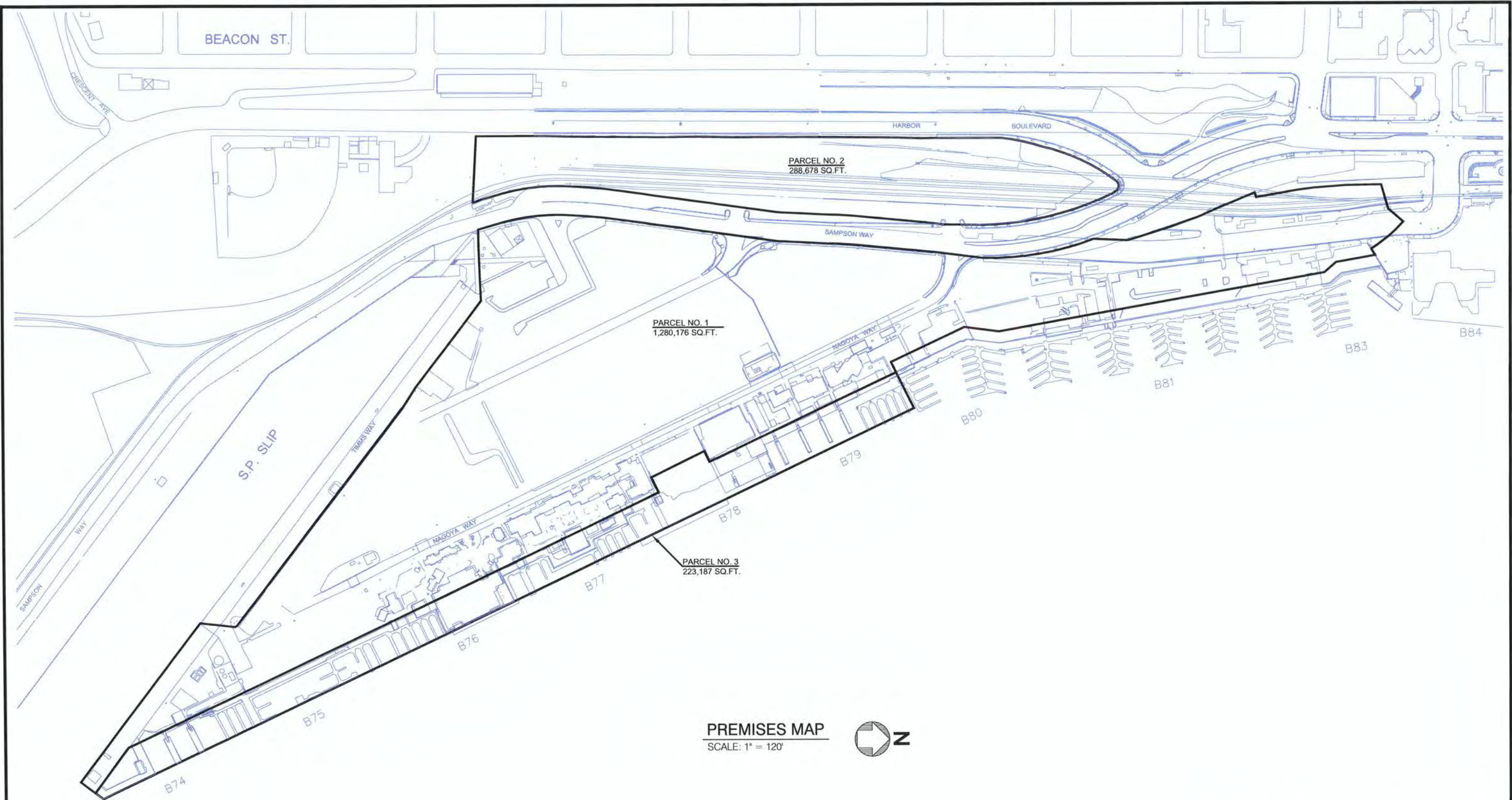


EXHIBIT B-1

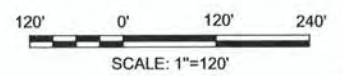
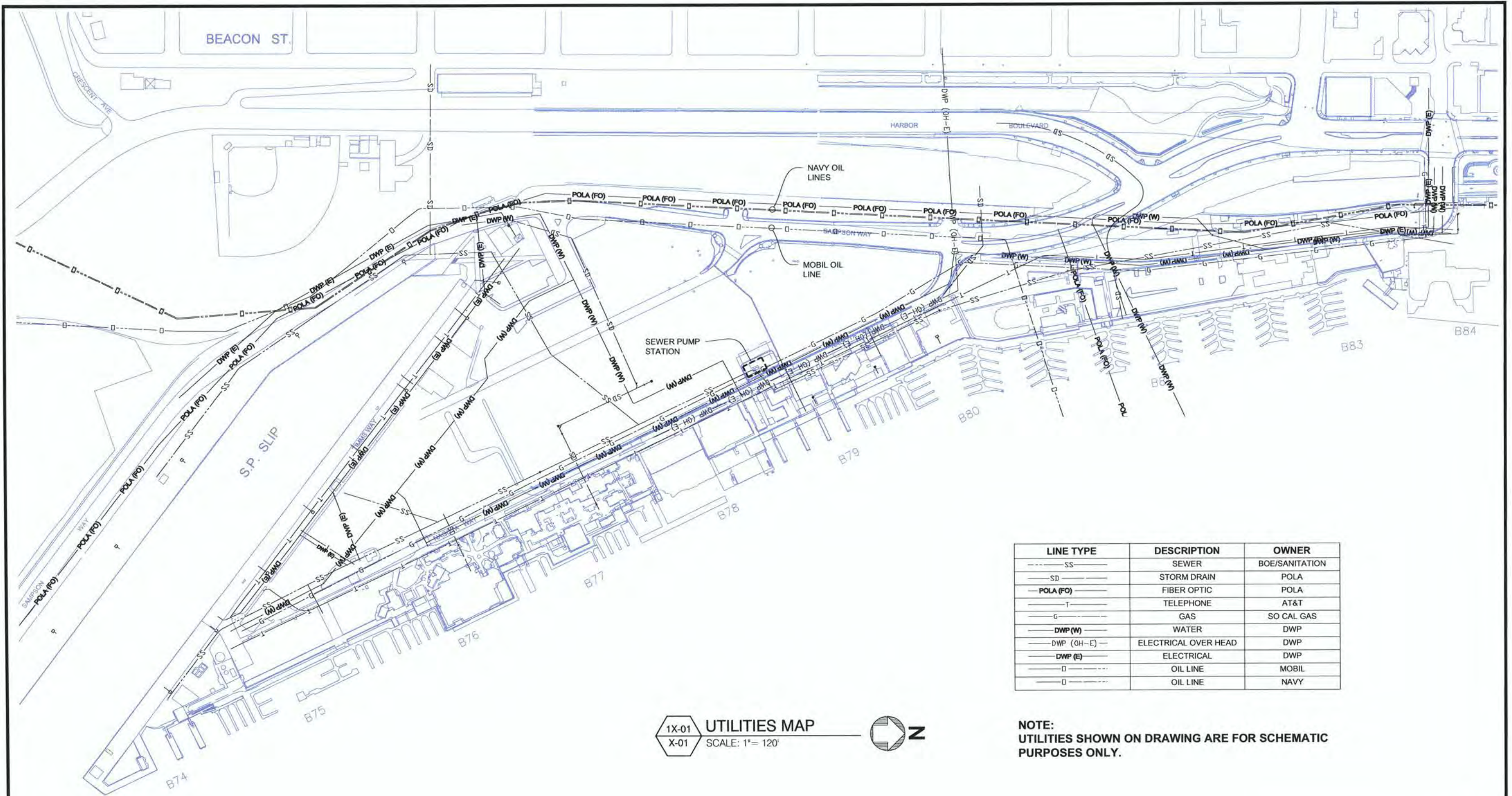


EXHIBIT B-2

LEGAL DESCRIPTION

In accordance with Article 1, Section 2.1 of this Lease, the "Legal Description" shall be attached to this Lease as Exhibit B-2.



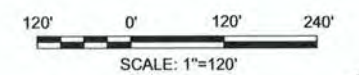
1X-01 UTILITIES MAP
 X-01 SCALE: 1" = 120'



LINE TYPE	DESCRIPTION	OWNER
SS	SEWER	BOE/SANITATION
SD	STORM DRAIN	POLA
POLA (FO)	FIBER OPTIC	POLA
T	TELEPHONE	AT&T
G	GAS	SO CAL GAS
DWP (W)	WATER	DWP
DWP (OH-E)	ELECTRICAL OVER HEAD	DWP
DWP (E)	ELECTRICAL	DWP
□	OIL LINE	MOBIL
□	OIL LINE	NAVY

NOTE:
 UTILITIES SHOWN ON DRAWING ARE FOR SCHEMATIC
 PURPOSES ONLY.

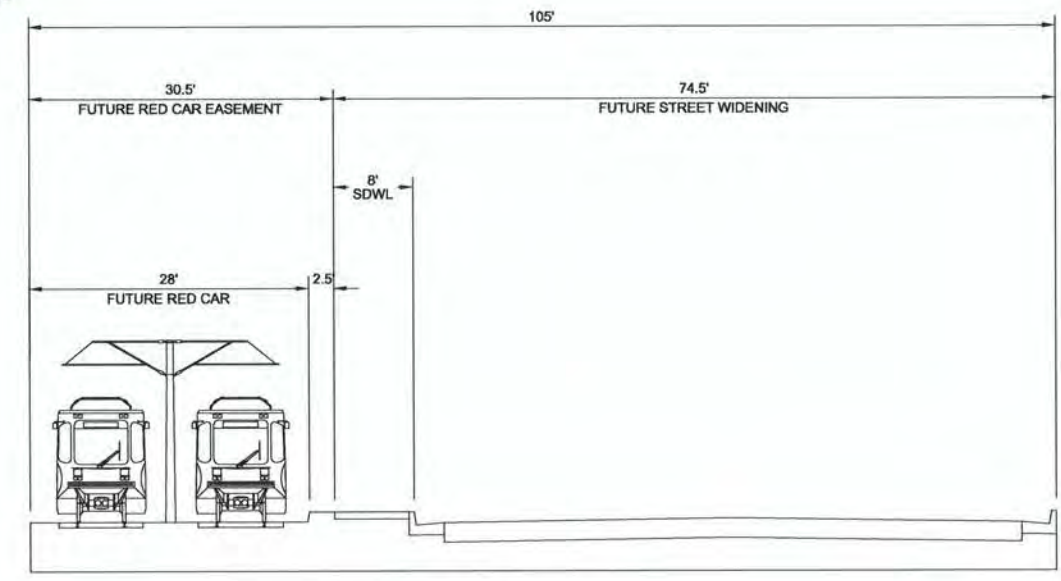
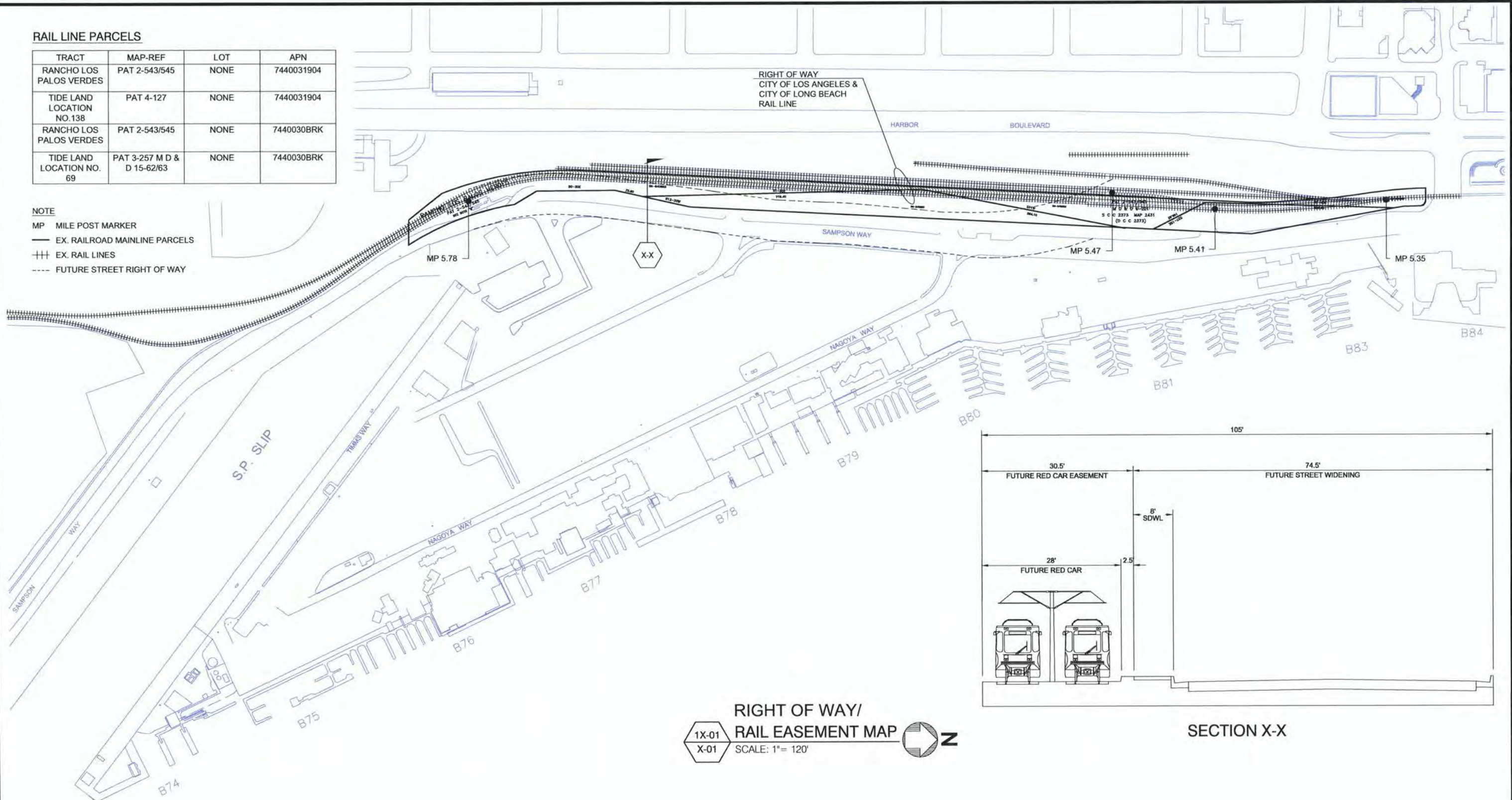
EXHIBIT B-3



RAIL LINE PARCELS

TRACT	MAP-REF	LOT	APN
RANCHO LOS PALOS VERDES	PAT 2-543/545	NONE	7440031904
TIDE LAND LOCATION NO. 138	PAT 4-127	NONE	7440031904
RANCHO LOS PALOS VERDES	PAT 2-543/545	NONE	7440030BRK
TIDE LAND LOCATION NO. 69	PAT 3-257 M D & D 15-62/63	NONE	7440030BRK

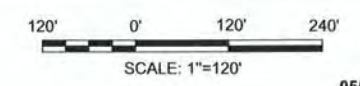
- NOTE**
- MP MILE POST MARKER
 - EX. RAILROAD MAINLINE PARCELS
 - +++ EX. RAIL LINES
 - FUTURE STREET RIGHT OF WAY

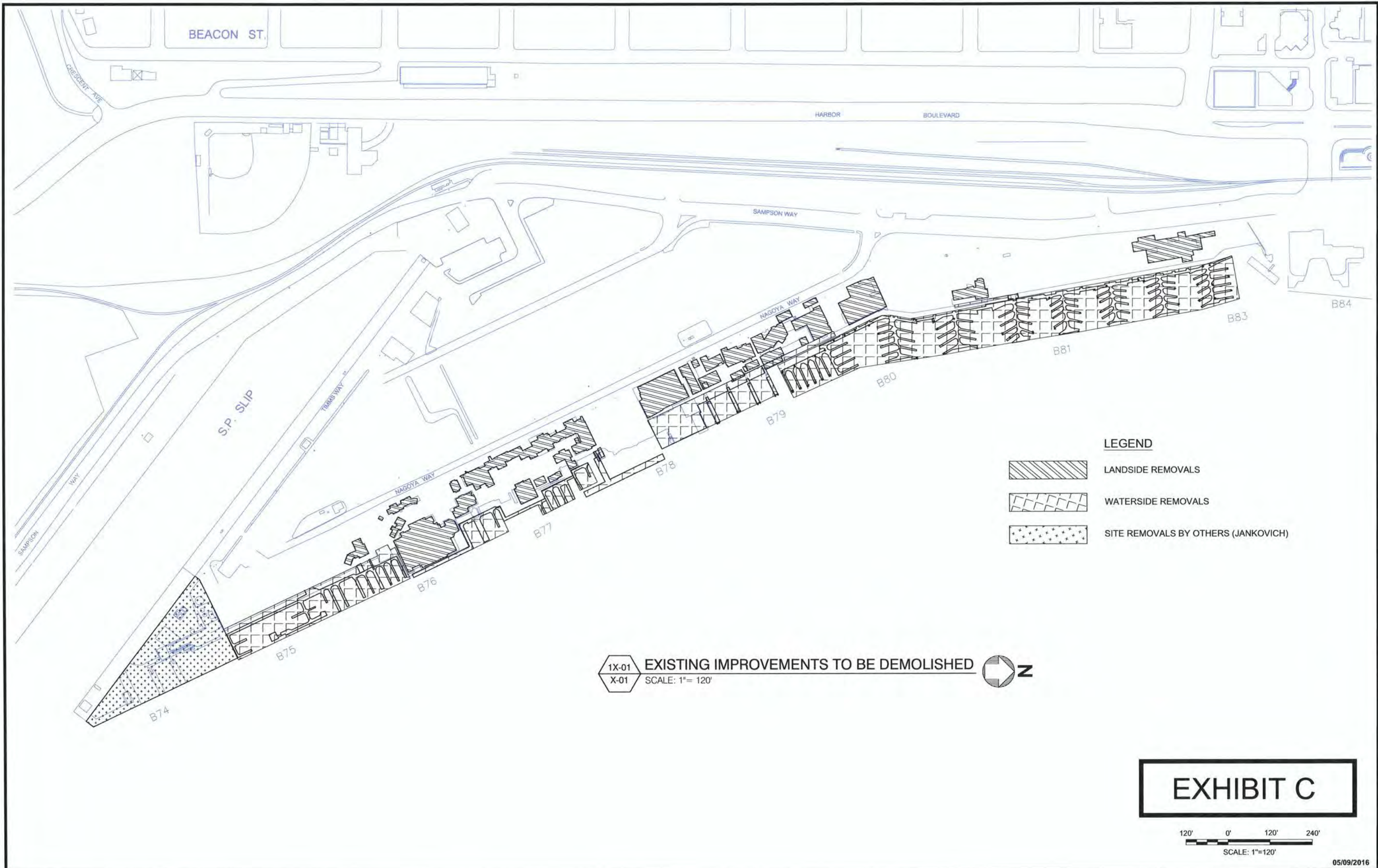


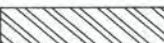


RIGHT OF WAY/
RAIL EASEMENT MAP
1X-01 X-01 SCALE: 1"= 120'

SECTION X-X

EXHIBIT B-4

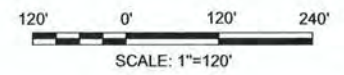


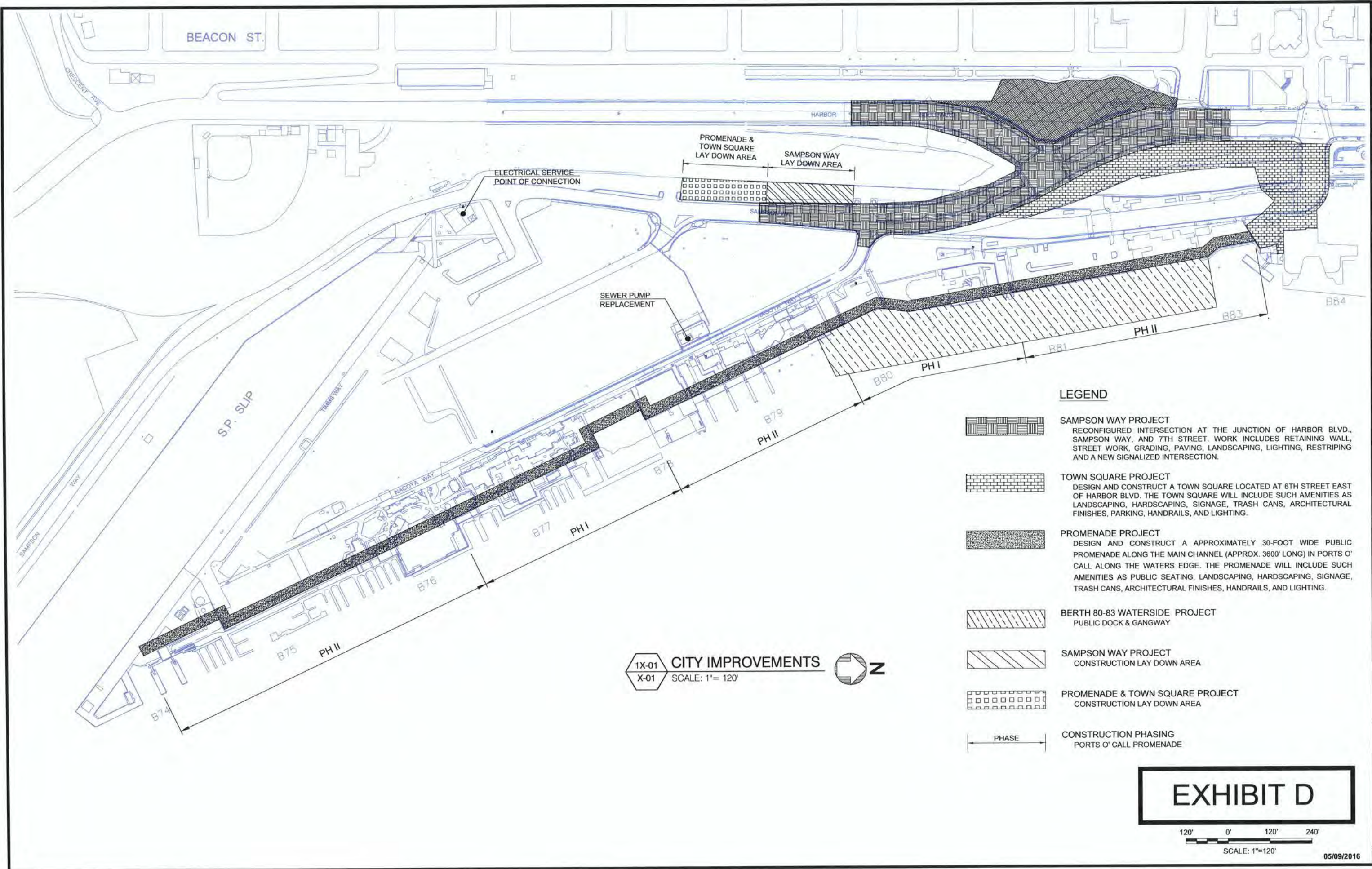


- LEGEND**
-  LANDSIDE REMOVALS
 -  WATERSIDE REMOVALS
 -  SITE REMOVALS BY OTHERS (JANKOVICH)

1X-01 EXISTING IMPROVEMENTS TO BE DEMOLISHED 
 X-01 SCALE: 1"= 120'

EXHIBIT C





BEACON ST.

HARBOR

PROMENADE & TOWN SQUARE LAY DOWN AREA

SAMPSON WAY LAY DOWN AREA

ELECTRICAL SERVICE POINT OF CONNECTION

SEWER PUMP REPLACEMENT

S.P. SLIP

TIMAS WAY

NAGOYA WAY

PH II

PH I

PH II

PH I

PH II

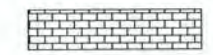
1X-01 CITY IMPROVEMENTS
X-01 SCALE: 1"= 120'



LEGEND



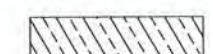
SAMPSON WAY PROJECT
RECONFIGURED INTERSECTION AT THE JUNCTION OF HARBOR BLVD., SAMPSON WAY, AND 7TH STREET. WORK INCLUDES RETAINING WALL, STREET WORK, GRADING, PAVING, LANDSCAPING, LIGHTING, RESTRIPING AND A NEW SIGNALIZED INTERSECTION.



TOWN SQUARE PROJECT
DESIGN AND CONSTRUCT A TOWN SQUARE LOCATED AT 6TH STREET EAST OF HARBOR BLVD. THE TOWN SQUARE WILL INCLUDE SUCH AMENITIES AS LANDSCAPING, HARDSCAPING, SIGNAGE, TRASH CANS, ARCHITECTURAL FINISHES, PARKING, HANDRAILS, AND LIGHTING.



PROMENADE PROJECT
DESIGN AND CONSTRUCT A APPROXIMATELY 30-FOOT WIDE PUBLIC PROMENADE ALONG THE MAIN CHANNEL (APPROX. 3600' LONG) IN PORTS O' CALL ALONG THE WATERS EDGE. THE PROMENADE WILL INCLUDE SUCH AMENITIES AS PUBLIC SEATING, LANDSCAPING, HARDSCAPING, SIGNAGE, TRASH CANS, ARCHITECTURAL FINISHES, HANDRAILS, AND LIGHTING.



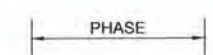
BERTH 80-83 WATERSIDE PROJECT
PUBLIC DOCK & GANGWAY



SAMPSON WAY PROJECT
CONSTRUCTION LAY DOWN AREA

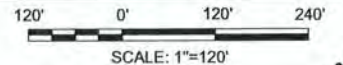


PROMENADE & TOWN SQUARE PROJECT
CONSTRUCTION LAY DOWN AREA

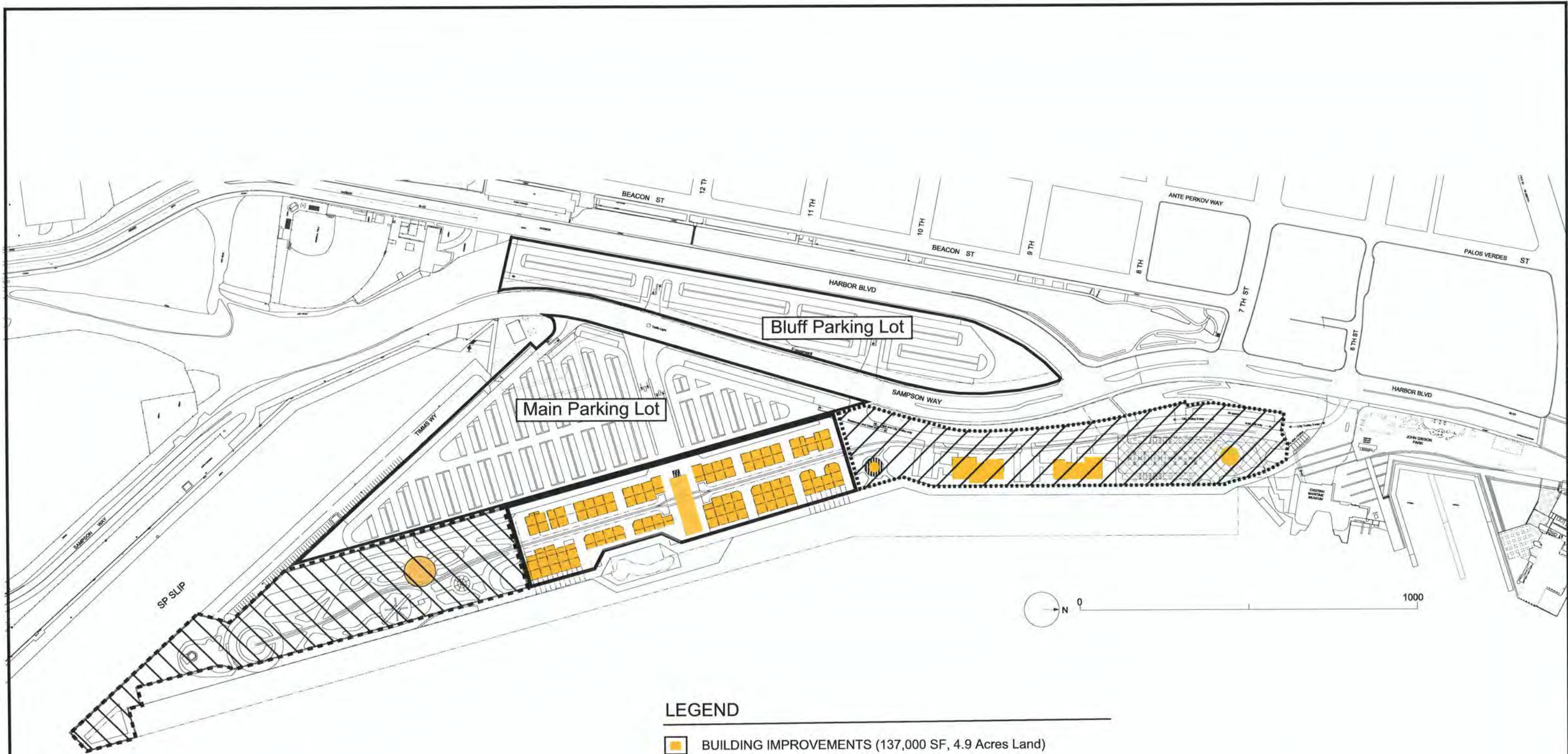


CONSTRUCTION PHASING
PORTS O' CALL PROMENADE

EXHIBIT D



SCALE: 1"=120'

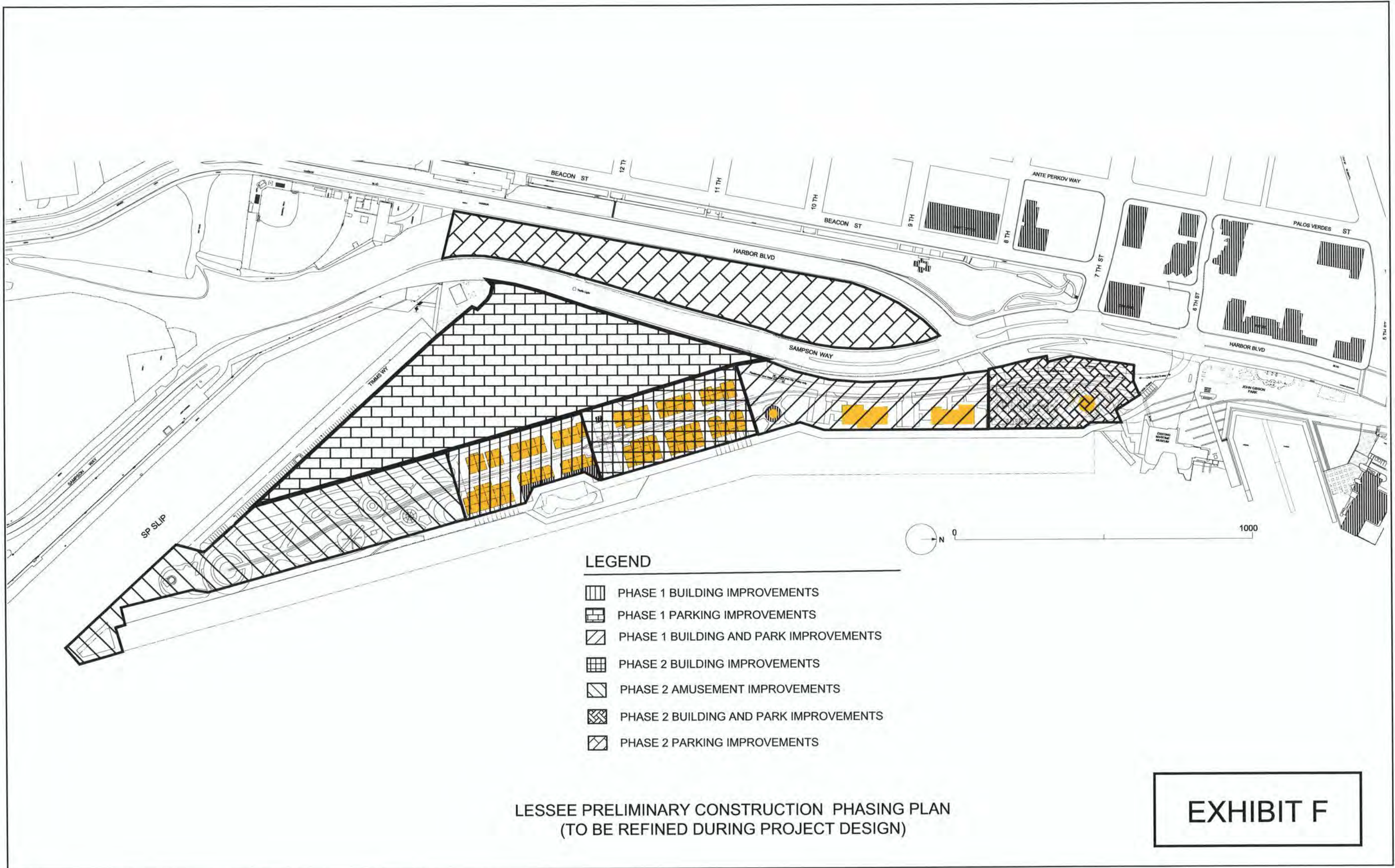


LEGEND

-  BUILDING IMPROVEMENTS (137,000 SF, 4.9 Acres Land)
-  ATTRACTION IMPROVEMENTS (7,000 SF, 6.4 Acres Land)
-  BUILDING AND PARK IMPROVEMENTS (22,000 SF, 5.1 Acres Land)
-  MAIN PARKING LOT (11.0 Acres Land)
-  BLUFF PARKING LOT (6.6 Acres Land)

LESSEE'S IMPROVEMENTS
 SITE WORK + BUILDING SHELL AND CORE
 (TO BE REFINED DURING PROJECT DESIGN)

EXHIBIT E



LEGEND

-  PHASE 1 BUILDING IMPROVEMENTS
-  PHASE 1 PARKING IMPROVEMENTS
-  PHASE 1 BUILDING AND PARK IMPROVEMENTS
-  PHASE 2 BUILDING IMPROVEMENTS
-  PHASE 2 AMUSEMENT IMPROVEMENTS
-  PHASE 2 BUILDING AND PARK IMPROVEMENTS
-  PHASE 2 PARKING IMPROVEMENTS

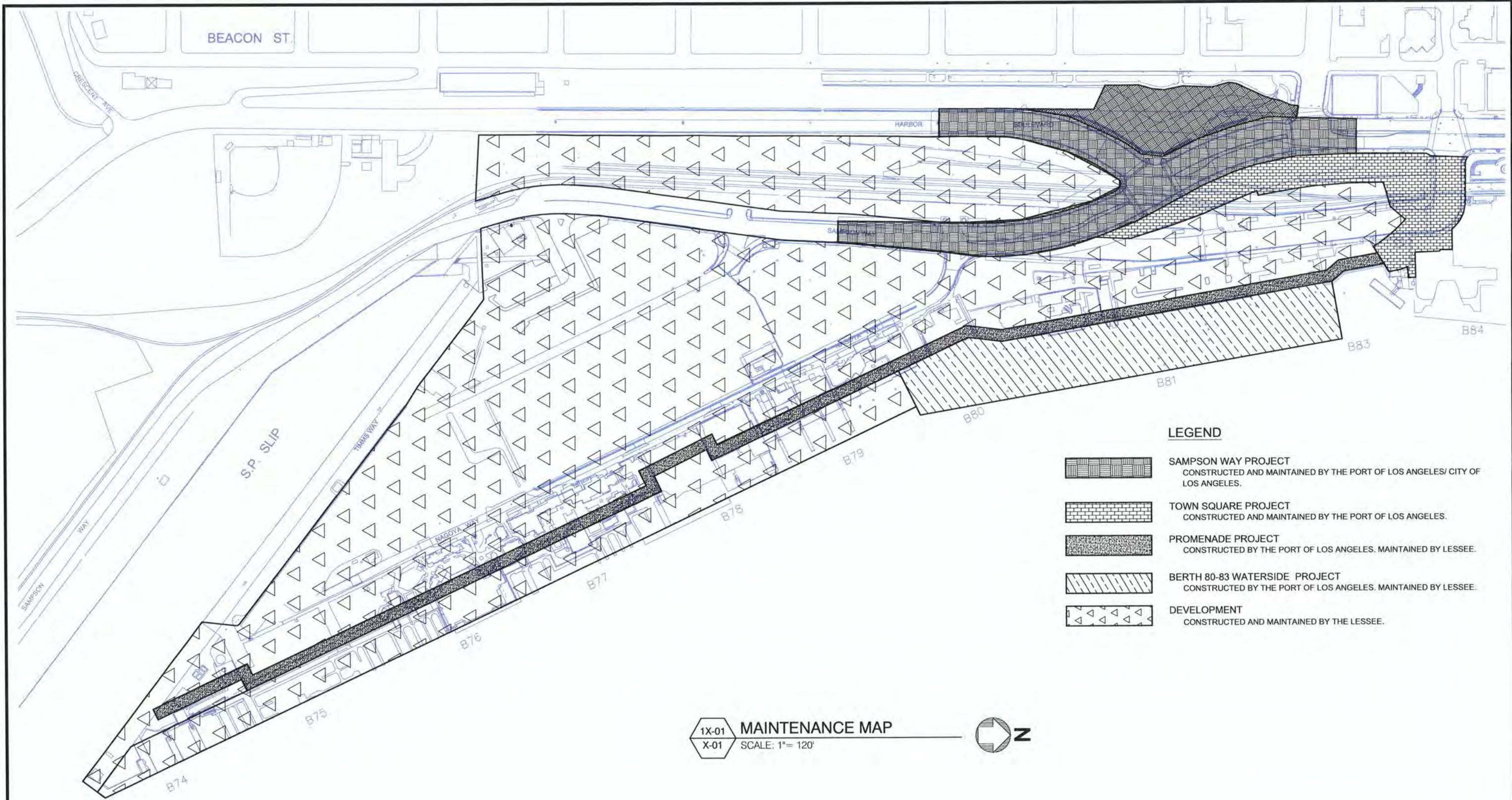
LESSEE PRELIMINARY CONSTRUCTION PHASING PLAN
(TO BE REFINED DURING PROJECT DESIGN)

EXHIBIT F





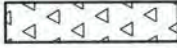
EXHIBIT G

DRAFT San Pedro Public Market/POC Schedule—APRIL 2016

SPPM/POC--PROJECT ELEMENTS	2015	2016	2017	2018	2019	2020
Sampson Way—7th St at Harbor Blvd Intersection Improvements	Design	Bid	Construction			
TOWN SQUARE AND POC PROMENADE Improvements						
CONCEPT DESIGN & Coordination (3 months)						
DESIGN (Plans, Specifications & Estimates)			12 months			
ADVERTISE, BID & AWARD				6 mo		
CONSTRUCTION (Phased)					24-30 months	
SPPM DEVELOPER ELEMENTS						
LEASE APPROVAL (target--5/31/16)		★				
SCHEMATIC CONCEPT DESIGN & Coordination						
DESIGN/CONSTRUCTION DOCUMENTS & PERMITS			21 months			
CONSTRUCTION—SHELL AND CORE					24 months	



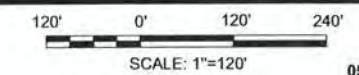
LEGEND

- 
SAMPSON WAY PROJECT
 CONSTRUCTED AND MAINTAINED BY THE PORT OF LOS ANGELES/ CITY OF LOS ANGELES.
- 
TOWN SQUARE PROJECT
 CONSTRUCTED AND MAINTAINED BY THE PORT OF LOS ANGELES.
- 
PROMENADE PROJECT
 CONSTRUCTED BY THE PORT OF LOS ANGELES. MAINTAINED BY LESSEE.
- 
BERTH 80-83 WATERSIDE PROJECT
 CONSTRUCTED BY THE PORT OF LOS ANGELES. MAINTAINED BY LESSEE.
- 
DEVELOPMENT
 CONSTRUCTED AND MAINTAINED BY THE LESSEE.

1X-01 **MAINTENANCE MAP**
X-01 SCALE: 1"= 120'



EXHIBIT H



SCALE: 1"=120'

EXHIBIT I

POC ENVIRONMENTAL BASELINE LIST OF REPORTS & SUMMARIES

APRIL 27, 2016

Site Investigation at the Ports O' Call Railyard, Located at 1100 Block of Sampson Way, San Pedro, California 90731, Project Directive 15, Agreement No. 2215, ADP #040202-543, dated September 2004

Asbestos Survey Report, Ports O' Call Village, Buildings W-1/W1-A/W-Z, W15, W27 and W-29/W-29, San Pedro, California, ENV America Incorporated, dated May 4, 2010

Lead Survey Report, Ports O' Call Village, Buildings W-1/W1-A/W-2, W-15, W-27 and W-28/W-29, San Pedro, California, ENV America Incorporated, dated May 4, 2010

Asbestos Survey Report, Ports O' Call Village, Building W-21/W-22/W-23 San Pedro, California, dated November 5, 2010

Lead Survey Report, Ports O' Call Village, Buildings W-21/W-22/W-23, San Pedro, California, ENV America Incorporated, dated November 5, 2010

Soil Management Plan, Former Unocal Marine Station No. 0692, Berth 78, San Pedro, California 90731, ADP #880411-507, SGI Project No. 04-LAP-021, dated February 14, 2012

Ports O' Call Village, San Pedro, California, Location of Active and Abandoned Oil Lines, ERM, dated February 12, 2013

Report of Soil-Gas Investigation, Ports O' Call Village, Berths 75-79, San Pedro, California 90731, ADP #121002-528H, SGI Project No. 04-LAP-023 prepared by The Source Group, Inc., dated February 26, 2013

Phase I and Limited Phase II Environmental Site Assessment, The Jankovich Company, Berth 74, San Pedro, California 90731, ADP #880411, SGI Project No. 04-LAP-021, prepared by The Source Group, Inc., dated April 2, 2013

Phase I Environmental Site Assessment Report, Ports O' Call Village, Berths 73W, 73X, 73Y and 75-83, San Pedro, California 90731, Partner Project No. 12-97575, dated April 12, 2013

Phase II Environmental Site Assessment, Ports O' Call Village, Port of Los Angeles, San Pedro, California, POLA ADP #121002-528H, ERM Project #0205795, dated November of 2013

Correspondence Letter: Next Steps – Jankovich Site Restoration – Expected Scope and Cost, dated April 22, 2015

Third Quarter 2015 Groundwater Monitoring and Sampling Report, Jankovich and Son Marine Fuel Terminal, Berth 74, San Pedro, California, dated November 4, 2015

Soil Management Plan, Redevelopment of Ports O' Call Village, Port of Los Angeles, San Pedro, California. February 19, 2016

References from California Regional Water Quality Control Board "Case Re-Open" Letter for Unocal site at Berth 78, dated April 23, 2010:

Subsurface Investigation Report dated August 2007

"Ground Water Monitoring Status Presence of Free Product Hydrocarbon Material" dated March 20, 2008

Ground Water Monitoring Status – April 2009 Presence of Free Floating Hydrocarbon Material dated April 14, 2009

POC Environmental Baseline Reports

A brief summary or executive summary of each document is provided below. Please note that these summaries may not represent the entire document. For detailed data and descriptions of the results, please refer to the specific document.

Site Investigation at the Ports O' Call Railyard. September 2004 (CH2MHill)

Executive Summary

The Los Angeles City Harbor Department (LAHD) authorized CH2M HILL to conduct a site investigation at the Ports O'Call Rail Yard property (the Subject Property) (Figure 1-1) located at the 1100 Block of Sampson Way in San Pedro, California. The assessment activities were authorized under Project Directive No. 15 of Agreement No. 2251 between the LAHD and CH2M HILL. This report summarizes the results of the soil and groundwater investigation conducted at the Subject Property on May 10 and May 11, 2004.

The Subject Property runs adjacent to the Ports O'Call located in San Pedro, California, and the rail yard has been in operation since the early 1930s (based on historical aerial photographs). The Port of Los Angeles (POLA) owns the Subject Property. The Subject Property has been used mostly for parking rail cars that carry various bulk liquid products. Prior to this investigation, there were no known environmental data available for the Subject Property.

To assess the potential for contamination at the Subject Property from historical activities, LAHD requested that CH2M HILL conduct a limited site investigation. The site investigation consisted of an electronic data records review and the collection and analyses of soil and groundwater samples.

Twenty direct-push soil borings were advanced at the Subject Property. A total of 85 soil samples were collected from multiple depths (0.5, 2, 4 and 8 feet below ground surface [bgs]), 51 of which were submitted for laboratory analysis. Soil samples were analyzed for total petroleum hydrocarbons – diesel and motor oil (TPH-d and TPH-motor oil), metals, volatile organic compounds (VOCs), semivolatle organic compounds (SVOCs), chlorinated pesticides, (including polychlorinated biphenyls [PCBs]), and herbicides. Five soil samples were also analyzed for soluble metals.

In addition, five groundwater samples were collected throughout the Subject Property and analyzed for TPH-d, TPH-motor oil, metals, VOCs, SVOCs, pesticides, PCBs and herbicides.

Summary and Conclusions

The results of the site investigation can be summarized as follows:

Soil Samples

- PCBs and herbicides were not detected in any sample.
- Low levels of six VOCs were detected, but concentrations did not exceed the Environmental Protection Agency (EPA) Region IX residential or industrial preliminary remediation goals (PRGs).
- TPH-d was detected in 24 of 44 samples, but did not exceed the LAHD screening criteria of 1,000 milligrams per kilogram (mg/kg).

- TPH-motor oil was detected in 30 of 44 samples collected. The maximum detected concentration was 3,100 mg/kg. With the exception of two samples, TPH-motor oil concentrations were below the LAHD screening criteria of 1,000 mg/kg.
- Arsenic was detected in each soil sample at the Subject Property. Concentrations ranged from 1.54 to 26.1 mg/kg, exceeding the residential PRG (0.39-mg/kg). It should be noted that in the western United States, background concentrations of several metals (e.g., arsenic) often exceed PRGs as reported by the Kearney Foundation *Special Report on Background Concentrations of Trace and Major Elements in California Soils* (1996). In addition, the range of arsenic concentrations did not exceed the TTLC or 10 times the soluble threshold limit concentration (STLC) screening criteria.
- Low levels of other metals were found in all soil samples. Only lead (besides arsenic) exceeded the residential and industrial PRGs. Lead was detected in one sample above the residential PRG of 400 mg/kg (652 mg/kg in sample PCRSB-20-01).
- Lead exceeded 10 times the STLC in 18 samples and mercury and copper concentrations exceeded 10 times the STLC screening criteria in one sample each. Five of these samples were further analyzed for soluble metals using the Waste Extraction Test (WET). Soluble lead concentrations were above the STLC of 5 mg/L in three out of the five soil samples analyzed. However, concentrations of lead in deeper samples at these locations were below 10 times the STLC.
- Seventeen SVOCs were detected above the reporting limit (RL) in soil samples. However, only four detections of benzo(a)pyrene, one detection of benzo(a)anthracene, and one detection of benzo(b)fluoranthene exceeded their respective residential PRGs.
- Five pesticides were detected, but only one detection (dieldrin) exceeded the residential PRG.

Groundwater Samples

- Arsenic and selenium were detected above the maximum contaminant level (MCL) in one groundwater sample each (PCRGW-03-01 and PCRGW-05-01). Chromium was detected above the MCL in two of the groundwater samples, while thallium was detected above the MCL in all groundwater samples collected.
- Three VOCs (cis-1,2-dichloroethene, trichloroethene and vinyl chloride) and one SVOC (bis[2-ethylhexyl] phthalate) were detected above their MCLs in groundwater samples PCRGW-03-01 and PCRGW-04-01, respectively.
- No other constituents were detected above the screening criteria in groundwater samples.

Based on the results described above, the soil at the Subject Property appears to be minimally impacted. However, groundwater appears to be impacted with a few VOCs and metals.

Asbestos Survey Report, Ports O' Call Village Buildings W-1/W-1A/W-2, W-15, W-27, and W-28/W-29. May 4, 2010 (ENV America, Inc.)

Executive Summary

ENV America Incorporated (ENV America) was retained by the City of Los Angeles Harbor Department to perform a Comprehensive Asbestos Survey of four buildings in the Port's O' Call Village in San Pedro, California. All work was performed in accordance with ENV America Project Directive No. 13. The following buildings were included in the survey:

1. Building W-1/W-1A/W2
2. Building W-15
3. Building W-27
4. Building W-28/W-29

The survey was conducted between March 29 and April 2, 2010, by the following State of California Certified Asbestos Consultants:

Mr. Arthur AckermanCertificate No. 07-4227
 Mr. Jack Samuels.....Certificate No. 92-0475

The purpose of the survey was to identify friable and non-friable asbestos-containing building materials and to document the location, material type, asbestos content, friability, and the estimated total quantity.

In accordance with United States Environmental Protection Agency (EPA) guidelines, representative bulk samples were obtained from each identified suspect asbestos-containing building material.

The bulk samples were submitted to EMS Laboratories. EMS Laboratories is accredited by the American Industrial Hygiene Association (AIHA), the National Institute for Standards and Technology (NIST), and the National Voluntary Laboratory Accreditation Program (NVLAP) and is a successful participant in the Proficiency Analytical Testing (PAT) program.

The bulk samples obtained were analyzed by Polarized Light Microscopy (PLM) utilizing the "Interim Method for the Determination of Asbestos Fibers in Bulk Samples EPA/600/R-93/116" dated July 1993 as adopted by NVLAP Title 15, part 7 of the Code of Federal Register (CFR) with the following exception in reporting procedures.

Exception: The EPA and South Coast Air Quality Management District do not consider those materials which contain one percent or less (< 1%) of asbestos to be an "asbestos-containing material". However, the Cal-OSHA defines an asbestoscontaining construction material as any manufactured construction material containing more than one tenth of one percent (> 0.1%) asbestos by weight. Thus, bulk sample analysis of suspect materials indicating less than one percent (< 1%) by weight are identified in this report as an asbestos-containing material.

A total of 85 representative bulk samples were analyzed by the laboratory using Polarized Light Microscopy (PLM). Analytical results revealed the presence of asbestos in 26 of the samples. The following charts list the material type, percent asbestos, and friability for those building materials that were confirmed to contain asbestos.

Building W-1/W-1A/W-2

The following table indicates the material type, asbestos content, and friability for each of the asbestos-containing materials identified.

Material Type	Asbestos Content	Friable
12" Grey Streaked Floor Tile/Mastic	Tile->1% Chrysotile	No

	Mastic-None Detected	
Window Glazing	<1% Chrysotile	No

Laboratory analysis indicated no detectable level of asbestos in the following materials.

1. Drywall/Tape/Compound,
2. White Spline Ceiling Tile
3. 2' x 2' White Pinhole Lay-In Ceiling Tile

Building W-15

The following table indicates the material type, asbestos content, and friability for each of the asbestos-containing materials identified.

Material Type	Asbestos Content	Friable
Drywall/Tape/Compound	Drywall-None Detected Compound-<1% Chrysotile Composite-Trace Chrysotile	No

Laboratory analysis indicated no detectable level of asbestos in the following materials.

1. White Squares Sheet Flooring
2. White Squares and Circles Sheet Flooring
3. Yellow Squares Sheet Flooring
4. Window Glazing

Building W-27

The following table indicates the material type, asbestos content, and friability for each of the asbestos-containing materials identified.

Material Type	Asbestos Content	Friable
Window Glazing	<1% Chrysotile	No

Laboratory analysis indicated no detectable level of asbestos in the following materials.

1. 12" White Floor Tile/Mastic
2. Black & White 4" Squares Sheet Flooring

Building W-28/W-29

The following table indicates the material type, asbestos content, and friability for each of the asbestos-containing materials identified.

Material Type	Asbestos Content	Friable
Drywall/Tape/Compound (Type 1)	Drywall-None Detected Compound-2% Chrysotile Composite-Trace Chrysotile	No
Drywall/Tape/Compound (Type 2)	Drywall-None Detected Compound-<1% Chrysotile Composite-Trace Chrysotile	No

Material Type	Asbestos Content	Friable
Grey Squares Sheet Flooring-Top Layer in Room 101	40% Chrysotile	No
Tan Sheet Flooring-Bottom Layer in Room 101	25-30% Chrysotile	No
2nd Layer Sheet Flooring in Rooms 104 & 105	40% Chrysotile	No
Grey Roof Mastic	2% Chrysotile	No
Window Glazing	<1% Chrysotile	No

Laboratory analysis indicated no detectable level of asbestos in the following materials.

1. 12" Grey Floor Tile/Mastic
2. 12" Red Floor Tile/Mastic
3. Pink Sheet Flooring
4. 12" Yellow Squares Floor Tile/Mastic
5. Tan Base Cove/Mastic
6. Composition Roofing Material on 2nd Floor Walkway
7. Grey Roof Mastic on 2nd Floor Walkway
8. Black Roof Mastic on 2nd Floor Walkway
9. Cap Sheet Roofing on Main Roof
10. Black Roof Mastic on Main Roof
11. Roof Shingle on Main Roof
12. 2' x 4' Lay-In Ceiling Tile

It should be noted that the buildings were occupied during the survey and demolition inspection techniques could not be performed in all of the buildings. Suspect asbestos-containing materials may be present within wall cavities or other hidden areas of the buildings.

The independent building sections contain a complete suspect/confirmed asbestos-containing material inventory, specific sample analysis data, floor plans and the laboratory Certificate of Analysis for each bulk sample collected.

Lead Survey Report, Ports O' Call Village Buildings W-1/W-1A/W-2, W-15, W-27, and W-28/W-29. May 4, 2010 (ENV America, Inc.)

Executive Summary

ENV America Incorporated (ENV America) was retained by the City of Los Angeles Harbor Department to perform a Lead Survey of four buildings located at the Port's O' Call Village, San Pedro, California. All work was performed in accordance with ENV America Project Directive No. 13. The following is a list of the buildings included in the survey.

1. Building W-1/W-1A/W-2
2. Building W-15
3. Building W-27
4. Building W-28/W-29

The survey was conducted between March 29 and April 2, 2010 by the following State of California Department of Public Health Lead in Construction Inspector/Assessor:

The purpose of the survey was to identify damaged lead-based paint and to document the location, paint type (color), substrate, total lead content, condition and estimated total damaged quantity for each lead-based paint identified. Excluded from the survey was subsurface investigation of suspect lead-based paints.

A variation of the random sampling protocol described in the HUD guidance document (U.S. Department of Housing and Urban Development, June 1995) was utilized in developing the sampling procedures for this LBP survey. Random sampling of a facility that has similar characteristics such as construction materials, painting histories, and date of construction is considered an appropriate methodology.

The survey was conducted in accordance with the County of Los Angeles lead-based paint standard. Paint containing greater than or equal to 0.7 mg/cm² of lead was considered lead-based paint.

ENV America utilized a Niton XL X-Ray Fluorescence Spectrum Analyzer (XRF) to detect the presence of lead in suspect lead-based paints.

ENV America obtained a total of 478 representative test readings from the structures. ENV America's XRF results revealed the presence of lead in quantities greater than or equal to 0.7 mg/cm² in 13 of the tests.

Building W-1/W-1A/W-2

The following table lists the location, component, color, substrate, and XRF reading for those paints and materials that indicated 0.7 mg/cm² on the XRF.

LOCATION	COMPONENT	COLOR	SUBSTRATE	XRF READING (mg/cm ²)
Room 100	Floor Tile	Grey	Ceramic	5.2
Room M2	Sink	White	Porcelain	3.8
	Cabinet Top	Orange	Metal	0.8
Exterior	Door	Green	Wood	1.3-1.9
	Door	White	Wood	1.5-2.2
	Window Frame	White	Wood	1.3

Building W-15

No Lead-Based Paint was identified in this Building

Building W-27

No Lead-Based Paint was identified in this Building

Building W-28/W-29

The following table lists the location, component, color, substrate, and XRF reading for those paints and materials that indicated 0.7 mg/cm² on the XRF.

LOCATION	COMPONENT	COLOR	SUBSTRATE	XRF READING (mg/cm ²)
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LOCATION	COMPONENT	COLOR	SUBSTRATE	XRF READING (mg/cm2)
Room 100	Façade Wall	Blue	Wood	4.3-6.1
	South Door Frame	White	Metal	0.8
Room 101	Wall	White	Drywall	0.8-1.5
	Wall	Blue/White	Wood	0.9
	Wall Door	White	Wood	1
	Baseboard	Beige	Ceramic	7.5
Room 102	Wall	White	Drywall	0.7
Room 106	Sink	White	Porcelain	1.2
Room 200	Floor	White	Ceramic	4.1
Room 201	Floor	White	Ceramic	4.7

Specific XRF results for each of the tests performed and drawings of the building showing the floor plan of the building and the "Side" where the XRF tests were collected are provided in the independent building sections following Section 4 – Findings.

Asbestos Survey Report, Ports O'Call Village Building W-21/W-22/W-23. November 5, 2010 (ENV America, Inc.)

Executive Summary

ENV America Incorporated (ENV America) was retained by the City of Los Angeles Harbor Department to perform a Comprehensive Asbestos Survey of Building W-21/W-22/W-23 in the Port's O' Call Village in San Pedro, California. All work was performed in accordance with ENV America Project Directive No. 19.

The survey was conducted on October 12 and 13, 2010, by the following State of California Certified Asbestos Consultant:

Mr. Jack Samuels..... Certificate No. 92-0475

The purpose of the survey was to identify friable and non-friable asbestos-containing building materials and to document the location, material type, asbestos content, friability, and the estimated total quantity.

In accordance with United States Environmental Protection Agency (EPA) guidelines, representative bulk samples were obtained from each identified suspect asbestos-containing building material.

The bulk samples were submitted to EMS Laboratories. EMS Laboratories is accredited by the American Industrial Hygiene Association (AIHA), the National Institute for Standards and Technology (NIST), and the National Voluntary Laboratory Accreditation Program (NVLAP) and is a successful participant in the Proficiency Analytical Testing (PAT) program.

The bulk samples obtained were analyzed by Polarized Light Microscopy (PLM) utilizing the "Interim Method for the Determination of Asbestos Fibers in Bulk Samples EPA/600/R-93/116" dated July 1993 as adopted by NVLAP Title 15, part 7 of the Code of Federal Register (CFR) with the following exception in reporting procedures,

Exception: The EPA and South Coast Air Quality Management District do not consider those materials which contain one percent or less (< 1%) of asbestos to be an "asbestos-containing material". However, the Cal-OSHA defines an asbestos containing construction material as any manufactured construction material containing more than one tenth of one percent (> 0.1%) asbestos by weight. Thus, bulk sample analysis of suspect materials indicating less than one percent (< 1%) by weight are identified in this report as an asbestos-containing material.

A total of 12 representative bulk samples were analyzed by the laboratory using Polarized Light Microscopy (PLM). Analytical results revealed the presence of asbestos in three of the samples. The following chart lists the material type, percent asbestos, and friability for those building materials that were confirmed to contain asbestos.

Building W-21/W-22/W-23

The following table indicates the material type, asbestos content, and friability for each of the asbestos-containing materials identified.

Material Type	Asbestos Content	Friable
12" Grey Floor Tile/Mastic	Tile-<1% Chrysotile Mastic-None Detected	No
Window Glazing	>1% Chrysotile	No

Laboratory analysis indicated no detectable level of asbestos in the following materials.

1. Drywall/Tape/Compound (Two Types)
2. Floor Tile Mastic

It should be noted that the building was in use during the survey and demolition inspection techniques could not be performed. Suspect asbestos-containing materials may be present within wall cavities or other hidden areas of the building.

The location and quantity of the asbestos-containing materials identified in the building can be found in Section 4 – Findings. Specific sample analysis data for each suspect asbestos containing building material identified and bulk sampled is provided in Section 5. The Laboratory Certificates of Analysis are located in Section 6. Drawings showing the floor plans of the building and the sample locations are provided in Section 7.

Lead Survey Report, Ports O'Call Village Building W-21/W-22/W-23. November 5, 2010 (ENV America, Inc.)

Executive Summary

ENV America Incorporated (ENV America) was retained by the City of Los Angeles Harbor Department to perform a Lead Survey of Building W-21/W-22/W-23 located at the Port's O' Call Village in San Pedro, California. All work was performed in accordance with ENV America Project Directive No. 19.

The survey was conducted on October 13, 2010 by the following State of California Department of Public Health Lead in Construction Inspector/Assessor:

Mr. Arthur Ackerman Certificate No. 9173

The purpose of the survey was to identify damaged lead-based paint and to document the location, paint type (color), substrate, total lead content, condition and estimated total damaged quantity for each lead-based paint identified. Excluded from the survey was subsurface investigation of suspect lead-based paints.

A variation of the random sampling protocol described in the HUD guidance document (U.S. Department of Housing and Urban Development, June 1995) was utilized in developing the sampling procedures for this LBP survey. Random sampling of a facility that has similar characteristics such as construction materials, painting histories, and date of construction is considered an appropriate methodology.

The survey was conducted in accordance with the County of Los Angeles lead-based paint standard. Paint containing greater than or equal to 0.7 mg/cm² of lead was considered lead-based paint.

ENV America utilized an Innov-X X-Ray Fluorescence Spectrum Analyzer (XRF) to detect the presence of lead in suspect lead-based paints.

ENV America obtained a total of 133 representative test readings from the structures. ENV America's XRF results revealed the presence of lead in quantities greater than or equal to 0.7 mg/cm² in 16 of the tests.

Building W-21/W-22/W-23

The following table lists the location, component, color, substrate, and XRF reading for those paints and materials that indicated 0.7 mg/cm² on the XRF.

LOCATION	COMPONENT	COLOR	SUBSTRATE	XRF READING (mg/cm ²)
Room 200	Floor Tile	Beige	Ceramic	>0.70
Room 203	Floor Tile	Beige	Ceramic	>0.70
	Toilet	White	Porcelain	>0.70
	Sink	White	Porcelain	>0.70
Room 206	Floor Tile	White	Ceramic	>0.70
	Floor Tile	Black	Ceramic	>1.08
W-21 Ext. B	Side Window Sill	White	Wood	0.83-0.86
W-21 Ext. C	Side Window Frame	White	Wood	0.93-1.1
W-21 Ext. D	Side Bay Window Sill	White	Wood	0.71
W-22 Ext. B Side	Door	Red	Wood	1.52
W-22 Ext. D Side	Door	Red	Wood	1.46-1.84
	Window Sill	White	Wood	0.73-0.83

Specific XRF results for each of the tests performed are provided in Section 5. Drawings showing the floor plan of the building, the "Side" where the XRF tests were collected, and the location of the positive XRF tests are provided in Section 6.

Soil Management Plan, Former Unocal Marine Station No. 0692. February 14, 2012 (SAIC)

This Soil Management Plan has not been approved by the Los Angeles Regional Water Quality Control Board.

Summary

This Soil Management Plan (SMP) has been prepared as recommended in SAIC's July 29, 2010 *Response to Underground Storage Tank Program-Case Re-Open Report*. In 2003, the entire area of the former Unocal marine station was excavated to the extent practicable. Further excavation of residual petroleum hydrocarbons identified along the property boundaries could not be further removed due to physical Site constraints which included above ground and underground utilities, and commercial buildings. The extent of the remaining residual petroleum hydrocarbons in soil beneath and adjacent to the Site had been delineated, with the most significant mass of soil impacts located beneath the public promenade west and southwest of the Site. This area is located within the San Pedro Water Front and Promenade redevelopment project. The procedures presented in this SMP will be followed for excavation of the identified areas of residual petroleum hydrocarbons in soils subsequent to the Port's removal of the existing overhead, surface, and subsurface obstructions and prior to Port redevelopment activities.

Location of Active and Abandoned Oil Lines, Ports O'Call Village. February 12, 2013 (Environmental Resources Management)

See attached map

Report of Soil-Gas Investigation, Ports O'Call Village. February 26, 2013 (The Source Group, Inc.)

Discussion

Results of the passive soil-gas screening investigation conducted at the Ports O' Call Village indicated areas impacted with petroleum hydrocarbons and fuel-related VOCs, chlorinated VOCs and solvents, or both. The identification and distribution of compounds detected during this investigation will be very useful in planning future assessments in the Ports O' Call Village.

The highest TPH and benzene values were reported in the central area of the site (in the parking area in the vicinity of SG-062), at the western corner of the grass-covered area along the northwestern border (SG-078), along the southern border (in the vicinity of SG-128), and in the northern area of the site (SG-044).

The highest PCE and TCE values were reported in the southwesternmost sample location (SG-024; 21,640 ng PCE and 17,640 ng TCE). The highest values reported in this area were detected in samples collected from SG-024, SG-026, SB-SG-086, SG-088, and SG-097. A second major area where PCE and TCE were reported is in the north-central area of the site. The highest PCE values reported in this area

were detected in the samples from SG-051, SG-52, and SG-59, and the highest TCE values reported in this area were detected in samples from SG-052, SG-54, and SG-59.

**Phase I and Limited Phase II Environmental Site Assessment, The Jankovich Company. April 2, 2013
(The Source Group, Inc.)**

Executive Summary

The Source Group, Inc. (SGI), conducted a Phase I and Limited Phase II Environmental Site Assessment/All Appropriate Inquires evaluation of the Jankovich Company leased property (herein referred to as the subject property or Site), located at Berth 74, in San Pedro, California (see Figure 1) for the Port of Los Angeles (POLA). The initial task focused on identifying recognized environmental conditions (RECs) at the subject property that may impact the value and present or future use. SGI personnel conducted a field reconnaissance of the subject property on October 17, 2012. In addition to the available agency records, SGI also reviewed Site-specific documents on environmental conditions at the Site provided by Jankovich and the Port of Los Angeles. In June 2010, SGI had previously prepared an Environmental Compliance Assessment Report (ECA) that followed a September 2007 site evaluation conducted for the POLA (See References SGI 2010, 2007), and these documents were reviewed as part of the site investigation.

RECs for the subject property identified during the Phase I investigation included the presence of petroleum product storage tanks and fuel handling facilities, and the unconfirmed presence of a wastewater underground storage tank. The Phase I investigation also identified the potential for a vapor intrusion condition.

Although site housekeeping was observed to be generally good, hazardous waste drums were observed to be stored on top of the asphalt without secondary containment. Storage containers holding red dye for fuels are stored alongside the drums near the tank farm areas. The facility also stores the fuel samples from the trucks for 90 days in buckets and crates, on top of secondary containment, north of the southern tank farm area. The storage of the 90-day sample containers appeared precarious with sample bottles observed to be overflowing out of the buckets and crates.

In addition to the Phase I investigation, a limited Phase II investigation was conducted including soil and groundwater sampling. Soil and groundwater sampling was performed to further delineate RECs and associated environmental conditions in a limited Phase II investigation. This investigation entailed the installation of 11 soil borings and soil sampling to a maximum depth of 15 feet below surface grade and collection of 13 groundwater grab samples. Evidence of contamination was noted during sampling and confirmed by laboratory analysis.

A total of 39 soil samples were collected and submitted to the laboratory for analysis. The one-foot depth sample from each boring was analyzed for Total Petroleum Hydrocarbon (TPH) carbon range, Volatile Organic Compounds (VOCs), Semivolatile Organic Compounds (SVOCs), Title 22 Metals, Polychlorinated Biphenyls (PCBs), and Organochlorine Pesticides (OCPs). The deeper samples, collected at 5 feet and deeper, were analyzed for TPH carbon range and VOCs only. The samples in and around the northeastern tank farm were found to contain TPH and VOCs at concentrations above Regional Water Quality Control Board (RWQCB) screening levels. The analytical results indicated TPH ranging

from non-detect (<10 milligrams per kilogram [mg/kg]) to 52,000 mg/kg and the VOC results for Gasoline-Range Organics (GRO) ranged from non-detect (<500 micrograms per kilogram [µg/kg]) to 1,200,000 µg/kg. Only one soil sample contained detectable concentrations of SVOCs and those concentrations were below the RWQCB screening levels. Concentrations of metals in soil were below the RWQCB screening levels. There were no detectable concentrations of PCBs or OCPs present in any of the soil samples.

A total of 13 groundwater samples were collected and analyzed for TPH, VOCs, and Title 22 Metals. TPH was detected in all 13 groundwater samples. TPH results ranged from non-detect (below 0.10 milligrams per liter [mg/L]) to 250 mg/L. GRO and methyl tertiary-butyl ether (MTBE) concentrations were the highest among all the detected VOCs. GRO results ranged from nondetect (<100 micrograms per liter [µg/L]) to 3,900 µg/L and MTBE results ranged from non-detect (<2.0 µg/L) to 8.7 µg/L. Metals concentrations in groundwater were below the RWQCB screening levels.

Based on the soil and groundwater laboratory results, it appears that past site operations resulted in localized impact to soil and groundwater quality. The lateral and vertical extent of this hydrocarbon plume have not been defined. The data indicates that the plume extends off-site to the northwest.

Based on the presence of volatile organic compounds in the subsurface, a potential for vapor intrusion exists.

Phase I Environmental Site Assessment Report, Ports of Call Village. April 12, 2013 (Partner Engineering and Science)

Executive Summary

Partner Engineering and Science, Inc. (Partner) has performed a Phase I Environmental Site Assessment (ESA) in general accordance with the scope of work and limitations of ASTM Standard Practice E1527-05, the Environmental Protection Agency Standards and Practices for All Appropriate Inquiries (AAI) (40 CFR Part 312) and set forth by the Port of Los Angeles for the property located at Berths 73W, 73X, 73Y, and 75-83 in the City of Los Angeles, Los Angeles County, California (the "subject property"). The Phase I Environmental Site Assessment is designed to provide the Port of Los Angeles with an assessment concerning environmental conditions (limited to those issues identified in the report) as they exist at the subject property.

Property Description

The subject property, the Ports of Call Village (POC or POC Complex), is generally situated south of W. 6th Street, east of S. Harbor Blvd., bound by San Pedro Slip to the southwest, and bound by the main harbor channel to the east. Please refer to the table below for further description of the subject property:

Address:	Berths 73W, 73X, 73Y, and 75-83.
Historical/Additional Address(es):	Includes addresses of 600 to 1400 Samson Way and 1000 to 1600 Nagoya Avenue.
Assessor's Parcel Number (APN):	7440-031-904, 7490-034-902, 7440-031-910, 7440-031-911, 7440-030-906, 7440-030-82 one, 7440-031-806, 7440-030-821, 7440-030-802, 7440-030-822, 7440-030-908, 7440-030-917, 7440-030-920, 7440-030-910
Nature of Use:	Commercial

Number of Buildings:	Two multi-tenant complexes on the main channel waterfront, two separate restaurant buildings on the waterfront, and approximately 10 smaller structures scattered about subject property.
Number of Floors:	One and two story buildings.
Type of Construction:	Primarily wood frame.
Land Acreage (Ac):	35 Ac
Date of Construction:	1938-2008
Current Tenants:	Ports of Call: Restaurants, shops, sightseeing, offices

The subject property is currently occupied numerous businesses operating under the general name of (POC) for commercial use. Onsite operations consist of commercial fishing, restaurants, shops, sightseeing businesses, and offices. In addition to the current structures, the subject property is also improved with asphalt-paved parking areas and associated landscaping.

According to available historical sources, the subject property was at least partially developed with rail lines as early as 1891, and developed for commercial use from at least 1909 until the present.

The immediately surrounding properties consist of the Los Angeles Maritime Museum (Berth 84) to the north; the Jankovich Company, a distributor of fuels and lubricants (Berth 74), and more of the Port of Los Angeles beyond to the south; the Port of Los Angeles, Main Channel to the east; and San Pedro Slip with more of the Port beyond and S. Harbor Blvd., with mixed commercial/residential beyond to the west.

According to data from nearby sites, the depth and direction of groundwater flow in the vicinity of the subject property is inferred to be present at approximately 7 to 11 feet below ground surface (bgs), to be influenced by tides, and to flow southwest, north and northwest.

Findings

A *recognized environmental condition* (REC) refers to the presence or likely presence of any hazardous substance or petroleum product on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. The term REC includes hazardous substances and petroleum products even under conditions that might be in compliance with laws. The term is not intended to include "de minimis" conditions that do not present a threat to human health and/or the environment and that would not be subject to an enforcement action if brought to the attention of appropriate governmental agencies. The following was identified during the course of this assessment:

- According to a April 23, 2010 Los Angeles Regional Water Quality Control Board (LARWQCB) letter, the (property owner) Port of Los Angeles (POLA) on November 6, 2009, transmitted reports and a letter requesting the LARWQCB review the new information pertaining to soil and groundwater for the Former Unocal Marine Station No. 0692 and determine if site conditions are consistent with the LARWQCB's case closure in December 9, 2004. Unocal previously operated two 27,000 gallon diesel underground storage tank (UST), one 20,000 gallon diesel UST, one 5,000 gallon lube oil UST, and one 280 gallon waste oil UST at the Site. Between June 2002 and August 2002, approximately 2,710 tons of petroleum hydrocarbon impacted soils were excavated and disposed off-site. On December 9, 2004 the regional board issued a case closure

letter for the underground storage tank petroleum release. The former Unocal Site was subsequently developed into a small public park. However, in November 2006, the Port of Los Angeles authorized the completion of direct push borings to approximately 7 feet bgs located adjacent to the POC site and to the north and southwest within the former Unocal Site to further assess petroleum impacts from historical releases associated with the Former Unocal gasoline station. Soil and groundwater samples were collected. Soil Phase I Environmental Site Assessment results detected total petroleum hydrocarbons up to a maximum concentration of 130,000 mg/kg, benzene up to a maximum concentration of 0.43 mg/kg, toluene up to a maximum concentration of 0.69 mg/kg, ethylbenzene up to a maximum concentration of 2.3 mg/kg, and xylenes up to a maximum concentration of 3.5 mg/kg. Groundwater results detected total petroleum hydrocarbons up to a maximum concentration of 280,000 µg/L and TBA up to a maximum concentration of 11 µg/L. The report also indicated that approximately 1-inch of petroleum free product was detected on the water table in groundwater monitoring wells installed along Nagoya Avenue.

With these findings in mind, the Water Board reopened the Unocal site case. In response to the Water Board's request, the responsible parties' consultant, on February 14, 2012, issued a soil management plan for the former Unocal site. On December 5, 2012, the Port of Los Angeles responded and commented upon the soil management plan. The former facility continues as an open remediation site.

Given the presence of petroleum impacted soil and groundwater, the former Unocal facility at the Berth 78 represents a REC.

- According to historical records, including Port of Los Angeles maps, Sanborn Maps, and aerial photographs, a large lumber handling and planning operation was present at the subject property from before 1923 to approximately 1947. This operation included hydraulic material handling equipment, a steam-fired power plant, and heavy industrial wood planning equipment. No documentation was available for review regarding any clean-up operations or investigations associated with the former lumber yard. It is very likely that oils and chlorinated solvents were used to maintain such equipment and the lengthy use of the property for these operations represent a REC.
- According to historical records, including Port of Los Angeles maps, Sanborn Maps, and aerial photographs, various portions of the subject property have historically been utilized as rail yard and specifically for the long term storage of tanker type cars. A September 2004 Site Investigation Report completed by CH2M HILL was available for review which detailed the investigation associated with the former locations of rail spur lines and tanker storage areas. The Los Angeles City Harbor Department (LAHD) authorized CH2MHILL to conduct a site investigation on May 10 and May 11, 2004 at the Ports O' Call Rail Yard property located at the 1100 Block of Sampson Way in San Pedro, California. The site investigation consisted of an electronic data records review and the collection and analyses of soil and groundwater samples. Twenty direct-push soil borings were advanced. A total of 85 soil samples were collected from multiple depths (0.5, 2, 4, and 8 feet below ground surface), 51 of which were submitted for laboratory analysis. Soil samples were analyzed for total petroleum hydrocarbons – diesel and motor oil (TPH-d and TPH-motor oil), metals, volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs), chlorinated pesticides, (including polychlorinated biphenyls [PCBs]), and herbicides. Five soil samples were also analyzed for soluble metals. In addition, five

groundwater samples were collected throughout the property and analyzed for the same constituents as the soil samples. The soil samples contained low levels of six VOCs but concentrations did not exceed the Environmental Protection Agency (EPA) Region IX residential or industrial preliminary remediation goals (PRGs). TPH-d was detected in 24 of 44 of the soil samples, but did not exceed the LAHD screening criteria of 1,000 milligrams per kilogram (mg/kg). TPH-motor oil was detected in 30 of 44 soil samples collected. The maximum detected concentration was 3,100 mg/kg. With the exception of two samples, TPH-motor oil concentrations were below the LAHD screening criteria of 1,000 mg/kg. Arsenic was detected in each soil sample at the Subject Property. Concentrations ranged from 1.54 to 26.1 mg/kg, exceeding the residential PRG (0.39-mg/kg). In addition, the range of arsenic concentrations did not exceed the TTLC or 10 times the soluble threshold limit concentration (STLC) screening criteria. Low levels of other metals were found in all soil samples. Only lead (besides arsenic) exceeded the residential and industrial PRGs. Lead was detected in one sample above the residential PRG of 400 mg/kg (652 mg/kg in sample PCRSB-20-01). Lead exceeded 10 times the STLC in 18 samples and mercury and copper concentrations exceeded 10 times the STLC screening criteria in one sample each. Five of these samples were further analyzed for soluble metals using the Waste Extraction Test (WET). Soluble lead concentrations were above the STLC of 5 mg/L in three out of the five samples analyzed. However, concentrations of lead in deeper samples at these locations were below 10 times the STLC. Seventeen SVOCs were detected above the reporting limit (RL) in soil samples. However, only four detections of benzo(a)pyrene, one detection of benzo(a)anthracene, and one detection of benzo(b)fluoranthene exceeded their respective residential PRGs. Five pesticides were detected in soil samples, but only one detection (dieldrin) exceeded the residential PRG. Arsenic and selenium were detected above the maximum contaminant level (MCL) in one groundwater sample each (PCRGW-03-01 and PCRGW-05-01). Chromium was detected above the MCL in two of the groundwater samples, while thallium was detected above the MCL in all groundwater samples collected. Three VOCs (cis-1,2-dichloroethene, trichloroethene and vinyl chloride) and one SVOC (bis[2-ethylhexyl]phthalate) were detected above their MCLs in groundwater samples PCRGW-03-01 and PCRGW-04-01, respectively. No other constituents were detected above the screening criteria in groundwater samples. Based on the investigation results, the soil and groundwater at the Subject Property has been impacted. As such, the current and former locations of the rail operations represent a REC.

- A Passive Soil Gas Survey was completed recently of the POC Complex by The Source Group, Inc. (SGI) dated 26 February 2013. The findings associated with that survey were reviewed as part of this report. Results of the passive soil-gas screening investigation conducted at the POC Complex indicated areas impacted with petroleum hydrocarbons and fuel-related VOCs, chlorinated VOCs and solvents or both. The highest TPH and benzene values were reported in the central area of the site, at the western corner of the grass-covered area along the northwestern border, along the southern border, and in the northern area of the site. The highest PCE and TCE values were reported in the southwestern most sample location. A second major area where PCE and TCE were reported is in the north-central area of the site. The presence of these elevated levels of volatile organic compounds at the subject property represents a REC.
- The Jankovich Company, a distributor of fuels and lubricants, is located at Berth 74, directly south of the subject property. The Source Group, Inc., recently completed a Phase I and Limited Phase II Environmental Site Assessment of the Jankovich Company facility (Berth 74). The results of this investigation concluded in part that RECs for the subject property identified during the

Phase I investigation included the presence of petroleum product storage tanks and fuel handling facilities, and the unconfirmed presence of a wastewater underground storage tank. The Phase I investigation also identified the potential for a vapor intrusion condition.

Further, In addition to the Phase I investigation, a limited Phase II investigation was conducted including soil and groundwater sampling. Soil and groundwater sampling was performed to further delineate RECs and associated environmental conditions in a limited Phase II investigation. This investigation entailed the installation of 11 soil borings and soil sampling to a maximum depth of 15 feet below surface grade and collection of 13 groundwater grab samples. Evidence of contamination was noted during sampling and confirmed by laboratory analysis.

Based on the soil and groundwater laboratory results, it appears that past site operations resulted in localized impact to soil and groundwater quality. The lateral and vertical extent of this hydrocarbon plume have not been defined. The data indicates that the plume extends offsite to the northwest. Based on the presence of volatile organic compounds in the subsurface, a potential for vapor intrusion exists. Given the presence of petroleum impacted soil and groundwater, the adjacent Jankovich facility at Berth 74 represents a REC.

A *historical recognized environmental condition* (HREC) refers to an environmental condition which would have been considered a REC in the past, but which is no longer considered a REC based on subsequent assessment or regulatory closure. Partner did not identify any HREC's during the course of this assessment.

An *environmental issue* refers to environmental concerns identified by Partner, which do not qualify as RECs; however, require discussion. The following was identified during the course of this assessment:

- A map depicting the location of several active and previously abandoned oil lines at the subject property was reviewed for this assessment. The map indicates the "assumed location" of these lines across the subject property. The actual locations and or presence of these pipelines have not been field checked. The age and condition of these lines was not noted. The presence of these petroleum-carrying pipelines at the subject property represents an environmental issue.

Phase II Environmental Site Assessment, Ports O'Call Village. November 2013 (Environmental Resources Management)

Summary of Findings

Based on ERM's Phase II ESA, laboratory analyses detected TPH, VOCs, Title 22 metals, and PAHs in soil samples. Additionally, laboratory analysis detected TPH, VOCs, Title 22 metals, and PAHs in groundwater samples. It should be noted that concentrations of chemicals that exceed individual regulatory soil- or groundwater-screening levels do not automatically indicate unacceptable human health risks with regards to all exposure pathways; rather, an exceedance may indicate that a site-specific HHRA may be warranted.

Analysis of the laboratory data indicates the following:

- Soil and groundwater at the site do not appear to be impacted by either OCPs or PCBs.
- TPH in soil at concentrations above the RWQCB screening criteria were only detected at two soil sample locations, POC-6 and POC-17.

- Black-stained soil was observed in soil boring POC-15 at a depth of 5.5 feet bgs to the total depth of the boring (8 feet bgs). This material was not observed in any of the other boring locations and does not appear to be a site-wide issue. Relatively isolated soil removal or additional characterization may be warranted at this discrete location dependent upon redevelopment plans. VOCs were not detected in soils above the Industrial RSLs in any of the soil samples obtained from the site and do not appear to be a site-wide issue.
- Metals were detected in soil samples from across the site. However, only arsenic and lead were detected at concentrations above either the Industrial RSLs or commercial/industrial CHHSLs. Only one soil sample (POC-17 @ 1.5-2.0 feet bgs) exceeded the commonly accepted California background concentration for arsenic of 12 mg/kg with a concentration of 17.4 mg/kg. Based on the results of this investigation, arsenic does not appear to be a site-wide issue.
- Lead was detected above the industrial RSLs in only one soil sample at the site and above the commercial/industrial CHHSL in four soil samples at the site. Laboratory test results indicate that the lead detected in soils at the site exceeded the STLC-Citric Acid Extraction for lead for use in waste characterization purposes in four samples analyzed, with total lead exceeding 50 mg/kg. Further analyses of the four soil samples exceeding the STLC-Citric Acid Extraction indicated that only one of the samples analyzed exceeds the TCLP. The STLC of 5 mg/L, and the TCLP of 5 mg/L soluble lead are the regulatory thresholds for characterization as a California hazardous waste and Federal RCRA hazardous waste, respectively. If soils at the site are disturbed by grading or excavation, they should be properly managed in accordance with their waste characteristic as determined by additional laboratory confirmation testing during excavation and grading.
- PAHs were detected in six soil samples at the site at concentrations above the Industrial RSLs for soil. Soil sample locations with samples that exceed the RSLs are all located in the southwest portion of the site; PAHs in soil do not appear to be a site-wide issue. A HHRA is currently in progress, which will address the potential risk, if any, that the detected concentrations of PAHs in site soils may represent.
- TPH in groundwater was detected in all seven groundwater samples (including duplicate) analyzed at the site. However, only groundwater sample location POC-1 had TPH detected at concentrations above the screening limits. TPH detected in groundwater at POC-1 is likely related to a previously identified release associated with the marine fueling terminal located immediately adjacent to the south of the site. SGI (SGI, 2013c) has completed an additional site assessment characterizing the lateral and vertical extent of impacted media associated with this release. Based on a review of the SGI report, it appears that the impact of the previous release is limited to the area within, and immediately adjacent to, the Jankovich parcel and does not appear to impact a large portion of the Ports O' Call Village property. VOCs were detected in three of the seven groundwater samples analyzed at the site. However, only vinyl chloride was detected at a concentration that exceeded the industrial MCL of 0.50 µg/L; VOCs in groundwater do not appear to be a site-wide issue.
- Metals (arsenic, barium, cadmium, chromium, lead, and nickel) were detected in six of the seven groundwater samples at concentrations above the California Public Health Goals for Drinking Water and/or the Secondary MCL (Federal). A HHRA is currently in progress, which will address

the potential risk, if any, that the detected concentrations of metals in groundwater beneath the site may represent.

- PAHs were detected in only one of the seven groundwater samples and do not appear to be a site-wide groundwater issue. A HHRA is currently in progress, which will address the potential risk, if any, that the detected concentrations of PAHs in groundwater beneath the site may represent.

Given the results of the laboratory testing presented herein and the unknown details of the proposed redevelopment, evaluation of the potential for vapor intrusion may be warranted once development plans are finalized.

Memorandum: Next Steps – Jankovich Site Restoration – Expected Scope and Cost. April 22, 2015 (The Source Group, Inc.)

Summary

Initial assessment of the Jankovich facility at Berth 74, San Pedro, California, has shown that petroleum hydrocarbons are present in soil and groundwater in the vicinity of the facility fuel storage tanks; no floating product was observed during the sampling. The contamination plume appears to extend off-site towards the Ports O' Call complex to the northwest. Additional investigation will be required to evaluate possible source areas. Given the degree of soil and groundwater contamination and the proximity of the release to harbor waters, it should be expected that the Regional Water Quality Control Board (RWQCB) would require additional assessment and remedial actions, which may include continue groundwater monitoring and preparing/implementing remedial actions.

Third Quarter 2015 Groundwater Monitoring and Sampling Report, Jankovich and Son Marine Fuel Terminal. November 4, 2015 (The Source Group, Inc.)

Field Measurements and Analytical Results

GROUNDWATER ELEVATION AND GRADIENT

The depth to groundwater in the three monitoring wells ranged from 5.95 feet below TOC to 6.29 feet below TOC. The calculated groundwater elevations in each monitoring well ranged from 4.19 to 4.41 feet above the mean lower low water (MLLW) level and are summarized in Table 2 and shown on Figure 2. The well gauging documentation is provided in Appendix A. The groundwater gradient at the time the wells were gauged was towards the northwest at approximately 0.003 feet per foot (ft/ft).

ANALYTICAL RESULTS

Groundwater field parameters were allowed to stabilize prior to collecting the sample. Water samples to be analyzed by EPA Method 8260B were collected in 40-milliliter volatile organic analysis (VOA) vials containing hydrochloric acid (HCl) preservative, filled to zero headspace, and sealed with Teflon® septa and airtight caps. Samples to be analyzed for carbon chain characterization were collected in unpreserved 500-milliliter amber sample bottles and sealed with Teflon®-lined airtight caps. All samples were labeled and placed on ice in watertight bags in a thermally insulated cooler and submitted under chain-of-custody to American Analytics Laboratory in Chatsworth, California.

Current and historical analytical results for selected VOCs and carbon chain characterization are provided in Tables 2 through 5. The laboratory report is provided in Appendix C.

For screening purposes only, reported concentrations were compared with the RWQCB-accepted cleanup goals for the former GATX Marine Terminal, at Berths 171-173, which are protective of human health and water quality for marine ecosystems. Maximum Contaminant Levels (MCLs) were also used to provide a secondary screening level reference.

Analytical Results for BTEX, GRO, Fuel Oxygenates, and Other VOCs

BTEX and GRO were not reported at or above the laboratory reporting limits in all three wells. MTBE was reported in MW-3 at a concentration of 4.9 micrograms per liter ($\mu\text{g/L}$) (below screening levels). No other VOCs were reported in MW-1 through MW-3 during this monitoring event. Since the previous sampling event in June 2015, the BTEX and GRO remained at non-detect in MW-1 through MW-3. Since June 2015, fuel oxygenate concentrations remained at non-detect in MW-1 and MW-2A. MTBE increased from to 4.1 $\mu\text{g/L}$ to 4.9 $\mu\text{g/L}$ in MW-3 (Table 4).

Analytical Results for Carbon Chain Characterization

Dissolved TPH was not reported in MW-1 ($<100 \mu\text{g/L}$). Dissolved TPH was detected in MW-2A at 140 $\mu\text{g/L}$ in the C14-C28 carbon range. Dissolved TPH was detected at 430 $\mu\text{g/L}$ in MW-3, in the C10-C28 carbon range. Since June 2015, the concentrations of TPH decreased in MW-1 and MW-3 and increased in MW-2A.

Quality Assurance/Quality Control Samples

The Quality Assurance/Quality Control (QA/QC) field samples submitted for laboratory analysis during this sampling event included one trip blank sample (QCTB-1), and two equipment blank samples collected at the beginning (QCEB-1) and at the end (QCEB-2) of fieldwork. The trip blank and equipment blank samples were non-detect for all analytes.

American Analytics did not report any significant QA/QC problems with the analytical work performed as part of the current sampling event. Based on an evaluation of data collected during this monitoring event (including holding times, method, trip and equipment blanks, surrogate compounds for organic tests by gas chromatography and gas chromatography/mass spectrometry, matrix spike/matrix spike duplicates, reporting limits, duplicate samples, laboratory control samples, data anomalies, and case narrative), analyses and field procedures complied with QA/QC specifications. As such, the groundwater data are considered representative of Site conditions and considered acceptable for use. They are not considered invalid or as estimated as a result of inadequate or errant field or analytical procedures.

Soil Management Plan (SMP), Redevelopment of the Ports O'Call Village. February 19, 2016 (Leighton Consulting, Inc.)

Summary

The proposed redevelopment project scope is anticipated to include soil excavation, stockpiling, sampling and characterization, and offsite disposal; as well as handling of groundwater should it be encountered during construction activities. The Soil Management Plan (SMP) describes management of previously identified contaminated soil material as well as unforeseen conditions if encountered, which includes protocols and approaches during the proposed redevelopment activities. The SMP also identifies proper handling and management practices to minimize waste creation and the disposing of

waste generated during Site development activities; prevents onsite workers and public exposure to hazardous materials; and protects the environment through efficient resources allocation and recycling to the greatest extent practical. Refer to the SMP for details.

Subsurface Investigation Report, Berth 78. August 2007 (Pacific Edge Engineering, Inc.)

Executive Summary

Pacific Edge Engineering, Inc. (Pacific Edge), on behalf of the Port of Los Angeles (Port), conducted soil and groundwater testing to further assess petroleum impacts related to a historic release(s) associated with underground storage tanks (USTs) operated by the former Unocal Facility located at Berth 78, San Pedro, California (Site). The Site is approximately 0.5 acres in size and is located on Nagoya Way between the San Pedro Fish Market and the Los Angeles Harbor Cruise and Whale Watching. The Main Channel of San Pedro Bay fronts the Site on the east. The Site was recently redeveloped as a small public park Pacific Edge collected and analyzed subsurface soil samples from ten (10) geoprobe soil borings. The maximum concentrations of key hydrocarbon contaminants were as follows:

**Maximum Concentrations in Soil
(mg/kg)**

Sample Source	TPH – Gasoline ^(a) (C7-C10)	TPH – Diesel ^(b) (C11-C28)	TPH – Motor Oil ^(c) (C28+)	BTEX ^(d)	Fuel Oxygenates ^(e)
UC7-6.5 ^(f)	2,237	122,300	2,530	3.01	ND ^(g)

- (a) Sum of hydrocarbons milligrams/kilogram (mg/kg) classified to be in the carbon length range of 7 to 10
- (b) Sum of hydrocarbons mg/kg classified to be in the carbon length range of 11 to 28
- (c) Sum of hydrocarbons mg/kg classified to be in the carbon length range greater than 28
- (d) BTEX – Sum of benzene, toluene, ethylbenzene, and xylenes in mg/kg
- (e) Fuel Oxygenates – Sum of fuel oxygenates, such as, methyl tertiary butyl ether and tertiary butyl alcohol in mg/kg
- (f) Geoprobe boring UC7 at 6.5 feet below ground surface
- (g) ND = Not Detected

Three (3) groundwater grab samples utilizing the hydropunch equipment were analyzed. The groundwater sampled retrieved from boring location UC3 showed the greatest TPH concentration. The analytical results for UC3 are shown in the following table.

**Maximum TPH Concentrations in Groundwater
(mg/l)**

Sample Source	TPH – Gasoline ^(a) (C7-C10)	TPH – Diesel ^(b) (C11-C28)	TPH – Motor Oil ^(c) (C28+)	BTEX ^(d)	Fuel Oxygenates ^(e)
UC3 ^(f)	7.7	319	9.7	ND ^(g)	ND

- (a) Sum of hydrocarbons mg/kg classified to be in the carbon length range of 7 to 10
- (b) Sum of hydrocarbons mg/kg classified to be in the carbon length range of 11 to 28
- (c) Sum of hydrocarbons mg/kg classified to be in the carbon length range greater than 28
- (d) BTEX – Sum of benzene, toluene, ethylbenzene, and xylenes in mg/kg
- (e) Fuel Oxygenates – Sum of fuel oxygenates, such as, methyl tertiary butyl ether and tertiary butyl alcohol in mg/kg
- (f) PacificEdge boring UC3

(g) ND = Not Detected

Following the geoprobe investigation, two 4-inch groundwater monitoring wells were installed at the Site. On two separate testing events, approximately 45 days apart, no free floating product was observed.

Based on the results of this investigation, Pacific Edge offers the following conclusions:

- TPH concentrations in soil from Pacific Edge's investigation are significantly higher than concentrations that case closure decisions were based upon, although the composition of the TPH and levels of contamination are similar to previous investigations.
- The vast majority of TPH contamination in both groundwater and soil is classified as diesel fuel related.
- Diesel fuel related contamination may have significantly impacted Port property beyond the boundaries of the original leasehold.
- The high concentrations of diesel fuel hydrocarbons remaining on the north side and southwest side of the Site represent a liability to the Port. The present condition with substantial diesel fuel contamination is not consistent with the restoration of the Site. This area is located within the San Pedro Water front and Promenade (from "Bridge to the Breakwater") redevelopment project. Because future excavation in this area is eminent, the diesel fuel contaminated soils cannot be handled in an unrestricted manner. Since it is unlikely that the diesel contaminated soil can be returned to the Site, off-site disposal of the impacted soil with commensurate costs will probably be required. The concentrations of fuel related hydrocarbons in groundwater are consistent with the conditions presented to the Los Angeles - Regional Water Quality Control Board (LARWQCB) for closure by Unocal. However, during excavation of the Site soil, construction dewatering fluids generated may require special treatment and/or disposal off-site with substantial cost. This represents a potential future liability to the Port.

Groundwater Monitoring Status Presence of Free Product Hydrocarbon Material, Berth 78. March 20, 2008 (Pacific Edge Engineering, Inc.)

Summary

Pacific Edge Engineering, Inc. (Pacific Edge), on behalf of the Port of Los Angeles (Port), conducted soil and groundwater testing to further assess petroleum impacts related to one or more historic release(s) associated with underground storage tanks (USTs) operated by the former Unocal Facility located at Berth 78, San Pedro, California (Site).

Pacific Edge collected and analyzed subsurface soil samples from ten (10) geoprobe soil borings in November 2006. Three (3) groundwater grab samples utilizing hydropunch equipment were analyzed. Following the geoprobe investigation, two 4-inch groundwater monitoring wells were installed at the Site.

Based on the results of this investigation, Pacific Edge offers the following conclusions:

- The occurrence of significant floating product, which appears to be diesel fuel, in monitoring well MW-B78-2 is not consistent with the conditions under which the Los Angeles Regional Water Quality Control Board (RWQCB) granted closure, in the RWQCB's letters, dated October 28, 2004, and December 9, 2004. Further, the presence of floating product is not consistent with the request for closure by Unocal based upon the report, Site Closure Request, Former

Unocal Facility #0692, Berth 78, Nagoya Way, San Pedro, California. LARWQCB Case # 907310198 by ENSR International, dated September 2004.

- TPH concentrations in soil from Pacific Edge's investigation are significantly higher than concentrations that case closure decisions were based upon, although the composition of the TPH and levels of contamination soil are similar to previous investigations.
- The vast majority of TPH contamination in both groundwater and soil is classified as diesel fuel related.
- Diesel fuel related contamination may have significantly impacted Port property beyond the boundaries of the original leasehold.

Groundwater Monitoring Status – April 2009 Presence of Free Floating Hydrocarbon Material, Berth 78. April 14, 2009 (Pacifica Edge Engineering, Inc.)

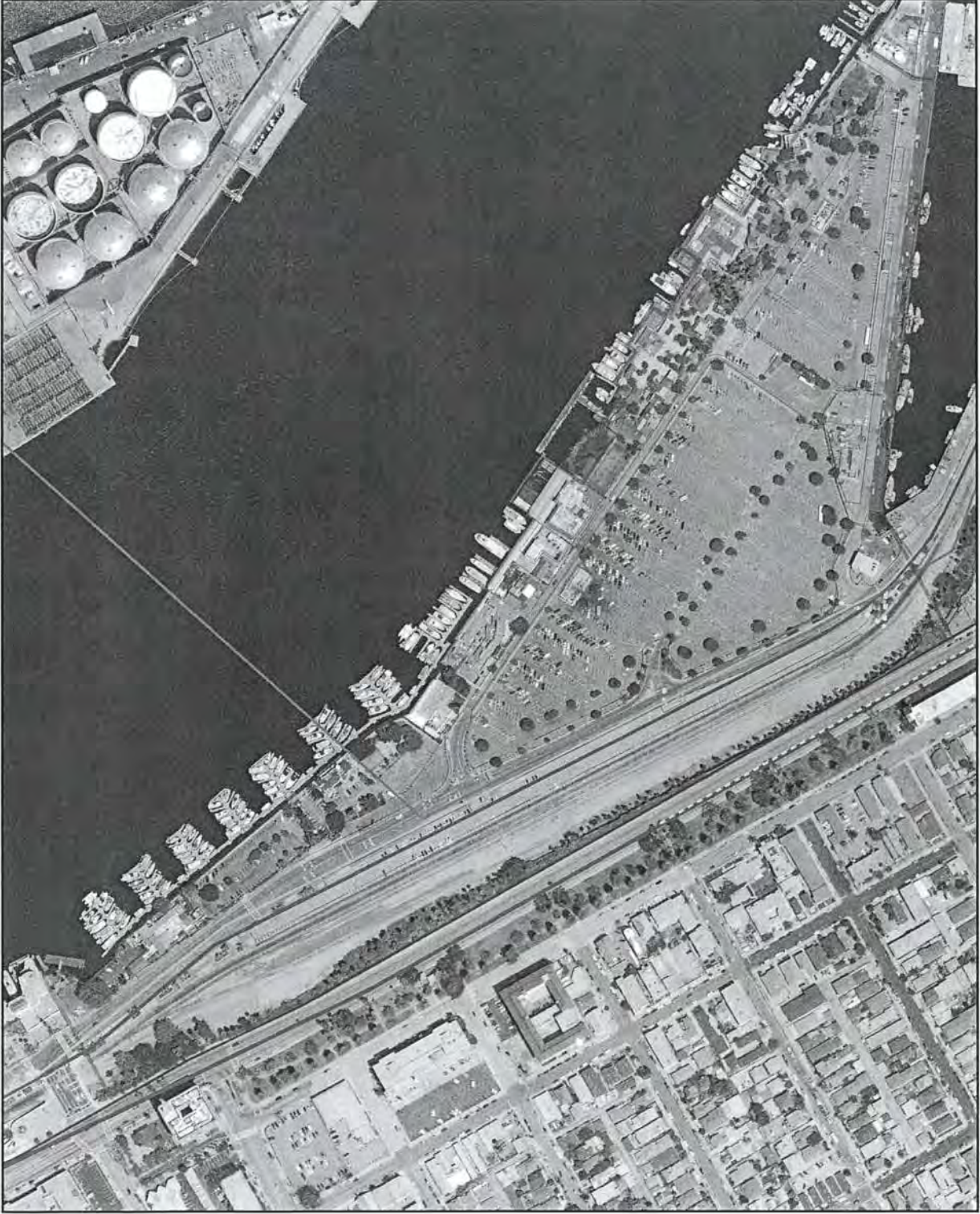
Summary

On behalf of the Port of Los Angeles (Port), Pacific Edge Engineering, Inc. (Pacific Edge) has been periodically sounding wells MW-B78-1 and MW-B78-2 at Berth 78 for the presence of free floating petroleum material. This letter documents our March 31, 2009 sounding event.

On March 31, 2009, wells MW-B78-1 and MW-B78-2 were again sounded for the presence of free floating petroleum material using a Solinst Oil/Water Sounder (Model 122). Free floating petroleum material was not measured in either well using the Solinst sounder. A strong hydrocarbon odor was noted in each well sample. In addition, a hydrocarbon film was observed on the outside of the bailer used to collect the sample from MW-B78-2. This suggests that free floating petroleum material was present in MW-B78-2 at a thickness not discernable by the Solinst sounder.

Based on the results of this sounding event it is our opinion that free floating petroleum material of an undefined extent and average thickness is present at the site, and that on occasion free floating petroleum material is present within well MW-B78-2 at a thickness sufficient for detection by an oil/water sounder. As a result, we feel that the conclusions presented in our March 20, 2008 letter are still reasonable and appropriate. These conclusions are as follows:

- The occurrence of significant floating product, which appears to be diesel fuel, in monitoring well MW-B78-2 is not consistent with the conditions under which the Los Angeles Regional Water Quality Control Board (RWQCB) granted closure, in the RWQCB's letters, dated October 28, 2004, and December 9, 2004. Further, the presence of floating product is not consistent with the request for closure by Unocal based upon the report, Site Closure Request, Former Unocal Facility #0692, Berth 78, Nagoya Way, San Pedro, California, LARWQCB Case # 907310198 by ENSR International, dated September 2004.
- TPH concentrations in soil from Pacific Edge's investigation are significantly higher than concentrations that case closure decisions were based upon, although the composition of the TPH and levels of contamination in soil are similar to previous investigations.
- The vast majority of TPH contamination in both groundwater and soil is classified as diesel fuel related.
- Diesel fuel related contamination may have significantly impacted Port property beyond the boundaries of the original leasehold.



Legend	
	Richfield Abandoned Oil Line
	Mobil Oil Line
	Navy Oil Line
	Union Oil Pipeline
	LNK Oil Line
	Port Boundary Line
	Lease Boundary
	Project Boundary



PORT O'CALL VILLAGE
SAN PEDRO, CALIFORNIA



FIGURE 1
ACTIVE AND ABANDONED
OIL LINES

PREPARED BY:
Jesse ERM

FOR NO. 015884
FILE: 015884-01.mxd

EXHIBIT J

HARBOR DEPARTMENT ENVIRONMENTAL POLICIES

APPLICABLE ENVIRONMENTAL POLICIES, RULES, AND DIRECTIVES OF THE CITY'S HARBOR DEPARTMENT

- 1 Port of Los Angeles Environmental Management Policy, as amended, or its successor policy. Available at: http://www.portofla.org/img/Env_Mgmt_Policy.gif
- 2 San Pedro Bay Ports Clean Air Action Plan, as amended, or its successor plan/document. Available at: <http://www.cleanairactionplan.org>.
- 3 Port of Los Angeles and Port of Long Beach Water Resources Action Plan or its successor plan/document. Available at http://www.portoflosangeles.org/DOC/WRAP_Final.pdf
- 4 Port of Los Angeles Green Building Policy (2007), as amended, or its successor policy.
- 5 Port of Los Angeles Sustainable Construction Guidelines (2008), as amended, or its successor document.
- 6 Resolution No. 5317 – Policy for Operation of Hazardous Waste Transfer, Storage and Disposal (TSD) Facilities on Harbor Department Property and any amendments or successor resolution.

EXHIBIT K

Summary of Mitigation Measures for San Pedro Waterfront Addendum – San Pedro Public Market Project

This is a summary of the mitigation measures contained in the San Pedro Waterfront Mitigation Monitoring and Reporting Program (MMRP) that apply specifically to the San Pedro Public Market (SPPM) Project and is not a replacement for the Final MMRP which was approved by the Board. However, this summary table includes certain modifications compared to Table 2-1 in the approved MMRP in order to tailor all applicable mitigation measure requirements to the SPPM Project. Such modifications include: 1) removing language for construction equipment engine requirements which have sunsetted 2) adding language to the "Methods" and "Implementation" sections to specifically indicate the requirements of the SPPM Developer (Developer) and 3) requiring that the Developer follow the Paleontological Monitoring and Mitigation Plan San Pedro Waterfront Project which the Harbor Department developed as a requirement of Mitigation Measure CR-4.

Mitigation Monitoring and Reporting Program Summary for the San Pedro Waterfront Addendum – San Pedro Public Market Project

Mitigation Measure	Timing and Methods	Responsible Parties
Air Quality and Meteorology: Construction		
<p>MM AQ-1. Harbor Craft Engine Standards. All harbor craft used during the construction phase of the proposed Project shall, at a minimum, be repowered to meet the cleanest existing marine engine emission standards or EPA Tier 2. Additionally, where available, harbor craft shall meet the proposed EPA Tier 3 (which are proposed to be phased-in beginning 2009) or cleaner marine engine emission standards.</p> <p>The above harbor craft measure shall be met unless one of the following circumstances exists and the contractor is able to provide proof that any of these circumstances exists:</p> <ul style="list-style-type: none"> ▪ A piece of specialized equipment is unavailable in a controlled form within the state of California, including through a leasing agreement; ▪ A contractor has applied for necessary incentive funds to put controls on a piece of uncontrolled equipment planned for use on the proposed Project, but the application process is not yet approved, or the application has been approved, but funds are not yet available; or ▪ A contractor has ordered a control device for a piece of equipment planned for use on the proposed Project, or the contractor has ordered a new piece of controlled equipment to replace the uncontrolled equipment, but that order has not been completed by the manufacturer or dealer. In addition, for this exemption to apply, the contractor must attempt to lease controlled equipment to avoid using uncontrolled equipment, but no dealer within 200 miles of the proposed Project has the controlled equipment available for lease. 	<p>Timing: During specified construction phases.</p> <p>Methods: This measure shall be incorporated into the LAHD and Developer contract specifications for all construction work to reduce the impact of construction diesel emissions. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p>	<p>Implementation: LAHD and Developer through Construction Contractor</p> <p>Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
<p>MM AQ-3. Fleet Modernization for Onroad Trucks.</p> <ol style="list-style-type: none"> 1. Trucks hauling materials such as debris or fill shall be fully covered while operating off Port property. 2. Idling shall be restricted to a maximum of 5 minutes when not in use. 3. Tier Specifications: <p>All onroad heavy-duty diesel trucks with a GVWR of 19,500 pounds or greater used on site or to transport materials to and from the site shall comply with</p>	<p>Timing: Throughout all construction phases.</p> <p>Methods: This measure shall be incorporated into the LAHD and Developer contract specifications for all construction work to reduce the impact of construction diesel emissions. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by</p>	<p>Implementation: LAHD and Developer through Construction Contractor</p> <p>Monitoring and Reporting: Environmental Management Division, Construction</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>2010 emission standards, where available.</p> <p>A copy of each unit's certified EPA rating, BACT documentation, and CARB or SCAQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.</p> <p>The above standards/specifications shall be met unless one of the following circumstances exists and the contractor is able to provide proof that any of these circumstances exists:</p> <p>A piece of specialized equipment is unavailable in a controlled form within the state of California, including through a leasing agreement;</p> <p>A contractor has applied for necessary incentive funds to put controls on a piece of uncontrolled equipment planned for use on the proposed Project, but the application process is not yet approved, or the application has been approved, but funds are not yet available; or</p> <p>A contractor has ordered a control device for a piece of equipment planned for use on the proposed Project, or the contractor has ordered a new piece of controlled equipment to replace the uncontrolled equipment, but that order has not been completed by the manufacturer or dealer. In addition, for this exemption to apply, the contractor must attempt to lease controlled equipment to avoid using uncontrolled equipment, but no dealer within 200 miles of the proposed Project has the controlled equipment available for lease.</p>	<p>LAHD prior to beginning of any construction activity. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications. The construction equipment measures shall be met, unless one of the following circumstances exist and the contractor is able to provide proof that any of these circumstances exists:</p> <ol style="list-style-type: none"> 1. A piece of specialized equipment is unavailable in a controlled form within the state of California, including through a leasing agreement. 2. A contractor has applied for necessary incentive funds to put controls on a piece of uncontrolled equipment planned for use on the project, but the application process is not yet approved, or the application has been approved, but funds are not yet available. 3. A contractor has ordered a control device for a piece of equipment planned for use on the project, or the contractor has ordered a new piece of controlled equipment to replace the uncontrolled equipment, but that order has not been completed by the manufacturer or dealer. In addition, for this exemption to apply, the contractor must attempt to lease controlled equipment to avoid using uncontrolled equipment, but no dealer within 200 miles of the project has the controlled equipment available for lease. 	<p>Management Division</p>
<p>MM AQ-4. Fleet Modernization for Construction Equipment.</p> <ol style="list-style-type: none"> 1. Construction equipment shall incorporate, where feasible, emissions savings technology such as hybrid drives and specific fuel economy 	<p>Timing: Throughout all construction phases. Methods: This measure shall be incorporated into the LAHD and Developer contract</p>	<p>Implementation: LAHD and Developer through Construction Contractor</p>

Mitigation Measure	Timing and Methods	Responsible Parties
<p>standards.</p> <p>2. Idling shall be restricted to a maximum of 5 minutes when not in use.</p> <p>3. Tier Specifications:</p> <p>All offroad diesel-powered construction equipment greater than 50 hp shall meet the Tier 4 emission standards, where available. In addition, all construction equipment shall be outfitted with BACT devices certified by CARB. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Level 3 diesel emissions control strategy for a similarly sized engine as defined by CARB regulations.</p> <p>A copy of each unit's certified tier specification, BACT documentation, and CARB or SCAQMD operating permit shall be provided at the time of mobilization of each applicable unit of equipment.</p> <p>The construction equipment measures shall be met, unless one of the following circumstances exist and the contractor is able to provide proof that any of these circumstances exists:</p> <ul style="list-style-type: none"> ▪ A piece of specialized equipment is unavailable in a controlled form within the state of California, including through a leasing agreement. ▪ A contractor has applied for necessary incentive funds to put controls on a piece of uncontrolled equipment planned for use on the project, but the application process is not yet approved, or the application has been approved, but funds are not yet available. <p>A contractor has ordered a control device for a piece of equipment planned for use on the project, or the contractor has ordered a new piece of controlled equipment to replace the uncontrolled equipment, but that order has not been completed by the manufacturer or dealer. In addition, for this exemption to apply, the contractor must attempt to lease controlled equipment to avoid using uncontrolled equipment, but no dealer within 200 miles of the project has the controlled equipment available for lease.</p> <p>MM AQ-5. Additional Fugitive Dust Controls. The calculation of fugitive dust (PM10) from unmitigated proposed project earth-moving activities assumes a 75% reduction from uncontrolled levels to simulate rigorous watering of the site and use of other measures (listed below) to ensure proposed project compliance with SCAQMD Rule 403.</p>	<p>specifications for all construction work to reduce the impact of construction diesel emissions. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p>	<p>Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
<p>MM AQ-5. Additional Fugitive Dust Controls. The calculation of fugitive dust (PM10) from unmitigated proposed project earth-moving activities assumes a 75% reduction from uncontrolled levels to simulate rigorous watering of the site and use of other measures (listed below) to ensure proposed project compliance with SCAQMD Rule 403.</p>	<p>Timing: Throughout all construction phases. Methods: This measure shall be incorporated into the LAHD and Developer contract specifications for all construction work to reduce the impact of fugitive</p>	<p>Implementation: LAHD and Developer through Construction Contractor Monitoring and Reporting:</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>The construction contractor shall apply for a SCAQMD Rule 403 Dust Control Permit.</p> <p>The construction contractor shall further reduce fugitive dust emissions to 90% from uncontrolled levels. The construction contractor shall designate personnel to monitor the dust control program and to order increased watering or other dust control measures, as necessary, to ensure a 90% control level. Their duties shall include holiday and weekend periods when work may not be in progress. The following measures, at minimum, must be part of the contractor Rule 403 dust control plan:</p> <ul style="list-style-type: none"> ▪ Active grading sites shall be watered one additional time per day beyond that required by Rule 403; ▪ Contractors shall apply approved nontoxic chemical soil stabilizers to all inactive construction areas or replace groundcover in disturbed areas; ▪ Construction contractors shall provide temporary wind fencing around sites being graded or cleared; ▪ Trucks hauling dirt, sand, or gravel shall be covered or shall maintain at least 2 feet of freeboard in accordance with Section 23114 of the California Vehicle Code; ▪ Construction contractors shall install wheel washers where vehicles enter and exit unpaved roads onto paved roads or wash off tires of vehicles and any equipment leaving the construction site; ▪ The grading contractor shall suspend all soil disturbance activities when winds exceed 25 mph or when visible dust plumes emanate from a site; disturbed areas shall be stabilized if construction is delayed; and ▪ Trucks hauling materials such as debris or fill shall be fully covered while operating off LAHD property. ▪ A construction relations officer shall be appointed to act as a community liaison concerning onsite construction activity including resolution of issues related to PM10 generation; ▪ All streets shall be swept at least once a day using South Coast Air Quality Management District (SCAQMD) Rule 1186, 1186.1 certified street sweepers or roadway washing trucks if visible soil materials are carried to 	<p>dust (PM10) emissions. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p>	<p>Environmental Management Division, Construction Management Division</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>adjacent streets;</p> <ul style="list-style-type: none"> ▪ Water or non-toxic soil stabilizer shall be applied three times daily to all unpaved parking or staging areas or unpaved road surfaces; ▪ Roads and shoulders shall be paved; and ▪ Water shall be applied three times daily or as needed to areas where soil is disturbed. 		
<p>MM AQ-6. Best Management Practices. The following types of measures are required on construction equipment (including on-road trucks):</p> <ol style="list-style-type: none"> 1. Use diesel oxidation catalysts and catalyzed diesel particulate traps. 2. Maintain equipment according to manufacturers' specifications 3. Restrict idling of construction equipment to a maximum of 5 minutes when not in use 4. Install high-pressure fuel injectors on construction equipment vehicles <p>LAHD shall implement a process by which to select additional BMPs to further reduce air emissions during construction. The LAHD shall determine the BMPs once the contractor identifies and secures a final equipment list.</p>	<p>Timing: Throughout all construction phases. Methods: This measure shall be incorporated into the LAHD and Developer contract specifications for all construction work to reduce the impact of construction diesel emissions. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p>	<p>Implementation: LAHD and Developer through Construction Contractor</p> <p>Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
<p>MIM AQ-7. General Mitigation Measure.</p> <p>For any of the above mitigation measures (MM AQ-1 through AQ-6), if a CARB-certified technology becomes available and is shown to be as good as or better in terms of emissions performance than the existing measure, the technology could replace the existing measure pending approval by the LAHD.</p>	<p>Timing: Throughout all construction phases. Methods: This measure shall be incorporated into the LAHD and Developer contract specifications. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity, which would include any proposed new technology.</p>	<p>Implementation: LAHD and Developer through Construction Contractor</p> <p>Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>MM AQ-8. Special Precautions near Sensitive Sites. When construction activities are planned within 1,000 feet of sensitive receptors (defined as schools, playgrounds, day care centers, and hospitals), the construction contractor shall notify each of these sites in writing at least 30 days before construction activities begin.</p>	<p>Timing: Throughout all construction phases. Methods: This measure shall be incorporated into the LAHD and Developer contract specifications for all construction work. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity which shall include a plan to notify sensitive receptors and shall be approved by the LAHD.</p>	<p>Implementation: LAHD and Developer through Construction Contractor Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
<p>Biological Resources: Construction</p>		
<p>MM BIO-2. Conduct nesting bird surveys. This measure applies if construction is to occur between February 15 and September 1. Prior to ground-disturbing activities, a qualified biologist will conduct surveys for the presence of black crowned night herons, blue herons, and other nesting birds within Berth 78–Ports O’Call or other appropriate and known locations within the study area that contain potential nesting bird habitat. Surveys will be conducted 24 hours prior to the clearing, removal, or grubbing of any vegetation or ground disturbance. If active nests of species protected under the MBTA and/or similar provisions of the California Fish and Game Code (i.e., native birds including but not limited to the black-crowned night heron) are located, then a barrier installed at a 50–100 foot radius from the nest(s) will be established and the tree/location containing the nest will be marked and will remain in place and undisturbed until a qualified biologist performs a survey to determine that the young have fledged or the nest is no longer active.</p>	<p>Timing: During any construction between February 15 and September 1 of every year. Methods: This measure shall be incorporated into LAHD and Developer contract specifications for all construction work. The construction contractor shall instruct construction personnel as part of normal construction procedures. LAHD shall arrange for the presence of the qualified biologist to monitor during construction activity.</p>	<p>Implementation: LAHD and Developer through Construction Contractor Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
<p>MM BIO-3. Avoid marine mammals. The contractor will be required to use sound abatement techniques to reduce both noise and vibrations from pile driving activities. Sound abatement techniques will include, but are not limited to, vibration or hydraulic insertion techniques, drilled or augured holes for cast-in-place piles, bubble curtain technology, and sound aprons where feasible. At the initiation of each pile driving event, and after breaks of more than 15 minutes, the pile driving will also employ a “soft-start” in which the hammer is</p>	<p>Timing: During all in-water construction activities requiring pile driving. Methods: This measure shall be incorporated into LAHD and Developer contract specifications for all construction work. The construction contractor shall instruct construction personnel as part of normal</p>	<p>Implementation: LAHD and Developer through Construction Contractor Monitoring and Reporting: Environmental Management Division, Construction</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>operated at less than full capacity (i.e., approximately 40–60% energy levels) with no less than a 1-minute interval between each strike for a 5-minute period. Pile driving activities occurring within the Outer Harbor will include establishment of a safety zone, and the area surrounding the operations will be monitored by a qualified marine biologist for pinnipeds. As the disturbance threshold level sound is expected to extend at least 1,000 feet from the steel pile driving operations, a safety zone will be established around the steel pile driving site and monitored for pinnipeds within a 1,200-foot-radius safety zone around the pile. As the steel pile driving site will move with each new pile, the 1,200 foot safety zone will move accordingly. Observers on shore or by boat will survey the safety zone to ensure that no marine mammals are seen within the zone before pile driving of a steel pile segment begins. If marine mammals are found within the safety zone, pile driving of the segment will be delayed until they move out of the area. If a marine mammal is seen above water and then dives below, the biologist will instruct the contractor to wait at least 15 minutes, and if no marine mammals are seen by the biologist in that time, it may be assumed that the animal has moved beyond the safety zone. This 15-minute criterion is based on a study indicating that pinnipeds dive for a mean time of 0.50 minutes to 3.33 minutes; the 15-minute delay will allow a more than sufficient period of observation to be reasonably sure the animal has left the project vicinity.</p> <p>If pinnipeds enter the safety zone after pile driving of a segment has begun, pile driving will continue. The biologist will monitor and record the species and number of individuals observed, and make note of their behavior patterns. If the animal appears distressed and, if it is operationally safe to do so, pile driving will cease until the animal leaves the area. Pile driving cannot be terminated safely and without severe operational difficulties until reaching a designated depth. Therefore, if it is deemed operationally unsafe by the project engineer to discontinue pile driving activities, and a pinniped is observed in the safety zone, pile driving activities will continue until the critical depth is reached (at which time pile driving will cease) or until the pinniped leaves the safety zone. Prior to the initiation of each new pile driving episode, the area will again be thoroughly surveyed by the biologist</p>	<p>construction procedures. LAHD shall arrange for the presence of a qualified biologist to monitor during construction activity.</p>	<p>Management Division</p>
Cultural Resources: Construction		
MM CR-3: Stop Work If Unanticipated Cultural Resources Are Identified	Timing: During initial ground disturbance	Implementation: LAHD,

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>During Ground Disturbing Activities. In the event that any artifact or an unusual amount of bone, shell, or non-native stone is encountered during construction, work will be immediately stopped and relocated from that area. The contractor will stop construction within 100 feet of the exposure of these finds until a qualified archaeologist, retained by LAHD in advance of construction, can be contacted to evaluate the find (see 36 CFR 800.1.1.1 and pertinent CEQA regulations). Examples of such cultural materials might include concentrations of ground stone tools such as mortars, bowls, pestles, and manos; chipped stone tools such as projectile points or choppers; flakes of stone not consistent with the immediate geology such as obsidian or fused shale; trash pits containing bottles and/or ceramics; or structural remains. If the resources are found to be significant, they will be avoided or will be mitigated consistent with SHPO guidelines as appropriate. All construction equipment operators will attend a pre-construction meeting presented by a professional archaeologist retained by LAHD to review types of cultural resources and artifacts that would be considered potentially significant to ensure operator recognition of these materials during construction.</p> <p>If human remains are encountered, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains. The Los Angeles County Coroner will be contacted to determine the age and cause of death. If the remains are not of Native American heritage, construction in the area may recommence. If the remains are of Native American origin, the most likely descendants of the deceased will be identified by the NAHC. LAHD and the USACE will consult with the Native American most likely descendant(s) to identify a mutually acceptable strategy for treating and disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98. If the NAHC is unable to identify a most likely descendant; if the descendant fails to make a recommendation within 24 hours of being notified by the NAHC, LAHD, or the USACE; and if the descendant is not capable of reaching a mutually acceptable strategy through mediation by the NAHC, the Native American human remains and associated grave goods will be reburied with appropriate dignity on the proposed project site in a location not subject to further subsurface disturbance.</p>	<p>during construction</p> <p>Methods: To avoid or reduce this potential impact, the Environmental Management Division (EMD) shall retain a qualified archaeologist. The Construction Manager/Contractor shall instruct construction personnel as part of normal construction procedures to halt/redirect construction activities if any materials are uncovered that are suspect of being associated with historical or prehistoric occupation. If materials are found, the construction contractor shall contact the Construction Manager, EMD, and archeologist</p>	<p>archaeological consultants (ICF Jones & Stokes), Developer through construction contractor</p> <p>Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
Geology: Construction and Operation		

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>MM GEO-1. Emergency response planning. The tenants within the proposed project area will work with Port engineers and LAHD police to develop tsunami response training and procedures to assure that construction and operations personnel will be prepared to act in the event of a large seismic event. Such procedures will include immediate evacuation requirements in the event that a large seismic event is felt at the proposed project site, as part of overall emergency response planning for this proposed Project.</p> <p>Such procedures will be included in any bid specifications for construction or operations personnel, with a copy of such bid specifications to be provided to LAHD, including a completed copy of its operations emergency response plan prior to commencement of construction activities and/or operations.</p>	<p>Timing: At beginning of Construction and within first year of Operation (with annual updates)</p> <p>Method: Construction: LAHD Engineering Division shall provide procedures for inclusion in bid specifications. Such procedures will be included in any bid specifications for construction or operations personnel, with a copy of such bid specifications to be provided to LAHD, including a completed copy of its operations emergency response plan prior to commencement of construction activities and/or operations. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases.</p> <p>Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications</p> <p>Method: Operations: General requirements of this measure shall be incorporated into the lease. All tenants and LAHD shall prepare an emergency response plan for submittal to the LAHD within first year of operation. Enforcement shall include oversight by the Real Estate Division. Annual staff reports shall be made available to the Board at a regularly scheduled public Board Meeting.</p>	<p>Implementation: LAHD and Developer through Construction Contractor; tenant for operations.</p> <p>Monitoring and Reporting: Environmental Management Division, Port Operations, Construction Management Division, Real Estate Division.</p>
Groundwater and Soils: Construction		
<p>MM GW-1. Complete site remediation. Unless otherwise authorized by the lead regulatory agency for any given site, the LAHD will remediate all</p>	<p>Timing: Prior to or during grading activities</p> <p>Method: Soil and groundwater remediation</p>	<p>Implementation: LAHD through Construction</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>contaminated soils within proposed project boundaries prior to or during demolition and grading activities. Remediation will occur in compliance with local, state, and federal regulations and as directed by the LACFD, DTSC, and/or RWQCB.</p> <p>Soil remediation will be completed such that contamination levels are below health screening levels established by OEHHA and/or applicable action levels established by the lead regulatory agency with jurisdiction over the site. Use of localized soil capping/paving, combined with agency-approved deed restrictions, may be an acceptable remediation measure in upland areas and/or risk-based soil assessments, but would be subject to the discretion of the lead regulatory agency.</p> <p>Existing groundwater contamination throughout the proposed project boundary will continue to be monitored and remediated, simultaneous and/or subsequent to site redevelopment, in accordance with direction provided by the RWQCB.</p> <p>Unless otherwise authorized by the lead regulatory agency for any given site, areas of soil contamination that will be remediated prior to or in conjunction with project demolition, grading, and construction would include, but not be limited to, the properties within and adjacent to the proposed Project.</p>	<p>shall be completed such that contamination levels are below health screening levels established by OEHHA and/or applicable action levels established by the lead regulatory agency with jurisdiction over the site. Soil contamination waivers may be acceptable as a result of encapsulation (i.e., paving) and/or risk-based soil assessments, but would be subject to the discretion of the lead regulatory agency.</p>	<p>Contractor.</p> <p>Monitoring and Reporting: Environmental Management Division, Construction Management Division, Real Estate Division, Real Estate Division. Environmental Management Division will conduct independent soil sampling as appropriate.</p>
<p>MM GW-2. LAHD will prepare a contamination contingency plan for non-specific facilities. The project site has a long history of industrial activity, so it is possible that future construction activity could encounter historical soil or groundwater contamination that had not been previously reported to regulatory agencies. The following contingency plan will be implemented to address previously unknown contamination during demolition, grading, and construction:</p> <p>a) All trench excavation and fill operations will be observed for the presence of chemicals of potential concern and petroleum products. Soils that are suspected to be impacted with chemicals of potential concern and/or petroleum products will be segregated from clean soil. Indications of contaminated/impacted soil may include but are not limited to: discolored soil, petroleum or organic odors, and/or visible sheen. In the event unexpected suspected chemically impacted material (soil or water) is encountered during construction, the contractor will notify LAHD's Chief Harbor Engineer, Director of Environmental Management, and Risk Management's Industrial Hygienist. LAHD will confirm the presence of</p>	<p>Timing: Prior to construction</p> <p>Method: LAHD will prepare a contamination contingency plan and the plan shall be included in bid specifications. Developer shall include the plan in any bid specifications. Such procedures will be included in any bid specifications for construction or operations personnel, with a copy of such bid specifications to be provided to LAHD, including a completed copy of its operations emergency response plan prior to commencement of construction activities and/or operations. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity. The contractor shall adhere to these specifications and Compliance</p>	<p>Implementation: LAHD through Construction Contractor; Developer undertake soil disturbing construction activities.</p> <p>Monitoring and Reporting: Environmental Management Division, Construction Management Division, Real Estate Division, Real Estate Division. Environmental Management Division will conduct independent soil sampling as appropriate.</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>the suspect material; direct the contractor to remove, stockpile, or contain the material; and characterize the suspect material identified within the boundaries of the construction area. Continued work at a contaminated site will require the approval of the Chief Harbor Engineer.</p> <p>b) As warranted, appropriate air monitoring equipment (e.g., photoionization detector, combustible gas indicator, organic vapor analyzer, etc.) will be present during grading and/or excavation activities in soils that are suspected to be impacted with chemicals of concern and/or petroleum products.</p> <p>c) Excavation of VOC-impacted soil will require obtaining and complying with a South Coast Air Quality Management District Rule 1166 permit.</p> <p>d) The remedial option(s) selected will be dependent upon a number of criteria (including but not limited to types of chemical constituents, concentration of the chemicals, health and safety issues, time constraints, cost, etc.) and will be determined on a site-specific basis. Both off-site and on-site remedial options will be evaluated.</p> <p>e) The extent of removal actions will be determined on a site-specific basis. At a minimum, the chemically impacted area(s) within the boundaries of the construction area will be remediated to the satisfaction of the lead regulatory agency for the site. The LAHD Project Manager overseeing removal actions will inform the contractor when the removal action is complete.</p> <p>f) Copies of hazardous waste manifests or other documents indicating the amount, nature, and disposition of such materials will be submitted to the Chief Harbor Engineer within 30 days of project completion.</p> <p>g) In the event that suspected contaminated soil is encountered, all onsite personnel handling the suspected contaminated material must be trained in accordance with the federal Hazardous Waste Operations and Emergency Response (HAZWOPER) standard. This training provides precautions and protective measures for workers remediating contaminated sites. Workers not certified with HAZWOPER training will not be allowed to resume work in suspected contaminated areas until appropriate site characterization confirms that contaminated soil, groundwater, or soil vapor are not present.</p> <p>h) As warranted, real-time perimeter and ambient air monitoring stations will be established during all grading, excavation, trenching, and/or soil handling activities associated with contaminated soil.</p>	<p>Plan throughout construction phases.</p>	

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>i) All excavations will be filled with structurally suitable fill material that is free from contamination.</p>		
Transportation and Circulation (Ground): Construction		
<p>MM TC-1: Develop and implement a Traffic Control Plan throughout proposed project construction. In accordance with the City's policy on street closures and traffic diversion for arterial and collector roadways, the construction contractor will prepare a traffic control plan (to be approved by the city and county engineers) before construction. The traffic control plan will include:</p> <ul style="list-style-type: none"> a street layout showing the location of construction activity and surrounding streets to be used as detour routes, including special signage; a tentative start date and construction duration period for each phase of construction; the name, address, and emergency contact number for those responsible for maintaining the traffic control devices during the course of construction; and written approval to implement traffic control from other agencies, as needed. <p>Additionally, the traffic control plan will include the following stipulations.</p> <ul style="list-style-type: none"> Provide access for emergency vehicles at all times. Avoid creating additional delay at intersections currently operating at congested conditions, either by choosing routes that avoid these locations, or constructing during nonpeak times of day. Maintain access for driveways and private roads, except for brief periods of construction, in which case property owners will be notified. Provide adequate off-street parking areas at designated staging areas for construction-related vehicles. Maintain pedestrian and bicycle access and circulation during proposed project construction where safe to do so. If construction encroaches on a sidewalk, a safe detour will be provided for pedestrians at the nearest crosswalk. If construction encroaches on a bike lane, warning signs will be posted that indicate bicycles and vehicles are sharing the roadway. 	<p>Timing: Prior to construction activities, to be implemented during construction.</p> <p>Methods: This measure shall be completed by the LAHD and Developer, with compliance reported to the Board of Harbor Commissioners.</p>	<p>Implementation: LAHD and Developer</p> <p>Monitoring and Reporting: LAHD Environmental Management and Engineering Divisions</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>Traffic controls may include flag persons wearing Occupational Safety and Health Administration–approved vests and using a “Stop/Slow” paddle to warn motorists of construction activity.</p> <p>Maintain access to Metro, LADOT, MAX, PVPTA, and LAHD transit services and ensure that public transit vehicles are detoured.</p> <p>Post standard construction warning signs in advance of the construction area and at any intersection that provides access to the construction area.</p> <p>Construction warning signs will be posted, in accordance with local standards or those set forth in the Manual on Uniform Traffic Control Devices (Federal Highway Administration 2001) in advance of the construction area and at any intersection that provides access to the construction area.</p> <p>During lane closures, notify LAFD and LAPD, as well as the Los Angeles County Sheriff’s and Fire Departments, of construction locations to ensure that alternative evacuation and emergency routes are designed to maintain response times during construction periods, if necessary.</p> <p>Provide written notification to contractors regarding appropriate routes to and from construction sites, and weight and speed limits for local roads used to access construction sites. Submit a copy of all such written notifications to the City of Los Angeles Planning Department.</p> <p>Repair or restore the road right-of-way to its original condition or better upon completion of the work.</p>		
Noise: Construction		
<p>MM NOI-1. Construct temporary noise barriers, muffle and maintain construction equipment, prohibit idling, locate equipment, use quiet construction equipment, and notify residents. The following will reduce the impact of noise from construction activities:</p> <p>a) Temporary Noise Barriers. When construction is occurring within 500 feet of a residence or park, temporary noise barriers (solid fences or curtains) will be located between noise-generating construction activities and sensitive receivers.</p> <p>b) Construction Equipment. All construction equipment powered by internal</p>	<p>Timing: Throughout all construction phases.</p> <p>Methods: This measure shall be incorporated into contract specifications for all construction work to reduce noise the impacts. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include</p>	<p>Implementation: LAHD and Developer through Construction Contractor</p> <p>Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>combustion engines will be properly muffled and maintained.</p> <p>c) Idling Prohibitions. Unnecessary idling of internal combustion engines near noise sensitive areas will be prohibited.</p> <p>d) Equipment Location. All stationary noise-generating construction equipment, such as air compressors and portable power generators, will be located as far as practical from existing noise sensitive land uses.</p> <p>e) Quiet Equipment Selection. Select quiet construction equipment whenever possible. Comply where feasible with noise limits established in the City of Los Angeles Noise Ordinance.</p> <p>f) Notification. Notify residents within 500 feet to the proposed project site of the construction schedule in writing.</p>	<p>oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p>	
<p>MIM NOI-2. Construction Hours. Construction activities for the proposed Project would not exceed the ambient noise level by 5 dBA at a noise sensitive use between the hours of 6:00 p.m. and 7:00 a.m. Monday through Friday, before 8:00 a.m. or after 6:00 p.m. on Saturday, or at any time on Sunday. If extended construction hours are needed during weekdays under special circumstances, LAHD and the contractor will provide at least 72 hours' notice to sensitive receptors within 0.5 miles of the construction area. Under no circumstances will construction hours exceed the range prescribed by the City of Los Angeles Municipal Code.</p>	<p>Timing: During construction.</p> <p>Methods: This measure shall be incorporated into contract specifications for all construction work to reduce noise the impacts. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p>	<p>Implementation: LAHD and Developer through Construction Contractor</p> <p>Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
Utilities and Public Services: Construction		

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>MM PS-2: Recycle construction materials. Demolition and/or excess construction materials will be separated on site for reuse/recycling or proper disposal. During grading and construction, separate bins for recycling of construction materials will be provided on site.</p>	<p>Timing: Throughout construction. Methods: This measure shall be incorporated into contract specifications for all construction work to improve recycling efforts. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager to ensure compliance with contract specifications.</p>	<p>Implementation: LAHD and Developer through Construction Contractor Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
<p>MM PS-3: Use materials with recycled content. Materials with recycled content, such as recycled steel from framing and recycled concrete and asphalt from roadway construction, will be used in project construction. Wood chippers registered through the California Air Resources Board's Portable Equipment Registration Program will be operated on site during construction. Wood from tree removal, not from demolished structures, will be reused as landscape cover, further reducing the quantity of wood that would otherwise be disposed of at solid waste facilities.</p>	<p>Timing: Throughout construction. Methods: This measure shall be incorporated into contract specifications for all construction work to improve recycling efforts. The contractor(s) shall submit an Environmental Compliance Plan for review and approval by LAHD prior to beginning of any construction activity. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager to ensure compliance with contract specifications.</p>	<p>Implementation: LAHD and Developer through Construction Contractor Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
Utilities and Public Services: Operation		

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>MM PS-4: Comply with AB 939. LAHD and Port tenants will implement a Solid Waste Management Program including the following measures to achieve a 50% reduction of current waste generation percentages by 2037 and ensure compliance with the California Solid Waste Management Act (AB 939).</p> <ol style="list-style-type: none"> Provide space and/or bins for storage of recyclable materials on the project site. All garbage and recycle bin storage space will be enclosed and plans will show equal area availability for both garbage and recycle bins in storage spaces. Establish a recyclable material pick-up area for commercial buildings. Participate in a curbside recycling program to serve the new development. Develop a plan for accessible collection of materials on a regular basis. Develop source reduction measures that indicate the method and amount of expected reduction. Implement a program to purchase materials that have recycled content for project construction and operation (e.g., lumber, plastic, office supplies). Provide a resident-tenant/employee education pamphlet to be used in conjunction with available Los Angeles County and federal source reduction educational materials. The pamphlet will be provided to all commercial tenants by the leasing/property management agency. Include lease language requiring tenant participation in recycling/waste reduction programs, including specification that janitorial contracts support recycling. 	<p>Timing: Throughout all operational years.</p> <p>Methods: This measure shall be incorporated into the Cruise Line, Cruise Terminal, Catalina Express, Tug Company and Ports O'Call Developer leases. If the tenant proposes replacing any mitigation measure, the tenant must first make a formal request to the Port's Executive Director. The Executive Director will then consider the proposal. Annual staff reports shall be made available to the Board at a regularly scheduled public Board Meeting.</p>	<p>Implementation: Cruise Line, Cruise Terminal, Catalina Express, Tug Company and Ports O'Call Developer leases and LAHD</p> <p>Monitoring and Reporting: LAHD Environmental Management and Real Estate Divisions</p>
<p>MM PS-5: Water Conservation and Wastewater Reduction. LAHD and Port tenants will implement the following water conservation and wastewater reduction measures to further reduce impacts on water demand and wastewater flows.</p> <ol style="list-style-type: none"> The landscape irrigation system will be designed, installed, and tested to provide uniform irrigation coverage for each zone. Sprinkler head patterns will be adjusted to minimize overspray onto walkways and streets. Each zone (sprinkler valve) will water plants having similar watering needs (i.e., shrubs, flowers, and turf will not be in the same watering zone). Automatic irrigation timers will be set to water landscaping during early morning or late evening hours to reduce water losses from evaporation. Irrigation run times will be adjusted for all zones seasonally, reducing length and 	<p>Timing: Throughout all operational years.</p> <p>Methods: This measure shall be incorporated into the Cruise Line, Cruise Terminal, Catalina Express, Tug Company and Ports O'Call Developer leases. If the tenant proposes replacing any mitigation measure, the tenant must first make a formal request to the Port's Executive Director. The Executive Director will then consider the proposal. Annual staff reports shall be made available to the Board at a regularly scheduled public Board Meeting.</p>	<p>Implementation: Cruise Line, Cruise Terminal, Catalina Express, Tug Company and Ports O'Call Developer leases and LAHD</p> <p>Monitoring and Reporting: LAHD Environmental Management and Real Estate Divisions</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>frequency of waterings in the cooler months (i.e., fall, winter, spring). Adjust sprinkler timer run time to avoid water runoff, especially when irrigating sloped property. Sprinkler times will be reduced once drought-tolerant plants have been established.</p> <p>b. Drought-tolerant, low water consuming plant varieties will be used to reduce irrigation water consumption.</p> <p>c. Recycled water will be used for irrigation and toilet flushing (dual-flushing)</p> <p>d. Ultra-low-flush toilets, ultra-low-flush urinals, and water-saving showerheads must be installed in both new construction and when remodeling. Low flow faucet aerators will be installed on all sink faucets.</p> <p>e. Significant opportunities for water savings exist in air conditioning systems that utilize evaporative cooling (i.e., employ cooling towers). LADWP will be contacted for specific information of appropriate measures.</p> <p>f. Recirculating or point-of-use hot water systems will be installed to reduce water waste in long piping systems where water must be run for considerable period before heated water reaches the outlet.</p>		
<p>MIM PS-6: Employ energy conservation measures. During the design process, LAHD will consult with LADWP's Efficiency Solutions Business Group regarding possible energy efficiency measures. LAHD and its tenants will incorporate measures to meet or, if possible, exceed minimum efficiency standards for Title XXIV of the California Code of Regulations, such as:</p> <p>a. Built-in appliances, refrigerators, and space-conditioning equipment will exceed the minimum efficiency levels mandated in the California Code of Regulations.</p> <p>b. High-efficiency air conditioning will be installed that is controlled by a computerized energy-management system in office and retail spaces and provides the following:</p> <ul style="list-style-type: none"> a variable air-volume system that results in minimum energy consumption and avoids hot water energy consumption for terminal reheat, a 100% outdoor air-economizer cycle to obtain free cooling in appropriate climate zones during dry climatic periods, sequentially staged operation of air-conditioning equipment in accordance with building demands, 	<p>Timing: Throughout all operational years.</p> <p>Methods: This measure shall be incorporated into the Cruise Line, Cruise Terminal, Catalina Express, Tug Company and Ports O'Call Developer leases. If the tenant proposes replacing any mitigation measure, the tenant must first make a formal request to the Port's Executive Director. The Executive Director will then consider the proposal. Annual staff reports shall be made available to the Board at a regularly scheduled public Board Meeting.</p>	<p>Implementation: Cruise Line, Cruise Terminal, Catalina Express, Tug Company and Ports O'Call Developer leases and LAHD</p> <p>Monitoring and Reporting: LAHD Environmental Management and Real Estate Divisions</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>the isolation of air conditioning to any selected floor or floors, and considers the applicability of the use of thermal energy storage to handle cooling loads.</p> <p>c. Ventilation air will be cascaded from high-priority areas before being exhausted, thereby decreasing the volume of ventilation air required. For example, air could be cascaded from occupied space to corridors and then to mechanical spaces before being exhausted.</p> <p>d. Lighting system heat will be recycled for space heating during cool weather. While exhaust lighting-system heat will be recycled from the buildings, via ceiling plenums, to reduce cooling loads in warm weather.</p> <p>e. Low and medium static-pressure terminal units will be installed, as well as ductwork to reduce energy consumption by air-distribution systems.</p> <p>f. Buildings must be well sealed to prevent outside air from infiltrating and increasing interior space-conditioning loads. Where applicable, design building entrances with vestibules to restrict infiltration of unconditioned air and exhausting of conditioned air.</p> <p>g. A performance check of the installed space-conditioning system will be completed by the developer/installer prior to issuance or the certificate of occupancy to ensure that energy-efficiency measures incorporated into the proposed Project operate as designed.</p> <p>h. Exterior walls will be finished with light-colored materials and high-emissivity characteristics to reduce cooling loads. Interior walls will be finished with light-colored materials to reflect more light and, thus increase light efficiency.</p> <p>i. White reflective material will be used for roofing meeting California standards for reflectivity and emissivity to reject heat.</p> <p>j. Thermal insulation that exceeds requirements established by the California Code of Regulations will be installed in walls and ceilings.</p> <p>k. Window systems will be designed to reduce thermal gain and loss, thus reducing cooling loads during warm weather and heating loads during cool weather.</p> <p>l. Heat-rejecting window treatments will be installed, such as films, blinds, draperies, or others on appropriate exposures.</p> <p>m. Fluorescent and high-intensity discharge lamps that give the highest light output per watt of electricity consumed will be installed wherever possible.</p>		

Mitigation Measure	Timing and Methods	Responsible Parties
<p>including all street and parking lot lighting, to reduce electricity consumption. Reflectors will be used to direct maximum levels of light to work surfaces.</p> <p>n. Photosensitive controls and dimmable electronic ballasts will be installed to maximize the use of natural daylight available and reduce artificial lighting load.</p> <p>o. Occupant-controlled light switches and thermostats to permit individual adjustment of lighting, heating, and cooling will be installed to avoid unnecessary energy consumption.</p> <p>p. Time-controlled interior and exterior public area light will be installed, limited to that which is necessary for safety and security.</p> <p>q. Mechanical systems (HVAC and lighting) in the building will be controlled with timing systems to prevent accidental or inappropriate conditioning or lighting of unoccupied space.</p> <p>r. Windowless walls or passive solar inset of windows will be incorporated, where feasible, in building design.</p> <p>s. Project will focus pedestrian activity within sheltered outdoor areas.</p>		
Recreation: Construction		
<p>MIM REC-1. Maintain pedestrian access during construction. The LAHD and construction contractors will follow standard safety procedures to protect pedestrian traffic from construction hazards, including providing brightly colored fencing and signage indicating closures and safely directing pedestrian traffic around construction areas. This will also require coordinated construction activities such that pedestrian access can be routed around construction with a minimum increase in distance.</p>	<p>Timing: During Construction Methods: This measure shall be incorporated into the LAHD and Developer design and contract specifications. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p>	<p>Implementation: LAHD and Developer through Construction Contractor Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
<p>MIM REC-2. Maintain bicycle access during construction. The LAHD and construction contractors will provide signage notifying users of bike lanes of closure as well as signage directing users to alternative bike routes. Alternative</p>	<p>Timing: During Construction Methods: This measure shall be incorporated into the LAHD and Developer design and</p>	<p>Implementation: LAHD and Developer through</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>bike lanes in the proposed project vicinity include a north-south Class II bike path along the entire length of South Gaffey Street, and an east-west Class III bike path on 9th from North Harbor Boulevard west to State Route 213. LAHD will be required to inform the public prior to commencement of construction resulting in closures or possible disruptions to bike paths. Public sources to notify will, at minimum, include the City of Los Angeles Department of Transportation Bicycle Program, and Los Angeles area bicycling groups.</p>	<p>contract specifications. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p>	<p>Construction Contractor Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
<p>MIM REC-3. Maintain parking during construction. The LAHD and construction contractors will minimize parking obstructions during construction periods by placing construction areas out of roadways and parking lots, where possible. In areas where construction staging areas and construction activities must impede access to parking areas, detour signs and lane striping will direct traffic to additional off-site parking areas. LAHD will provide shuttle service to remote parking areas in the event that offsite parking areas are farther than 1 mile from existing waterfront areas and the Waterfront Red Car Line does not adequately service the offsite parking areas.</p>	<p>Timing: During Construction Methods: This measure shall be incorporated into the LAHD and Developer design and contract specifications. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p>	<p>Implementation: LAHD and Developer through Construction Contractor Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
<p>MIM REC-4. Maintain vehicle access during construction. The LAHD and construction contractors will minimize obstructions to vehicle access during construction periods by placing construction areas out of roadways and parking lots, where possible. In areas where construction staging areas and construction activities must impede access to roadways, detour signs and lane striping will safely direct traffic around construction areas.</p>	<p>Timing: During Construction Methods: This measure shall be incorporated into the LAHD and Developer design and contract specifications. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p>	<p>Implementation: LAHD and Developer through Construction Contractor Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
<p>MIM REC-6. Maintain access to open waters of the harbor during construction. The LAHD and construction contractors will minimize obstructions to open waters of the harbor during construction periods by placing</p>	<p>Timing: During Construction Methods: This measure shall be incorporated into the LAHD and Developer design and</p>	<p>Implementation: LAHD and Developer through Construction Contractor</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
<p>construction staging areas out of high-traffic waterways, parking lots leading to boat ramps, and boat docks, where possible. LAHD will embark on a public awareness campaign, providing information about construction periods, construction areas, closures, and suggestions of alternative boating areas. LAHD will inform the public prior to commencement of construction that will result in closures or possible disruptions to open waters of the harbor. Public notifications will, at minimum, include notifying local boating groups and posting flyers at boat ramps in the proposed project vicinity. LAHD will offer boater safety training for the public, specifically with respect to safe navigation around construction activities.</p> <p>MM REC-7. Maintain docking space and dock access during construction. The LAHD and construction contractors will minimize obstructions to docking space and dock access during construction periods by placing construction staging areas away from boat docks where possible. LAHD will embark on a public awareness campaign, providing information about construction periods, construction areas, closures, and suggestions of alternative boating areas and docking locations. In cases where docking space will be closed or removed and existing tenants need alternative docking space, LAHD will provide temporary docking space in the near vicinity of the proposed Project. LAHD will provide notification and signage to direct users to these temporary alternative docking areas. LAHD will inform the public prior to commencement of construction that will result in closures or possible disruptions to dock access. Public notifications will, at minimum, include notifying local boating groups and posting flyers at boat ramps in the proposed project vicinity. LAHD will offer boater safety training for the public, specifically with respect to safe navigation around construction activities.</p>	<p>contract specifications. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p> <p>Timing: During Construction Methods: This measure shall be incorporated into the LAHD and Developer design and contract specifications. The contractor shall adhere to these specifications and Compliance Plan throughout construction phases. Enforcement shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.</p>	<p>Monitoring and Reporting: Environmental Management Division, Construction Management Division</p> <p>Implementation: LAHD and Developer through Construction Contractor</p> <p>Monitoring and Reporting: Environmental Management Division, Construction Management Division</p>
Other Requirements: Construction		
<p>Adherence to program to mitigate impacts on nonrenewable paleontologic resources developed by LAHD pursuant to MM CR-4</p>	<p>Timing: During Construction Methods: The Paleontological Monitoring and Mitigation Plan San Pedro Waterfront Project shall be incorporated into the LAHD and Developer design and contract specifications. The contractor shall adhere to this Plan throughout construction phases. Enforcement</p>	<p>Implementation: LAHD and Developer through Construction Contractor</p> <p>Monitoring and Reporting: Environmental Management Division, Construction</p>

<i>Mitigation Measure</i>	<i>Timing and Methods</i>	<i>Responsible Parties</i>
	shall include oversight by the LAHD project/construction manager or designated building inspectors to ensure compliance with contract specifications.	Management Division

EXHIBIT L

CITY'S ACCESS AGREEMENT

In accordance with Article 1, Section 1.4 of this Lease, the "City's Access Agreement" shall be attached to this Lease as Exhibit L.

EXHIBIT M

LESSEE'S LICENSE

In accordance with Article 2, Section 6.1.2 of this Lease, the "License" form shall be attached to this Lease as Exhibit M.

EXHIBIT N

LEASEHOLD MORTGAGES

1. **Leasehold Mortgages Permitted.** Notwithstanding anything herein to the contrary, subject to the provisions of Section 15.8, Lessee shall have the right at any time and from time to time to mortgage, pledge, grant deed(s) of trust or otherwise encumber the leasehold estate created by this Lease and all or any portion of the right, title and interest of Lessee hereunder (including Lessee's interest in the improvements), and to assign, hypothecate or pledge the same, as security for the payment of any debt to a Leasehold Mortgagee; provided, that no mortgagee, trustee or other person claiming by, through or under any mortgage, deed of trust or other instrument of encumbrance instrument creating any such encumbrance (herein, a "**Leasehold Mortgage**") shall by virtue thereof acquire any greater right in the Premises than Lessee then had under this Lease, except for the rights expressly granted to such mortgagee, trustee or other person under the terms of this Lease and any separate agreement between such Leasehold Mortgagee and City; and provided further, that such, and the indebtedness secured thereby, shall at all times be and remain subject to all of the conditions, covenants and obligations of this Lease and to all of the rights of City hereunder.

2. **Terms of Leasehold Mortgage.** Notwithstanding anything in Section 15.8 to the contrary, as to any Leasehold Mortgage in favor of a Leasehold Mortgagee, City consents to provisions therein, at the option of Lessee, (a) for an assignment of Lessee's share of the net proceeds from any award or other compensation resulting from a total or partial taking as set forth in this Lease, (b) for the entry of any Leasehold Mortgagee upon the Premises to view the state of the Premises, without notice to City, (c) that a default by Lessee under this Lease shall constitute a default under any such Leasehold Mortgage, (d) for an assignment of Lessee's right, if any, to terminate, cancel, modify, extend, change, supplement, alter or amend this Lease, (e) for an assignment of any sublease to which any such Leasehold Mortgage is subordinated, subject to the rights of City hereunder, and (f) effective upon any default in any such Leasehold Mortgage, (i) for the foreclosure of the Leasehold Mortgage pursuant to a power of sale by judicial proceedings or other lawful means or the acceptance of the leasehold estate by assignment in lieu of foreclosure and the subsequent sale by such purchaser and/or a sale by any subsequent purchaser, (ii) for the appointment of a receiver, irrespective of whether the Leasehold Mortgagee accelerates the maturity of all indebtedness secured by the Leasehold Mortgage, (iii) for the rights of the Leasehold Mortgagee or the receiver or any purchaser of the leasehold estate at a foreclosure sale to enter and take possession of the Premises, to manage and operate the same, to collect the subrentals, issues and profits therefrom (subject to the rights of City hereunder), and to cure any default under the Leasehold Mortgage or any default by Lessee under this Lease (as further provided in the Lease), and (iv) for an assignment of Lessee's right, title and interest in and to the premiums for or dividends upon any insurance required by the terms of this Lease, as well as in all refunds or rebates of taxes or assessments upon or other charges against the Premises, whether paid or to be paid.

3. **Notice to Leasehold Mortgagee.** At any time after the execution and recordation of any Leasehold Mortgage, the Leasehold Mortgagee may notify City in writing that any such mortgage or deed of trust has been given and executed by Lessee, and shall at the same time furnish City with a copy of the Leasehold Mortgage, together with the address to which it desires copies of notices to be mailed. City hereby agrees that it will thereafter mail to the Leasehold Mortgagee, at the address so given, duplicate copies of any and all notices in writing which City may from time to time give or serve upon (or be required to give or serve upon) Lessee under and pursuant to the terms and provisions of this Lease simultaneously therewith. Until such time as City shall have received written notice of a Leasehold Mortgage and the address to which the Leasehold Mortgagee thereunder desires copies of notices to be mailed, City shall be under no obligation to provide copies of notices to a Leasehold Mortgagee.

4. **Right to Cure.** The Leasehold Mortgagee shall have the right, within the same period of time as given to Lessee, and to the same extent and with the same effect as though done by Lessee, to take such action or to make such payment as may be necessary or appropriate to cure any matter required to be performed under this Lease, it being the intention of the Parties hereto that City shall not exercise its right to terminate this Lease (or Lessee's right to possession) without first affording to the Leasehold Mortgagee the same rights and same notices provided in this Lease for the benefit of Lessee and the same period or periods of time afforded to Lessee within which to cure any matter to be cured hereunder, including the right to enter into possession of the Premises; provided, however, if no notice and cure period is otherwise provided in this Lease with respect to such default and such default is otherwise capable of being cured by such Leasehold Mortgagee (or a party acting under such Leasehold Mortgagee's direction), City shall nevertheless give such Leasehold Mortgagee written notice of such default and a reasonable opportunity to cure such default before City exercises its remedies under the Lease. In the event City fails to give such simultaneous written notice to the Leasehold Mortgagee, City shall be prohibited from exercising its remedies under this Lease until such notice is given and Leasehold Mortgagee is given the benefit of any applicable grace or cure periods granted to Lessee or Leasehold Mortgagee that commences upon receipt of a notice of default. Any Leasehold Mortgage given to a Leasehold Mortgagee by Lessee may, if Lessee desires, be so conditioned as to provide between any such Leasehold Mortgagee or trustee and Lessee, that said Leasehold Mortgagee or trustee, on making good and curing any such matter to be performed by Lessee, shall be thereby subrogated to or put in the position of assignee of any or all of the rights of Lessee under the terms and provisions of this Lease, and City shall upon the request of such Leasehold Mortgagee or trustee recognize such subrogation or assignment.

5. **Foreclosure by Leasehold Mortgagee.** Notwithstanding anything to the contrary in this Lease, City shall not be entitled to exercise its right to terminate this Lease (or to terminate Lessee's right to possession hereunder) during the period that the Leasehold Mortgagee shall require to foreclose its mortgage or otherwise to fulfill or complete its remedies under such Leasehold Mortgage or to cure any default, provided that (a) in no event shall such period of time: (1) exceed one hundred eighty (180) days and (2) within such period of time such Leasehold Mortgagee proceeds promptly and

with due diligence with its remedies under its Leasehold Mortgage and thereafter prosecutes the same with all due diligence; and (b) there is paid to City the Rent and all other sums which become due and payable under this Lease during such period and all other obligations of Lessee under this Lease are observed and performed; provided, however, Leasehold Mortgagee shall have no obligation or liability for any indemnity obligations of Lessee. The Leasehold Mortgagee shall not be required to continue such foreclosure proceedings if a default shall be cured prior to the completion of such proceedings.

6. New Lease With Leasehold Mortgagee Upon Termination. If this Lease (or if Lessee's right to possession hereunder) shall terminate by reason of the occurrence of any default, City agrees that the Leasehold Mortgagee shall have the right, for a period of ninety (90) days subsequent to such termination of this Lease or of Lessee's right to possession hereunder to deliver to City written notice of the Leasehold Mortgagee's election to execute a new lease of the Premises of the character and, when executed and delivered and possession of the Premises is taken thereunder, having the effect hereinafter set forth. The new lease shall be executed by City and the Leasehold Mortgagee within ninety (90) days after the receipt by City of such written notice. Such new lease shall be for a term to commence at the termination of this Lease or of Lessee's right to possession hereunder and shall have as the date for the expiration thereof the same date stated in this Lease as the date for the expiration hereof. The rent thereof shall be at the same rate as would have been applicable during such term under the provisions of this Lease had this Lease not so terminated (or Lessee's right to possession hereunder had not so terminated), and all the rents, covenants, conditions and provisions of such new lease, including, but not limited to, the conditional limitations set forth in this Lease, shall be the same as the terms, conditions and provisions of this Lease. The parties intend and agree that the new lease shall have the same priority as this Lease and shall provide as such in a memorandum of lease. All of Lessee's right, title and interest in the improvements prior to the termination of this Lease (or the termination of Lessee's right to possession) shall automatically vest in the Leasehold Mortgagee upon the earlier to occur of (a) at the time that such new lease becomes effective or (b) the date Leasehold Mortgagee obtains title to such improvements pursuant to foreclosure, deed in lieu of foreclosure, or otherwise. The Leasehold Mortgagee shall, at the time of the execution and delivery of such new lease, pay to City all Rent and all other sums which would have become payable hereunder by Lessee to City to the date of the execution and delivery of such new lease had this Lease not terminated (or Lessee's right to possession terminated) other than sums arising from any indemnity obligations, and which remain unpaid at the time of the execution and delivery of such new lease. Any such new lease as contemplated in this Section may, at the option of the Leasehold Mortgagee, be executed by a nominee of such holder, without the Leasehold Mortgagee assuming the burdens and obligations of Lessee thereunder beyond the period of its ownership of the leasehold estate created hereby.

7. No Voluntary Surrender of Leasehold Estate Without Consent Of Leasehold Mortgagee. So long as there exists an unpaid or undischarged Leasehold Mortgage on the estate of Lessee created hereby, City expressly agrees for the benefit

of the Leasehold Mortgagee that it will not accept from Lessee a voluntary surrender of the Premises or a cancellation of this Lease prior to the expiration of this Lease without the written consent of the Leasehold Mortgagee.

8. **Liability of Leasehold Mortgagee**. Except as otherwise provided for in this Lease, no Leasehold Mortgagee, trustee or purchaser under a Leasehold Mortgage shall be or become liable to City as an assignee of this Lease or otherwise until it expressly assumes by written instrument such liability. Notwithstanding anything to the contrary contained herein, it is expressly provided that any such Leasehold Mortgagee, trustee or purchaser shall only be liable to City for the payment and performance of Lessee's obligations hereunder accruing during the period that any such Leasehold Mortgagee, trustee or purchaser owns the Lessee's leasehold estate hereunder and that any such liability or obligation assumed by Leasehold Mortgagee shall be limited to Leasehold Mortgagee's interest in the Premises. Leasehold Mortgagee shall have no obligation to cure any default by Lessee under this Lease as a condition to Leasehold Mortgagee's assumption of this Lease through foreclosure, deed in lieu of foreclosure or otherwise or as a condition to a new lease; provided, that Leasehold Mortgagee shall, at the time of the execution and delivery of any new lease, pay to City all Rent and all other sums which would have become payable hereunder by Lessee to City to the date of the execution and delivery of such new lease had this Lease not terminated (or Lessee's right to possession terminated) other than sums arising from any indemnity obligations, and which remain unpaid at the time of the execution and delivery of such new lease.

9. **Modification of Lease**. Neither City nor Lessee shall enter into any material modification of the Lease amending the Rent, the Term or City's or Lessee's obligations under this Lease without the prior written consent of any Leasehold Mortgagee, which consent shall not be unreasonably withheld, conditioned or delayed. Any such modification to this Lease made while a Leasehold Mortgage is in effect that City has been given written notice of but without the prior written consent of the Leasehold Mortgagee shall not be effective or binding against the Leasehold Mortgagee.

EXHIBIT O

INSURANCE ASSESSMENT REQUEST



This section to be completed by Contract Administrator

To: Risk Management Date: 2/10/16
 From (Requesting Division): Comm. Waterfront RE Contract Type: Ground Lease
 Contact Person: Howie Phan Ext.: 4002 Document No.: _____
 Contract's Scope of Services: City of LA adopted the 2009 San Pedro Waterfront EIR/EIS to include the redevelopment of the Ports O' Call site at the Port of LA. The ground lease with Lessee will provide for the premises to be redeveloped for commercial, retail, restaurant and entertainment purposes.
 Length of Contract: Long term lease
 Will service be performed onsite? No Yes # of Days Onsite: _____
 Similar/Previous Contract # : NA, and Company Name: NA

This section to be completed by Risk Management

<input type="checkbox"/> No insurance required, only indemnification	
INSURANCE REQUIREMENTS	LIMITS (per occ)
<input checked="" type="checkbox"/> General Liability <input type="checkbox"/> Deletion of railroad exclusion <input type="checkbox"/> Terminal Operator's Liability <input type="checkbox"/> Garagekeepers Legal Liability <input checked="" type="checkbox"/> Liquor Liability required if liquor will be served <input type="checkbox"/> Explosion, collapse and underground hazards <input checked="" type="checkbox"/> Fire Legal Liability (Limits \$250K per occ)	\$5M
<input checked="" type="checkbox"/> Auto Liability (all autos) <input type="checkbox"/> On Hook Coverage	\$5M
<input checked="" type="checkbox"/> Workers' Compensation/Employer's Liability <input checked="" type="checkbox"/> USL&H required if work is performed over navigable waters <input checked="" type="checkbox"/> Waiver of Subrogation	STATUTORY
<input checked="" type="checkbox"/> Professional Liability as per Sec. 14.2.1.10 <input type="checkbox"/> Medical Malpractice <input type="checkbox"/> Law Enforcement Legal Liability	\$2M
<input type="checkbox"/> Railroad Protective Liability naming Pacific Harbor Line as the named insured	\$
<input checked="" type="checkbox"/> Ocean Marine Liability required if watercraft will be used <input checked="" type="checkbox"/> Protective & Indemnity <input checked="" type="checkbox"/> Hull & Machinery <input type="checkbox"/> Ship Builders/Repairers Liability	\$5M
<input checked="" type="checkbox"/> Property/All Risk Insurance	100% replacement value
<input checked="" type="checkbox"/> Pollution Liability	\$5M
<input checked="" type="checkbox"/> Builder's Risk (Reference Specification for exclusions)	Value of the project
<input type="checkbox"/> Fine Arts Insurance	Actual cash value
<input type="checkbox"/> Aviation/Airport Liability	\$
<input type="checkbox"/> Aircraft Liability (passenger liability per seat)	\$

Date Reviewed: 5/17/16 By: Jennifer M. Bersales
Risk Manager

INSURANCE ASSESSMENT REQUEST***This section to be completed by Contract Administrator***

To: Risk Management

Date: 2/10/16From (Requesting Division): Comm. Waterfront REContract Type: Ground LeaseContact Person: Howie Phan Ext.: 4002

Document No.: _____

Contract's Scope of Services: City of LA adopted the 2009 San Pedro Waterfront EIR/EIS to include the redevelopment of the Ports O' Call site at the Port of LA. The ground lease with Lessee will provide for the premises to be redeveloped for commercial, retail, restaurant and entertainment purposes.

Length of Contract: Long term leaseWill service be performed onsite? No Yes # of Days Onsite: _____Similar/Previous Contract # : NA, and Company Name: NA***This section to be completed by Risk Management*** No insurance required, only indemnification

INSURANCE REQUIREMENTS	LIMITS (per occ)
<input checked="" type="checkbox"/> General Liability <input type="checkbox"/> Deletion of railroad exclusion <input type="checkbox"/> Terminal Operator's Liability <input type="checkbox"/> Garagekeepers Legal Liability <input checked="" type="checkbox"/> Liquor Liability required if liquor will be served <input type="checkbox"/> Explosion, collapse and underground hazards <input checked="" type="checkbox"/> Fire Legal Liability (Limits \$250K per occ)	\$10M
<input checked="" type="checkbox"/> Auto Liability (all autos) <input type="checkbox"/> On Hook Coverage	\$10M
<input checked="" type="checkbox"/> Workers' Compensation/Employer's Liability <input checked="" type="checkbox"/> USL&H required if work is performed over navigable waters <input checked="" type="checkbox"/> Waiver of Subrogation	STATUTORY
<input checked="" type="checkbox"/> Professional Liability as per Sec. 14.2.1.10 <input type="checkbox"/> Medical Malpractice <input type="checkbox"/> Law Enforcement Legal Liability	\$2M
<input type="checkbox"/> Railroad Protective Liability naming Pacific Harbor Line as the named insured	\$
<input checked="" type="checkbox"/> Ocean Marine Liability required if watercraft will be used <input checked="" type="checkbox"/> Protective & Indemnity <input checked="" type="checkbox"/> Hull & Machinery <input type="checkbox"/> Ship Builders/Repairers Liability	\$10M
<input checked="" type="checkbox"/> Property/All Risk Insurance	100% replacement value
<input checked="" type="checkbox"/> Pollution Liability	\$10M
<input checked="" type="checkbox"/> Builder's Risk (Reference Specification for exclusions)	Value of the project
<input type="checkbox"/> Fine Arts Insurance	Actual cash value
<input type="checkbox"/> Aviation/Airport Liability	\$
<input type="checkbox"/> Aircraft Liability (passenger liability per seat)	\$

Date Reviewed: 5/17/16By: Jennifer M. Bersales

Risk Manager

EXHIBIT Q

NON-DISTURBANCE AND ATTORNMENT AGREEMENT

In accordance with Article 2, Section 16.3 of this Lease, the "Non-Disturbance and Attornment Agreement" form shall be attached to this Lease as Exhibit Q.

EXHIBIT R

AFFIRMATIVE ACTION PROGRAM PROVISIONS

Sec. 10.8.4 Affirmative Action Program Provisions.

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$100,000 or more and every construction contract with or on behalf of the City of Los Angeles for which the consideration is \$5,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such contract:

- A. During the performance of City contract, the contractor certifies and represents that the contractor and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
 - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. The contractor shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- C. As part of the City's supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, the contractor shall certify on an electronic or hard copy form to be supplied, that the contractor has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- D. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City contracts, and on their or either of their request to provide evidence that it has or will comply therewith.
- E. The failure of any contractor to comply with the Affirmative Action Program provisions of City contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding

AFFIRMATIVE ACTION PROGRAM PROVISIONS

authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.

- F. Upon a finding duly made that the contractor has breached the Affirmative Action Program provisions of a City contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City contract, there may be deducted from the amount payable to the contractor by the City of Los Angeles under the contract, a penalty of TEN DOLLARS (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a City contract.
- H. Notwithstanding any other provisions of a City contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
- I. The Public Works Board of Commissioners shall promulgate rules and regulations through the Office of Contract Compliance and provide to the awarding authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program.
- J. Nothing contained in City contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. The Contractor shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it registers to do business with the City. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve

AFFIRMATIVE ACTION PROGRAM PROVISIONS

months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, the contractor may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, the contractor must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.

1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
 2. A contractor may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the City with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and the contractor.
- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation;
 4. Upgrading training and opportunities;
 5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;

AFFIRMATIVE ACTION PROGRAM PROVISIONS

6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the City's Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the City and may be used at the discretion of the City in its Contract Compliance Affirmative Action Program.
- P. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by contractors or suppliers engaged in the performance of City contracts.
- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.

EXHIBIT S

ORDINANCE NO. 175115

An ordinance amending Section 10.8.2.1 of the Los Angeles Administrative Code in its entirety to clarify the requirement that City contractors shall not discriminate in the provision of employee benefits between employees with spouses and employees with domestic partners.

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Section 10.8.2.1 of the Los Angeles Administrative Code is amended to read:

Sec. 10.8.2.1. Equal Benefits Ordinance.

(a) Legislative Findings. The City awards many contracts to private firms to provide services to the public and to City government. Many City contractors and subcontractors perform services that affect the proprietary interests of City government in that their performance impacts the success of City operations. The City holds a proprietary interest in the work performed by many employees employed by City contractors and subcontractors. In a very real sense, the success or failure of City operations may turn on the success or failure of these enterprises, for the City has a genuine stake in how the public perceives the services rendered for them by these businesses.

Discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work. Los Angeles law prohibits entities doing business with the City from discriminating in employment practices based on marital status and/or sexual orientation. The City's departments and contracting agents are required to place in all City contracts a provision that the company choosing to do business with the City agrees to comply with the City's nondiscrimination laws.

It is the City's intent, through the contracting practices outlined in this Ordinance, to assure that those companies wanting to do business with the City will equalize the total compensation between similarly situated employees with spouses and with domestic partners. The provisions of this Ordinance are designed to ensure that the City's contractors will maintain a competitive advantage in recruiting and retaining capable employees, thereby improving the quality of the goods and services the City and its people receive, and ensuring protection of the City's property.

(b) Definitions. For purposes of the Equal Benefits Ordinance only, the following shall apply.

(1) **Awarding Authority** means any Board or Commission of the City, or any employee or officer of the City, that is authorized to award or enter into any Contract, as defined in this ordinance, on behalf of the City, and shall include departments having control of their own funds and which adopt policies consonant with the provisions of the Equal Benefits Ordinance.

(2) **Benefits** means any plan, program or policy provided or offered by a Contractor to its employees as part of the employer's total compensation package. This includes but is not limited to the following types of benefits: bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, and travel benefits.

(3) **Cash Equivalent** means the amount of money paid to an employee with a Domestic Partner (or spouse, if applicable) in lieu of providing Benefits to the employee's Domestic Partner (or spouse, if applicable). The Cash Equivalent is equal to the direct expense to the employer of providing Benefits to an employee for his or her Domestic Partner (or spouse, if applicable) or the direct expense to the employer of providing Benefits for the dependents and family members of an employee with a Domestic Partner (or spouse, if applicable).

(4) **City** means the City of Los Angeles.

(5) **Contract** means an agreement the value of which exceeds \$5,000. It includes agreements for work or services to or for the City, for public works or improvements to be performed, agreements for the purchase of goods, equipment, materials, or supplies, or grants to be provided, at the expense of the City or to be paid out of monies under the control of the City. The term also includes a Lease or License, as defined in the Equal Benefits Ordinance.

(6) **Contractor** means any person or persons, firm, partnership, corporation, joint venture, or any combination of these, or any governmental entity acting in its proprietary capacity, that enters into a Contract with any Awarding Authority of the City. The term does not include Subcontractors.

(7) **Designated Administrative Agency (DAA)** means the Office of the City Administrative Officer.

(8) **Domestic Partner** means any two adults, of the same or different sex, who have registered as domestic partners with a governmental entity pursuant to state or local law authorizing this registration or with an internal registry maintained by the employer of at least one of the domestic partners.

(9) **Equal Benefits Ordinance** means Los Angeles Administrative Code Section 10.8.2.1, *et seq.*, as amended from time to time.

(10) Equal Benefits means the equality of benefits between employees with spouses and employees with Domestic Partners, between spouses of employees and Domestic Partners of employees, and between dependents and family members of spouses and dependents and family members of Domestic Partners.

(11) Lease or License means any agreement allowing others to use property owned or controlled by the City, any agreement allowing others the use of City property in order to provide services to or for the City, such as for concession agreements, and any agreement allowing the City to use property owned or controlled by others.

(12) Subcontractor means any person or persons, firm, partnership, corporation, joint venture, or any combination of these, and any governmental entity, that assists the Contractor in performing or fulfilling the terms of the Contract. Subcontractors are not subject to the requirements of the Equal Benefits Ordinance unless they otherwise have a Contract directly with the City.

(c) Equal Benefits Requirements.

(1) No Awarding Authority of the City shall execute or amend any Contract with any Contractor that discriminates in the provision of Benefits between employees with spouses and employees with Domestic Partners, between spouses of employees and Domestic Partners of employees, and between dependents and family members of spouses and dependents and family members of Domestic Partners.

(2) A Contractor must permit access to, and upon request, must provide certified copies of all of its records pertaining to its Benefits policies and its employment policies and practices to the DAA, for the purpose of investigation or to ascertain compliance with the Equal Benefits Ordinance.

(3) A Contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment: "During the performance of a Contract with the City of Los Angeles, the Contractor will provide equal benefits to its employees with spouses and its employees with domestic partners." The posted statement must also include a City contact telephone number which will be provided each Contractor when the Contract is executed.

(4) A Contractor must not set up or use its contracting entity for the purpose of evading the requirements imposed by the Equal Benefits Ordinance.

(d) Other Options for Compliance. Provided that the Contractor does not discriminate in the provision of Benefits, a Contractor may also comply with the Equal Benefits Ordinance in the following ways:

(1) A Contractor may provide an employee with the Cash Equivalent only if the DAA determines that either:

a. The Contractor has made a reasonable, yet unsuccessful effort to provide Equal Benefits; or

b. Under the circumstances, it would be unreasonable to require the Contractor to provide Benefits to the Domestic Partner (or spouse, if applicable).

(2) Allow each employee to designate a legally domiciled member of the employee's household as being eligible for spousal equivalent Benefits.

(3) Provide Benefits neither to employees' spouses nor to employees' Domestic Partners.

(e) Applicability.

(1) Unless otherwise exempt, a Contractor is subject to and shall comply with all applicable provisions of the Equal Benefits Ordinance.

(2) The requirements of the Equal Benefits Ordinance shall apply to a Contractor's operations as follows:

a. A Contractor's operations located within the City limits, regardless of whether there are employees at those locations performing work on the Contract.

b. A Contractor's operations on real property located outside of the City limits if the property is owned by the City or the City has a right to occupy the property, and if the Contractor's presence at or on that property is connected to a Contract with the City.

c. The Contractor's employees located elsewhere in the United States but outside of the City limits if those employees are performing work on the City Contract.

(3) The requirements of the Equal Benefits Ordinance do not apply to collective bargaining agreements ("CBA") in effect prior to January 1, 2000. The Contractor must agree to propose to its union that the requirements of the Equal Benefits Ordinance be incorporated into its CBA upon amendment, extension, or other modification of a CBA occurring after January 1, 2000.

(f) Mandatory Contract Provisions Pertaining to Equal Benefits. Unless otherwise exempted, every Contract shall contain language that obligates the Contractor to

comply with the applicable provisions of the Equal Benefits Ordinance. The language shall include provisions for the following:

(1) During the performance of the Contract, the Contractor certifies and represents that the Contractor will comply with the Equal Benefits Ordinance.

(2) The failure of the Contractor to comply with the Equal Benefits Ordinance will be deemed to be a material breach of the Contract by the Awarding Authority.

(3) If the Contractor fails to comply with the Equal Benefits Ordinance the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under the Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.

(4) Failure to comply with the Equal Benefits Ordinance may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, *et seq.*, Contractor Responsibility Ordinance.

(5) If the DAA determines that a Contractor has set up or used its Contracting entity for the purpose of evading the intent of the Equal Benefits Ordinance, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, *et seq.*, Contractor Responsibility Ordinance.

(g) Administration.

(1) The DAA is responsible for the enforcement of the Equal Benefits Ordinance for all City Contracts. Each Awarding Authority shall cooperate to the fullest extent with the DAA in its enforcement activities.

(2) In enforcing the requirements of the Equal Benefits Ordinance, the DAA may monitor, inspect, and investigate to insure that the Contractor is acting in compliance with the Equal Benefits Ordinance.

(3) The DAA shall promulgate rules and regulations and forms for the implementation of the Equal Benefits Ordinance. No other rules, regulations or forms may be used by an Awarding Authority of the City to accomplish this contract compliance program.

(h) Enforcement.

(1) If the Contractor fails to comply with the Equal Benefits Ordinance:

a. The failure to comply may be deemed to be a material breach of the Contract by the Awarding Authority; or

b. The Awarding Authority may cancel, terminate or suspend, in whole or in part, the contract; or

c. Monies due or to become due under the Contract may be retained by the City until compliance is achieved;

d. The City may also pursue any and all other remedies at law or in equity for any breach.

e. The City may use failure to comply with the Equal Benefits Ordinance as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40, *et seq.*, Contractor Responsibility Ordinance.

(i) Non-applicability, Exceptions and Waivers.

(1) Upon request of the Awarding Authority, the DAA may waive compliance with the Equal Benefits Ordinance under the following circumstances:

a. The Contract is for the use of City property, and there is only one prospective Contractor willing to enter into the Contract; or

b. The Contract is for needed goods, services, construction of a public work or improvement, or interest in or right to use real property that is available only from a single prospective Contractor, and that prospective Contractor is otherwise qualified and acceptable to the City; or

c. The Contract is necessary to respond to an emergency that endangers the public health or safety, and no entity which complies with the requirements of the Equal Benefits Ordinance capable of responding to the emergency is immediately available; or

d. The City Attorney certifies in writing that the Contract involves specialized litigation requirements such that it would be in the best interests of the City to waive the requirements of the Equal Benefits Ordinance; or

e. The Contract is (i) with a public entity; (ii) for goods, services, construction of a public work or improvement, or interest in or right to use real property; and (iii) that is either not available from another source, or is necessary to serve a substantial public interest. A Contract for interest in or the right to use real property shall not be considered as not being available from another source

unless there is no other site of comparable quality or accessibility available from another source; or

f. The requirements of the Equal Benefits Ordinance will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of the agency with respect to the grant, subvention or agreement, provided that the Awarding Authority has made a good faith attempt to change the terms or conditions of the grant, subvention or agreement to authorize application of the Equal Benefits Ordinance; or

g. The Contract is for goods, a service or a project that is essential to the City or City residents and there are no qualified responsive bidders or prospective Contractors who could be certified as being in compliance with the requirements of the Equal Benefits Ordinance; or

h. The Contract involves bulk purchasing arrangements through City, federal, state or regional entities that actually reduce the City's purchasing costs and would be in the best interests of the City.

(2) The Equal Benefits Ordinance does not apply to contracts which involve:

a. The investment of trust monies, bond proceeds or agreements relating to the management of these funds, indentures, security enhancement agreements (including, but not limited to, liquidity agreements, letters of credit, bond insurance) for City tax-exempt and taxable financings, deposits of City's surplus funds in financial institutions, the investment of City monies in competitively bid investment agreements, the investment of City monies in securities permitted under the California State Government Code and/or the City's investment policy, investment agreements, repurchase agreements, City monies invested in U.S. government securities or pre-existing investment agreements;

b. Contracts involving City monies in which the Treasurer or the City Administrative Officer finds that either:

(i) No person, entity or financial institution doing business in the City, which is in compliance with the Equal Benefits Ordinance, is capable of performing the desired transaction(s); or

(ii) The City will incur a financial loss or forego a financial benefit which in the opinion of the Treasurer or City Administrative Officer would violate his or her fiduciary duties.

(3) The Equal Benefits Ordinance does not apply to contracts for gifts to the City.

(4) Nothing in this Subsection shall limit the right of the City to waive the provisions of the Equal Benefits Ordinance.

(5) The provisions of this Subsection shall apply to the Equal Benefits Ordinance only. The Equal Benefits Ordinance is not subject to the exemptions provided in Section 10.9 of this Code.

(j) Consistency with Federal or State Law. The provisions of the Equal Benefits Ordinance do not apply where the application of these provisions would violate or be inconsistent with the laws, rules or regulations federal or state law, or where the application would violate or be inconsistent with the terms or conditions of a grant or contract with the United States of America, the State of California, or the instruction of an authorized representative of any of these agencies with respect to any grant or contract.

(k) Severability. If any provision of the Equal Benefits Ordinance is declared legally invalid by any court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

(l) Timing of Application.

(1) The requirements of the Equal Benefits Ordinance shall not apply to Contracts executed or amended prior to January 1, 2000, or to bid packages advertised and made available to the public, or any bids received by the City, prior to January 1, 2000, unless and until those Contracts are amended after January 1, 2000 and would otherwise be subject to the Equal Benefits Ordinance.

(2) The requirements of the Equal Benefits Ordinance shall apply to competitively bid Contracts that are amended after April 1, 2003, and to competitively bid Contracts that result from bid packages advertised and made available to the public after May 1, 2003.

(3) Unless otherwise exempt, the Equal Benefits Ordinance applies to any agreement executed or amended after January 1, 2000, that meets the definition of a Contract as defined within Subsection 10.8.2.1(b).

Sec. 2. The definition of "Domestic Partners" contained in Section 10.8.1 of the Los Angeles Administrative Code is amended by to read:

"Domestic partners" means, for purposes of this Article, any two adults, of the same or different sex, who have registered with a governmental entity pursuant to state or

local law authorizing this registration or with a internal registry maintained by an employer of at least one of the domestic partners.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located in the Main Street lobby to the City Hall; one copy on the bulletin board located at the ground level at the Los Angeles Street entrance to the Los Angeles Police Department; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of FEB 12 2003.

J. MICHAEL CAREY, City Clerk

By *Maria Kokenina*
Deputy

Approved FEB 28 2003

James Hahn
Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By *Laurel L. Lightner*
LAUREL L. LIGHTNER
Deputy City Attorney

File No. 99-0908-S3
83745

EXHIBIT T

BUSINESS TAX REGISTRATION CERTIFICATION (BTRC) NUMBER

The City of Los Angeles, Office of Finance requires all firms that engage in any business activity within the City of Los Angeles to pay City business taxes. Each firm or individual (other than a municipal employee) is required to obtain the necessary Business Tax Registration Certification (BTRC) and pay business tax (Los Angeles Municipal Code Section 21.09 et. seq.).

All firms and individuals that do business with the City of Los Angeles will be required to provide a BTRC number or an exemption number as proof of compliance with Los Angeles City business tax requirements in order to receive payment for goods or services. Beginning October 14, 1987, payments for goods or services will be withheld unless proof of tax compliance is provided to the City.

The Tax and Permit Division of Los Angeles Office of Finance has the sole authority to determine whether a firm is covered by business tax requirements. Those firms not required to pay will be given an exemption number.

If you do NOT have a BTRC number, contact the Tax and Permit Division at the office listed below, or log on to www.lacity.org/finance to download the business tax registration application.

LA City Hall

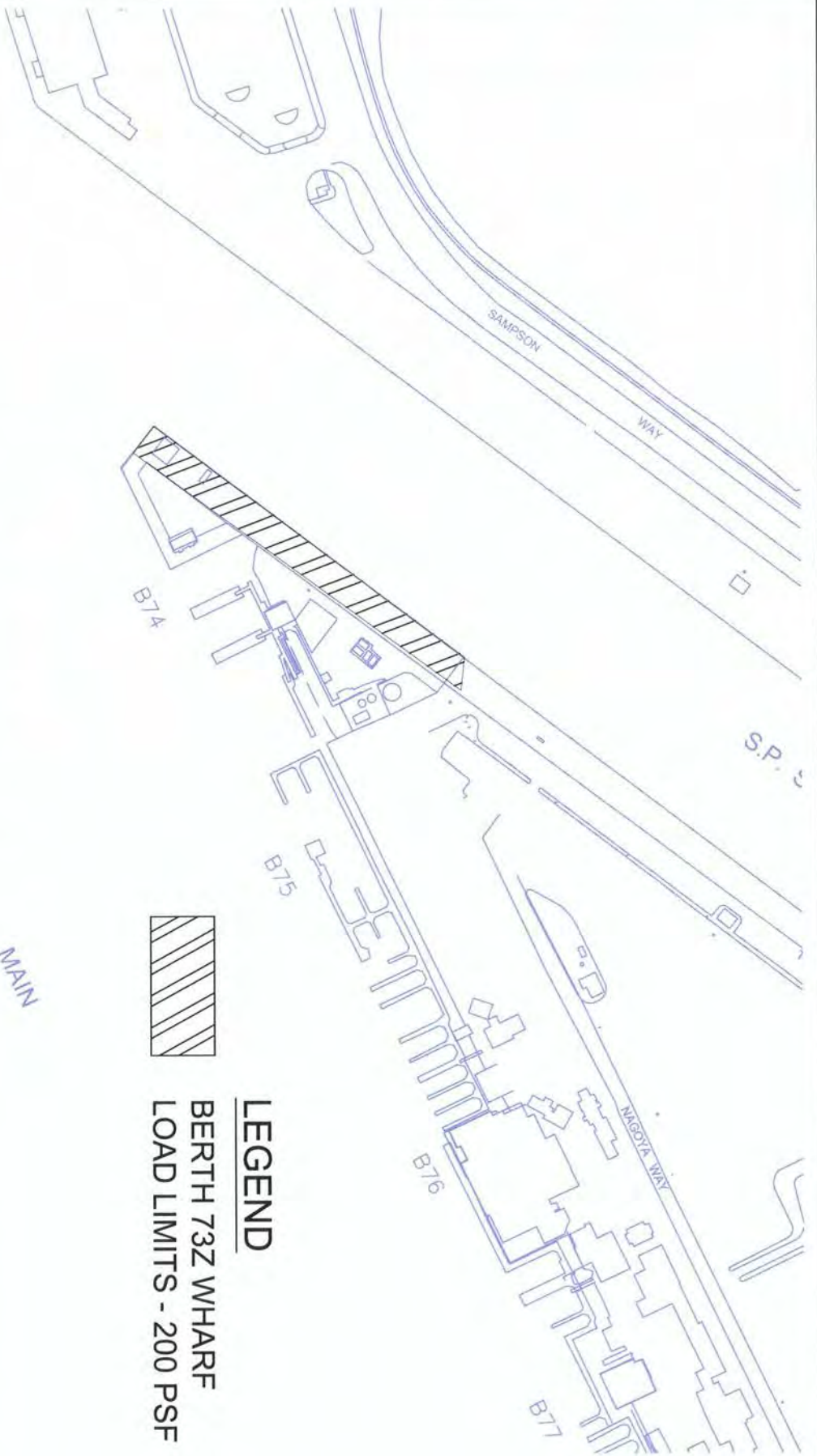
MAIN OFFICE

201 N. Main Street, Room 101 (213) 473-5901

EXHIBIT U

ESTOPPEL CERTIFICATE

In accordance with Article 2, Section 26.26 of this Lease, the "Estoppel Certificate" form shall be attached to this Lease as Exhibit U.



1X-01
X-01

LOAD LIMITS
SCALE: NTS



LEGEND
BERTH 73Z WHARF
LOAD LIMITS - 200 PSF

EXHIBIT V

05/09/2016

EXHIBIT W

TRUCKS ENTERING AND LEAVING THE PORT MUST USE THE ROUTE SHOWN BELOW.
CAMIONES ENTRANDO Y SALIENDO EL PORTO DEVEN DE USAR LA RUTA INDICADO ABAJO.

Ruta designado de camión de carga

Designated Truck Route at the Port of Los Angeles

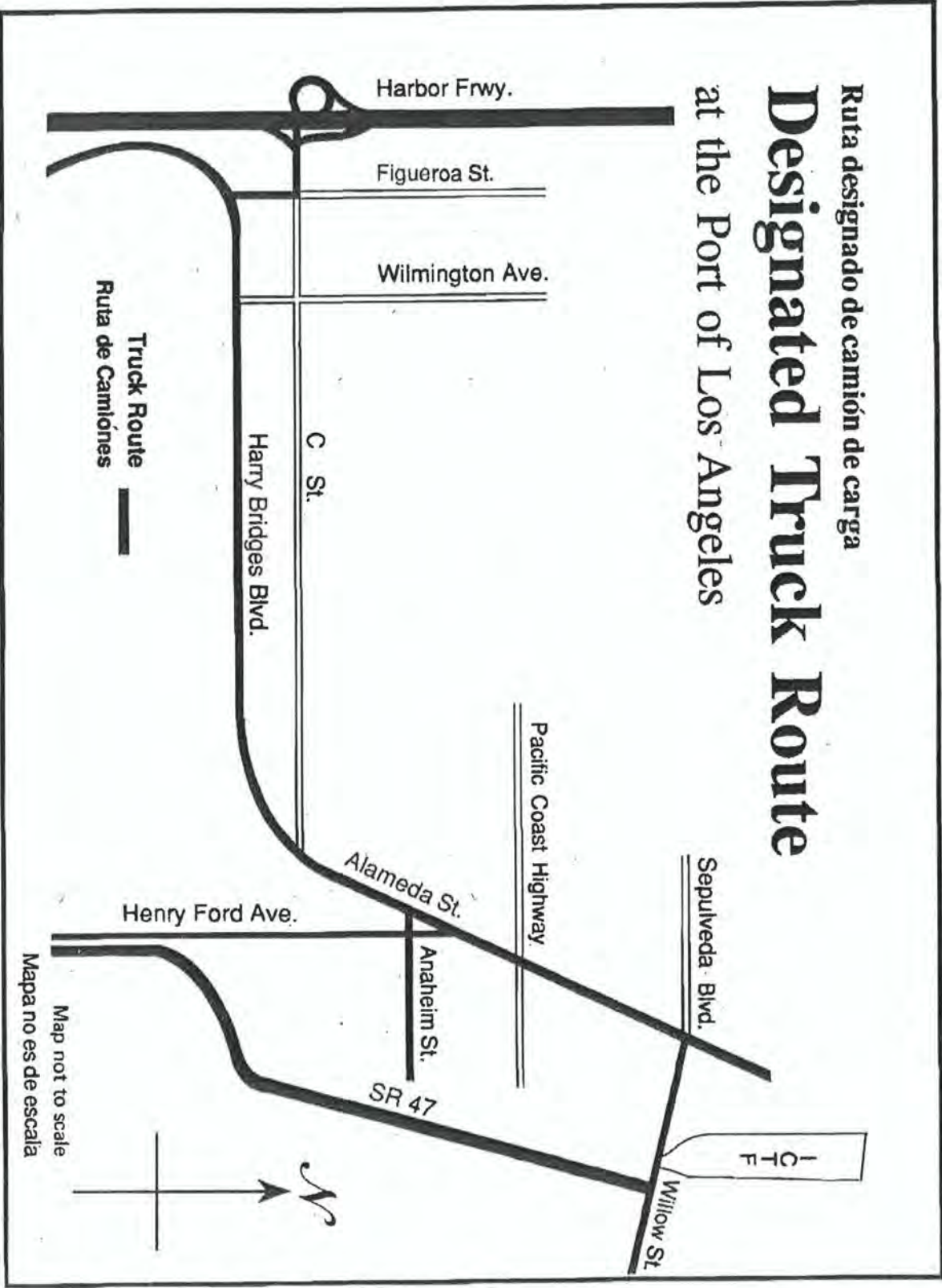


EXHIBIT X

CONFIRMATION DOCUMENT OF TERM DATES

In accordance with Article 2, Section 3.1 of this Lease, the written confirmation of the Effective and Expiration Dates of this Lease shall be attached to this Lease as Exhibit X.

EXHIBIT Y

Permissible Industrial-Use Concentrations

April 27, 2016

Chemicals of Concern (COC) Industrial Land Use	Soil/Fill Material Concentration (mg/kg)	Source
Total Petroleum Hydrocarbons (TPH) (EPA Method 8015M/8015B)		
TPH (Total Petroleum Hydrocarbons)	1,000	Cal-EPA SWRCB ¹
Heavy Metals (EPA Method 6020/7471A)		
Antimony	40	Cal-EPA SWRCB/DTSC ¹
Arsenic	8.7	Cal-EPA SWRCB/DTSC ¹
Barium	1000	10 X STLC ² /DTSC
Beryllium	7.5	10 X STLC ²
Cadmium	1.4	Cal-EPA SWRCB/DTSC ¹
Chromium VI (EPA Method 7199/3060A)	8	Cal-EPA SWRCB/DTSC ¹
Total Chromium	100	20 X TCLP/STLC ²
Cobalt	80	Cal-EPA SWRCB/DTSC ¹
Copper	69	Cal-EPA SWRCB/DTSC ¹
Lead	50	10 X STLC ² /DTSC
Mercury	0.69	Cal-EPA SWRCB/DTSC ¹
Molybdenum	4.4	Cal-EPA SWRCB/DTSC ¹
Nickel	200	10 X STLC ² /DTSC
Selenium	0.23	Cal-EPA SWRCB ¹
Silver	3.75	Cal-EPA SWRCB/DTSC ¹
Thallium	0.95	Cal-EPA SWRCB ¹
Vanadium	200	Cal-EPA SWRCB ¹
Zinc	680	Cal-EPA SWRCB/DTSC ¹
BTEX (EPA Method 8260)		
Benzene	0.055	Cal-EPA SWRCB/DTSC ¹
Toluene	56	Cal-EPA SWRCB ¹
Ethylbenzene	3.9	Cal-EPA SWRCB ¹
Xylene	7.2	Cal-EPA SWRCB ¹
Naphthalene	0.17	DTSC
Asbestos (OSHA Method ID-191)	ND	Laboratory Reporting Limit ³
Polychlorinated Biphenyls (PCBs) (EPA 8082)	ND	Laboratory Reporting Limit ³ /US EPA
Other Chemicals of Concern		
Volatile Organic Compounds (VOCs) (EPA Method 8260)		Laboratory Reporting Limit ³
Polynuclear Aromatic Hydrocarbons (PAHs) (EPA Method 8310)		Laboratory Reporting Limit ³
Semi Volatile Organic Compounds (SVOCs) (EPA Method 8270)		Laboratory Reporting Limit ³
Organochlorine Pesticides (EPA Method 8081A)		Laboratory Reporting Limit ³
Organophosphorus Pesticides (EPA Method 8141A)		Laboratory Reporting Limit ³
Chlorinated Herbicides (EPA Method 8151A)		Laboratory Reporting Limit ³

NOTES:

1. Cal-EPA State Water Resources Control Board & Department of Toxic Substances Control Action Goals for Industrial Land Use sites only. (The listed concentrations/levels in Table 3 are not for use at former or active cleanup sites, public land use, or worker health & safety.)
2. Soluble Threshold Limit Concentration (STLC), California Code of Regulations (CCR), Title 22, Section 66261.24. Characteristic of Toxicity
3. Laboratory Reporting Limit is based on reporting limits commonly used by Southern California laboratories (DAF=1)

EXHIBIT Z

ENVIRONMENTAL COMPLIANCE PROGRAM ("ECP")

In accordance with Article 2, Section 7.7.2 of this Lease, the "ECP" form shall be attached to this Lease as Exhibit Z.