

TRANSMITTAL

To:

THE COUNCIL

Date:

DEC 11 2012

From:

THE MAYOR

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.

A handwritten signature in black ink, appearing to read "Janelle Erickson", with a stylized flourish below it.

(Janelle Erickson)

ANTONIO R. VILLARAIGOSA
Mayor

**BOARD OF RECREATION AND
PARK COMMISSIONERS**

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CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

**DEPARTMENT OF
RECREATION AND PARKS**

221 N. FIGUEROA STREET
SUITE 1510
LOS ANGELES, CA 90012

(213) 202-2640
FAX: (213) 202-2610
RAP.Commissioners@LACity.org

JON KIRK MUKRI
GENERAL MANAGER

December 11, 2012

Hon. Antonio R. Villaraigosa, Mayor
City of Los Angeles
Room 303, City Hall

Attention: Ms. Mandy Morales

Dear Mayor Villaraigosa:

In accordance with Executive Directive No. 3, there are attached herewith three copies of a proposed Lease Agreement with the Discovery Science Center Leverage Lender, LLC (DSC, LLC) and three copies of a Lease Agreement with the Discovery Science Center of Los Angeles (DSCLA), both for the use, operation, and maintenance of a museum and environmental learning center at Hansen Dam Park, proposed to be called the Discovery Science Center of Los Angeles.

Also attached are three copies of a Consent to Leasehold Deed of Trust and Modification of Lease between DSCLA, RAP, and the Lenders to effectuate the New Market Tax Credit (NMTC) and Report No. 12-327, which was adopted by the Board of Recreation and Park Commissioners at its meeting held December 10, 2012.

It is requested that the City Council consent to DSC, LLC, DSCLA, and RAP entering into any agreements, that may be necessary for DSCLA to obtain New market Tax Credit financing under Internal Revenue Code Section 45 for the Center's improvements and exhibit program.

If you have any questions with regard to the Proposed Lease Agreement, please contact Darryl Ford at (213) 202-2682.

Very truly yours,

**BOARD OF RECREATION AND
PARK COMMISSIONERS**

LATONYA D. DEAN
Commission Executive Assistant

Attachments

cc: Darryl Ford



LEASE AGREEMENT

**FOR THE USE, OPERATION, AND MAINTENANCE OF
DISCOVERY SCIENCE CENTER OF LOS ANGELES**

Between

THE CITY OF LOS ANGELES

DEPARTMENT OF RECREATION AND PARKS

and

DISCOVERY SCIENCE CENTER OF LOS ANGELES

LEASE AGREEMENT
BETWEEN CITY OF LOS ANGELES AND
DISCOVERY SCIENCE CENTER OF LOS ANGELES
FOR THE USE, OPERATION, AND MAINTENANCE OF
DISCOVERY SCIENCE CENTER OF LOS ANGELES

ARTICLE 1. BASIC LEASE PROVISIONS

1.1. Parties. This Lease Agreement ("Lease") is entered into this ____ day of _____ 2012, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, as Landlord ("CITY"), and the DISCOVERY SCIENCE CENTER OF LOS ANGELES, a nonprofit public benefit corporation ("DSCLA"), with a mailing address of 2500 North Main Street, Santa Ana, California, 92705 as Tenant.

1.2. Recitals.

1.2.1. CITY owns and/or controls certain lands known as Hansen Dam Recreation Area under the management and control of the Board of Recreation and Park Commissioners ("BOARD"). A portion of the subject lands are owned by CITY and a portion of the subject lands are owned by the U.S. Army Corps of Engineers ("USACE") and are leased to CITY for recreational purposes pursuant to Department of the Army Lease No. DACW09-1-69-45 between USACE and the CITY for property located within the Hansen Flood Control Basin. The land at the corner of Osborne Street and Foothill Boulevard located at 11800 Foothill Boulevard, Los Angeles, California, is improved with a 57,000 square foot building which was designed and constructed with funding from the following public sources: Proposition 40 Specified Grant Program (Contract No. C0231250), Proposition 40 Roberti-Z'berg-Harris Grant Program (Contract No. C0231244), Proposition 40 Per Capita Grant Program (Contract No. C0231134), Proposition K Specified Grant Program (Contracts No. C-98362 and No. C-109472), Proposition K Competitive Grant Program (Contract No. C-100050), and private donations to the Children's Museum of Los Angeles, the former entity that oversaw partial construction of the subject facility.

1.2.2. CITY and the DSCLA desire to enter into a successor lease, following the assignment by the Discover Science Center Leverage Lender, LLC (DSC, LLC) of Lease No. ____ Dated ____ between DSC, LLC and City which lease now terminates and this successor lease between the City and the DSCLA becomes operative.

1.2.3. CITY and DSCLA desire to enter into a Lease for the use of the improved land and building within the Hansen Dam Recreation Area described in Section 1.2.1 above (as shown in included in Exhibit A "Map and Legal Description" attached hereto and incorporated herein by reference), which Lease

shall set forth the duties, obligations, responsibilities, aims, and goals of the parties, for the specific purpose of providing a Children's Museum and an Environmental Learning Center, together known as a science center (the "Center") within the existing building which emphasizes recreation and environmental awareness through focused learning about the natural environment using interactive exhibits that will provide both recreational and educational opportunities, that will increase the public's understanding and recognition of the need to sustain the environment for future generations.

1.2.4. CITY does not have personnel available in its employ with sufficient and appropriate expertise to develop the exhibits and operate and maintain the Center and CITY, due to current budgetary constraints, has frozen hiring and is unable to obtain the appropriate personnel to perform these specialized tasks.

1.2.5. DSCLA is a non-profit corporation formed for the purpose of providing recreational activities for youth and their families in the area as well as educating young minds, assisting teachers and increasing public understanding of the environment, science, math and technology, with a particular emphasis on environmental issues, through interactive exhibits and programs.

1.2.6. DSCLA has special abilities in the areas of presentation, fundraising, recreation, education, community support and operations with respect to the Center.

1.2.7. DSCLA has the staff and experience to operate and manage the Center, provide unique and highly specialized educational programs, and oversee the design, fabrication and installation, or acquisition of a state-of-the-art interactive exhibits that can be refreshed and rotated over time.

1.3. Definitions in Lease. When used in this Lease, or in any Exhibits or Attachments to this Lease, except where a different definition is clearly and expressly given, the following words or phrases, capitalized as shown, shall mean:

1.3.1. BOARD. "BOARD" shall mean the Board of Recreation and Park Commissioners of the City of Los Angeles.

1.3.2. Center. "Center" shall mean the Premises and the improvements thereon as of the Effective Date of this Lease and any improvements, Center Exhibits and facilities constructed on the Premises by DSCLA or CITY at any time and from time to time during the Term for purposes of this Lease as set forth in Article 5.

1.3.3. Center Exhibits. "Center Exhibits" shall mean the exhibits and displays constructed and installed inside the Center and on the Premises.

1.3.4. CITY. "CITY" shall mean the City of Los Angeles, a municipal corporation acting by and through its Board of Recreation and Park Commissioners. Except where clearly and expressly provided otherwise in this Lease, any action to be taken by the CITY may be taken for the CITY by the General Manager as defined in Paragraph 1.3.8. Except where clearly and expressly provided otherwise in this Lease, the capacity of the CITY in this Lease shall be as Landlord, and any benefits, obligations, or restrictions conferred or imposed by this Lease on the CITY shall be limited to that capacity and shall not relate to or otherwise affect any activity of the City of Los Angeles in its governmental capacity including, but not limited to: enacting laws; inspecting structures; reviewing and issuing permits; and all other legislative, administrative, or enforcement functions of the City of Los Angeles pursuant to federal, state, or local law.

1.3.5. DEPARTMENT. "DEPARTMENT" shall mean the Department of Recreation and Parks of the City of Los Angeles.

1.3.6 DSCLA. "DSCLA" shall mean the Discovery Science Center of Los Angeles; a California non-profit 501(c)(3) public charity

1.3.7. DSC, LLC. "DSC, LLC" shall mean Discovery Science Center Leverage Lender, LLC, a limited liability company DSC, LLC is wholly owned by a California nonprofit public benefit corporation.

1.3.8. Effective Date. "Effective Date" shall mean the date the Office of the City Clerk of Los Angeles attests this Lease.

1.3.9. General Manager. "General Manager" shall mean the General Manager of the Department of Recreation and Parks of the City of Los Angeles. General Manager shall also include any person designated in writing by the BOARD to act on behalf of the General Manager.

1.3.10. Improvements and Exhibits Agreement. "Improvements and Exhibits Agreement" shall mean the agreement entered into by CITY and DSCLA governing the design and modification of the existing building or facility and the design, construction and installation of the Center Exhibits.

1.3.11. Lender. "Lender" shall mean any lender or lenders advancing funds to DSCLA to assist DSCLA in the construction, operation and/or maintenance of the Center and Center Exhibits.

1.3.12. Opening Date. "Opening Date" shall be the date that DSCLA first opens the Center to members of the general public pursuant to the terms of use in Article 5 of this Lease.

1.3.13. Premises. "Premises" shall collectively refer to the land, building, and improvements located at 11800 Foothill Boulevard, Los Angeles, California, and as depicted in Exhibit A "Map and Legal Description".

1.3.14. USACE. "USACE" shall mean the United States Army Corps of Engineers.

ARTICLE 2. TERM

2.1. Term. The term of this Lease shall be for thirty (30) years, beginning on the Effective Date of this Lease. This lease expires at midnight of the day immediately prior to the thirtieth (30th) anniversary of the Effective Date ("Term"), with an option to extend by one twenty (20) year term subject to successful negotiation of a new lease between the City and USACE, unless previously terminated in accordance with other provisions of this Lease.

ARTICLE 3. CONSIDERATION AND FINANCING

3.1. Consideration. The consideration for this Lease shall be the operation of a Center as set forth in Article 5 of this Lease at the Premises, together with the attendant benefits to the people of the City of Los Angeles, plus the annual payment during the Term of this Lease of one dollar (\$1.00) by DSCLA.

3.2. Financing. DSCLA shall be responsible for any costs associated with the long-term operation and maintenance of the Center and the Center Exhibits for the uses set forth in Article 5 of this Lease at the Premises. CITY may, at its sole and absolute discretion, assist DSCLA in identifying and securing funding for the operation and maintenance of the Center but has no obligation to do so. If by September 30, 2013, neither CITY nor DSCLA have obtained and made available the funds necessary to make improvements to the Building on the Premises, as defined in Exhibit B and as needed to proceed with design, fabrication and installation of the exhibit program to be used in the Science Center, with those monies deposited in the manner defined under Sections 9.2 and 9.3 of Exhibit E to this agreement, or if sufficient funding commitments have not been secured to open and operate the Science Center by the March 31, 2015 deadline, subject to the Lender(s) consent, DSCLA or CITY shall have the right to terminate this lease with 30 days written notice to the other Party and with no penalty or recourse to DSCLA. The City would request that any unspent project funds under the control of DSCLA would be transferred to the City for use to complete the project, subject to the approval of the grantor(s).

3.3 DSCLA's Right to Encumber. Provided DSCLA is not in default under this Lease, DSCLA may, at any time and from time to time during the term hereof, encumber to any Lender by deed of trust or mortgage or other security instrument ("**Leasehold Mortgage**"), all of the DSCLA's interest under this Lease and the leasehold estate hereby created in DSCLA or any of the Improvements or personal property of DSCLA on the Center ("**Personal Property**") for any purpose or purposes without the consent of the CITY. The Leasehold Mortgage and all rights acquired under it, shall be subject to each and all of the provisions, covenants, conditions and

restrictions stated in this Lease and to all rights and interest of the CITY except as otherwise specifically provided in this lease. DSCLA's right to enter into a Leasehold Mortgage transaction shall be at DSCLA's sole cost and expense.

ARTICLE 4. PREMISES

4.1. Premises. DSCLA leases from CITY the land and has acquired from the City the improvements located at 11800 Foothill Boulevard in the City of Los Angeles, County of Los Angeles, State of California, described in Section 1.2.1 above and as depicted in Exhibit A "Map and Legal Description" located within the Hansen Dam Recreation Area, Los Angeles, California. The portion of the Premises that is located on land owned by USACE and leased to CITY is subject to all existing easements, other restrictions of record, and Department of the Army Lease No. DACW09-1-69-45 between USACE and the CITY for property located within the Hansen Flood Control Basin.

4.2. Acceptance of Premises. DSCLA accepts the Premises on an "as is" basis as of the Effective Date of this Lease, except for the list of improvements that will be completed by the CITY prior to Opening Date, as described in Exhibit B "Premises Improvements to be Completed by City", attached hereto and incorporated herein by reference.

4.3. Reservation of Mineral Rights and Air Rights. CITY hereby reserves all rights, title, and interest in any and all gas, oil, minerals, and water beneath the Premises, below a plane five hundred feet below the surface of the Premises, but without the right to use the surface of the Premises, or any area above a plane five hundred feet below the surface of the Premises, for the extraction of such gas, oil, minerals, and water. CITY also reserves all rights, title, and interest in any and all air rights above the Premises; provided, however, that any use of air rights by CITY shall not interfere with the public's and DSCLA's ingress and egress to or DSCLA's operation of the Center on the Premises.

4.4. Communications Sites. The BOARD retains the exclusive right without compensation to DSCLA to place, or to grant a license for others to place, one or more cellular or other communications equipment systems anywhere upon the Premises. The BOARD shall consult with DSCLA with respect to the location and appearance of such equipment, but the final determination shall be made by the BOARD in its sole and absolute discretion; provided that any equipment shall not unreasonably interfere with the public's and DSCLA'S ingress and egress to the Premises, or DSCLA'S operation of the Center. Nothing in this Section shall be construed to limit or prohibit DSCLA'S use of the Premises for the Center's communications equipment for DSCLA'S authorized use, and the BOARD shall require that any subsequently installed cellular or other communications equipment systems be installed and operated in a manner which does not unreasonably interfere with the Center's equipment. All such equipment shall be installed and operated in compliance with all applicable laws and regulations. The BOARD shall have the sole and exclusive right to collect and use any revenue or fees generated from the placement of such equipment by CITY or CITY's licensee. All costs

related to the installation, maintenance, or operation of such equipment by CITY or CITY's licensee shall be the responsibility of CITY or CITY's licensee, including without limitation electrical power and other necessary utilities and related service meters. CITY or CITY's licensee shall be financially responsible for and shall immediately commence and diligently pursue to completion any repair of damage to the Premises or the areas adjoining the Premises, or any contents thereof, caused by the installation, maintenance, or operation of such equipment. CITY or CITY's licensee shall have access to the Premises upon twenty-four hours notice to DSCLA for installation or maintenance purposes.

4.5. Parking Spaces. CITY shall make available to DSCLA and its visitors, guests, agents, and employees, the non-exclusive use of not less than 250 off-site surface parking spaces located within 750 feet of Premises. Use of said Parking Spaces is subject to existing easements as defined in Exhibit A, other restrictions of record, and Department of the Army Lease No. DACW09-1-69-45 between USACE and CITY for property located within the Hansen Flood Control Basin.

ARTICLE 5. USE OF PREMISES FOR THE CENTER

5.1. Use of Premises. The Premises shall be used for the purpose of a Center, to serve youth and their families, with an emphasis on recreation and environmental science, on a non-profit basis and operations and/or functions related to or incidental to such Center, including offices and storage. Any and all concession operations, including the sale of food and/or beverages, gifts, materials and supplies, shall be subject to prior approval by the General Manager or BOARD, when applicable.

5.2. Operation. As partial consideration for the use of City-owned and leased property, the Center shall be operated as a first-class Center for youth and their families, with an emphasis on recreation and environmental science, conducted on a nonprofit basis. The exhibits of the Science Center at the Premises shall be open to the general public on a year-round basis at least two hundred fifty (250) days per year (January 1 through December 31) and will serve the public with the overall operation schedule to be developed by mutual agreement of the General Manager and DSCLA (see Section 12.2, regarding obligations after damage or destruction). DSCLA shall operate the Center, develop recreational and environmental awareness educational programming, volunteer training, seminars, workshops, special programs, literacy gallery, community outreach programs, special exhibition displays, and similar programs and events for the benefit of the general public, all to the extent that DSCLA's fundraising and staffing commitments shall allow (nothing in this sentence shall be construed to modify DSCLA'S obligation to operate a first-class Center with a major focus on providing youth and their families with environmental awareness educational programs within a recreational atmosphere for a specified minimum number of hours per month, or the right of CITY to terminate this Lease for DSCLA'S failure to so operate).

5.2.1. Hours of Operation. Use of the Center is restricted to the hours of 7:00 a.m. to 11:00 p.m., with exception for 30 evenings annually for events at the Center sponsored by DSCLA and in keeping with the permissible uses of the Center under this lease ("Special Events"). Hours of Operation shall reflect normal park operating hours, except under such circumstances and conditions as may be approved in writing in advance by the General Manager. At a minimum, the Center shall be open to the general public from 10:00 a.m to 5:00 p.m, seven days a week, and for no less than two hundred fifty (217) hours per month. DSCLA shall post its operating schedule in a conspicuous place near the entrance to the Center and shall adhere to the posted hours of operation. Any changes in said operating schedule shall be posted for a reasonable period in advance of the date on which such changes are to take effect.

5.2.2. Special Events. DSCLA may conduct Special Events at the Center with the prior written approval of the General Manager, which shall not be unreasonably withheld or delayed, and in compliance with all policies and procedures heretofore and hereafter adopted by the CITY. DSCLA shall provide for and assume all costs and expenses for additional personnel and/or facilities that the General Manager deems necessary to accommodate said special event. The approval of Special Events located on land owned by USACE and leased to the CITY may be subject to approval of USACE pursuant to the terms of Department of the Army Lease No. DACW09-1-69-45 between USACE and CITY

5.3. Security. DSCLA shall, at its sole cost and expense, provide for reasonable precautions to protect the security and safety of the Premises, contents contained therein, and all those who lawfully enter the Premises. In the event of an injury to a person lawfully or unlawfully on said Premises or emergency situation, DSCLA shall make reasonable efforts to ensure that the injured person or emergency receives prompt and qualified attention. CITY is not obligated under this Lease to provide any security for the Premises, contents contained therein, or persons who lawfully or unlawfully enter the Premises. No person may live on the Premises (i.e. use of facility as a home or living quarters) except during declared emergencies.

5.4. Alcoholic Beverages. The dispensing of beer, wine, or other intoxicating liquors shall not be permitted, except under such circumstances and conditions as may be approved in writing in advance by the General Manager.

5.5. On Premises Signs and Advertising. Signage on the Premises and advertising shall be governed as follows:

5.5.1. Signs. All signage shall comply with all Los Angeles Municipal Code sign regulations and relevant DEPARTMENT policies. In addition, all signage must be approved in advance, in writing, by the General Manager and such consent may not be unreasonably withheld or delayed.

5.5.2. City Acknowledgements. The cooperation between DSCLA and CITY shall be recognized in a mutually agreed to manner consistent with the sign regulations of the Los Angeles Municipal Code and DEPARTMENT policies.

5.5.3. Donor Acknowledgements. The CITY acknowledges that DSCLA will undertake a fundraising effort to support the maintenance and operation of the Center and that it may be necessary, in appropriate instances, to recognize donors by installing plaques or other appropriate signage or naming facilities, or parts of facilities, as provided in the conditions accompanying the gifts. Accordingly, DSCLA shall have the right to recognize gifts in that manner during the term of the Lease; provided however that all signage shall be consistent with the sign regulations of the Los Angeles Municipal Code and relevant DEPARTMENT policies, and that any agreement to install such signs, plaques or similar acknowledgements on the Premises for any period of time shall not extend beyond the term of the Lease and shall be subject to the prior written approval of the BOARD.

5.6. Admission Fees. DSCLA may charge a reasonable admission fee subject to the written approval of the General Manager. The standard used to approve admission fees shall be comparable to unsubsidized science centers in the United States. For the initial schedule of fees and any subsequent adjustments that may be desired periodically, DSCLA shall submit to the General Manager a list of all proposed admission fees. DSCLA will be notified in writing within thirty (30) days of the General Manager's approval or disapproval of any or all of the proposed admission fees. In the event of disapproval of any such admission fees, the General Manager shall specify the reasons therefore, along with the amount or range of admission fees which would be approved. CITY through the General Manager reserves the right to disapprove proposed admission fees when it appears that proposed admission fees are above the prevailing standard set forth above. The approval of Admission Fees for improvements located on land owned by USACE and leased to the CITY may be subject to approval of USACE pursuant to the terms of the Department of the Army Lease No. DACW09-1-69-45 between USACE and CITY.

5.6.1. Free Annual Memberships. DSCLA shall provide a program for some free individual admissions slots provided on an annual basis as defined in the City approved Pro Forma then in effect, which shall be subject to approval by the General Manager or BOARD, as applicable, in accordance with the terms defined in Section 8.1 of this agreement.

5.7. Ancillary Income. During the Term, in the event DSCLA obtains income from uses of the Premises which are ancillary to and consistent with or related to the uses permitted under this Lease (e.g., use of Premises in the filming of a motion picture), DSCLA shall use such income only for such purposes as are consistent with the permitted uses of the Lease. Any receipt and use of such income shall be reported to CITY in the reports required pursuant to Section 8. Nothing in this Section shall be construed to permit uses of the Premises not otherwise allowed under the provisions of

this Lease, nor shall anything in this Section be construed to negate or modify any requirement for prior approval of activities.

ARTICLE 6. SECURITY, MAINTENANCE, CUSTODIAL SERVICES AND REPAIR OF THE CENTER

6.1 DSCLA'S Responsibilities. DSCLA shall keep and maintain, at DSCLA'S sole cost and expense, the Premises and all improvements on the Premises, including Center Exhibits, in good condition and repair during the entire Term of this Lease. DSCLA shall be responsible for providing all security, maintenance, and custodial services as are required for the Premises. DSCLA shall pay the cost of all such services. The condition and state of repair covering the entire Premises including all improvements thereto, the buildings or other structures on the Premises, interior, exterior, and all access areas thereto, shall at all times, include but not be limited to the following: Safe and free from hazard; free of rodents, insects and other pests; free from unsightly signs, displays, markings, and graffiti; free from litter and debris; all plumbing, electrical, heating cooling and other systems in good operating condition and free from hazard of obstruction of any kind; sidewalks, fencing, landscaping, and play and parking areas in neat and safe condition; all areas adequately illuminated; and all areas in such condition as not to detract from the surrounding neighborhood and be in compliance with all building and fire codes and public health regulations. CITY shall have the right to inspect the Premises for compliance under this Section pursuant to Section 9.3.

6.2 CITY is Not Obligated to Repair. Except as provided expressly in this Lease, in no event shall CITY be required or obligated to perform any maintenance or to make any repairs, changes, alterations, additions, modifications or replacements of any nature whatsoever, on the Premises, or any part thereof, at any time during the Term of this Lease.

6.3. Refuse and Trash. DSCLA shall keep the Premises clean and sanitary at all times. No refuse matter, nor any substance constituting an unnecessary, unreasonable or unlawful fire hazard, or material detrimental to the public health, shall be permitted or allowed to remain thereon, and DSCLA shall take all reasonable precautions to prevent any such matter or material from being or accumulating upon the Premises. DSCLA shall, solely at its expense, provide for the collection and removal of all garbage and/or refuse from the Premises as often as is necessary. DSCLA shall furnish all equipment and materials therefore, including trash receptacles of a size, type and number approved by CITY for use by the public. Such approval shall not be unreasonably withheld. DSCLA shall provide an enclosed area concealing trash storage from public view. DSCLA shall, during the Term of this Lease and at DSCLA's sole expense, conduct a recycling program on the Premises in conjunction with the Facilities Recycling Program of the City of Los Angeles, or any similar program subsequently implemented. Such program will include all materials which may be reasonably recycled (e.g., white paper, mixed paper, newspaper, aluminum cans, and plastic and glass containers).

6.4. Safety Deficiencies. DSCLA shall promptly correct all safety deficiencies and violations of safety practices of which it has knowledge and shall cooperate fully with CITY in the investigation of accidents occurring on the Premises. In the event of injury to a patron or customer, DSCLA shall use its best efforts to provide prompt and qualified medical attention to the injured person; provided, however, that nothing in this Section is intended to confer any third-party beneficiary status on any person not a party to this Lease. As soon as possible after an event of injury, DSCLA shall submit to CITY a City Form General No. 87 ("Non-Employee Accident or Illness Report") or make such other report as CITY may reasonably require.

6.5. Failure to Perform Maintenance. In the event DSCLA does not perform maintenance or repairs such that the improvements on the Premises, or any portion thereof, are no longer suitable for use by the public or other occupancy, as determined by either CITY or DSCLA, or that the improvements on the Premises, or any portion thereof, are not in compliance with applicable federal, state, or local laws on or after the date provided for such compliance, in each case beyond applicable notice and cure periods, CITY, at its sole discretion, may:

6.5.1. Perform or have performed the necessary remedial work at DSCLA'S expense and DSCLA shall immediately reimburse CITY for any expenses incurred in performing or having the remedial work performed;

6.5.2. Terminate this Lease in accordance with Paragraph 15.2.1.; or

6.5.3. Require the immediate vacation of all of the improvements on the Premises or, at the sole discretion of CITY, a portion of the improvements on the Premises until such time as such maintenance or repairs are complete or such time as the improvements on the Premises are in compliance with such laws, as the case may be. The remedy provided in this Paragraph 6.5.3 may be used independently or in conjunction with the remedies provided in either Paragraph 6.5.1 or Paragraph 6.5.2.

6.6. Effect of Inspections or Approvals. Wherever in this Lease inspections or approvals are required from CITY in its role as Landlord under this Lease, including from the General Manager, such inspections or approvals are additional to, and are not in lieu of, any inspections or approvals otherwise required under any applicable ordinance, regulation, or statute. Such inspections or approvals by CITY are discretionary acts and shall not impose any liability on CITY to third persons nor to DSCLA and, in addition, shall not obligate CITY for any costs or expenses related to the construction, improvement, or maintenance of any building or other structure at the Premises.

ARTICLE 7. UTILITIES, SEWERS AND STORM DRAINS

7.1. Utilities. DSCLA shall install and pay all charges associated with the installation of electricity, natural gas, sewer, water and telephone services, as well as all periodic

fees and permits for said services. DSCLA shall, at its sole cost and expense, provide any additional above-ground and underground utility lines, and related improvements, required for the successful operation of the Center and Center exhibits. CITY shall assist DSCLA in obtaining such utility easements and connections as may be necessary to provide any utility service, provided that the obtaining of said easements and connections shall be at no cost to the CITY.

7.2. Sewers and Storm Drains. Sewage lines and storm drainage lines which were constructed in connection with the improvements on the Premises are the responsibility of DSCLA, which shall maintain and repair such sewage lines and storm drainage lines at DSCLA'S sole cost and expense. CITY is not responsible for payment of any fees nor for delays in permit processing or approvals. To the extent that there are sewage lines and storm drainage lines within the boundaries of the Premises which predate this Lease or which were installed by CITY (other than for exclusive use of the Center): (i) CITY retains an easement across the Premises for such sewage lines and storm drainage lines, including the right to access such lines for the purpose of inspection, repair, and relocation, and DSCLA shall not construct any improvements over such sewage lines or storm drainage lines without the prior written consent of the General Manager, which shall be at the General Manager's sole discretion, and (ii) CITY shall maintain and repair such sewage lines and storm drainage lines. In the event that sewer and/or drainage lines (if any) within the boundaries of the Premises are replaced, repaired or relocated as an element of a CITY project not related to the Center, CITY agrees to restore, at its sole expense, any landscaping and ground conditions existing prior to such activity.

ARTICLE 8. REPORTS AND AUDITS

8.1. Reports to CITY. DSCLA shall provide information to the General Manager relative to its management, operation, and maintenance of the Premises, including, but not limited to the following:

8.1.1. Quarterly Reports. On a quarterly basis, or as deemed necessary by either DSCLA or CITY, representatives of the parties shall confer to evaluate the following:

8.1.1.1 Functions and Operations. Representatives of the parties will confer to evaluate the adequacy of the functional and operational responsibilities of each party, as stipulated in this Lease. This shall include, but not be limited to: (i) the number of visitors, and youth, serviced by the Center, (ii) the number of hours the Center was open to the public, and (iii) status of any major or minor changes to Center Exhibits and/or programs. The Parties may make such adjustments as they deem necessary provided that any substantive or material adjustments shall require the written approval of the BOARD and amendment of this lease if applicable.

8.1.1.2 Review of Maintenance Levels. Representatives of the parties will confer to evaluate adequacy of the maintenance levels of DSCLA for the Center, as stipulated in this Lease. This shall include, but not be limited to: (i) the status of any safety or security issues, (ii) the status of any fire, building and safety, or health code violation, and (iii) the status of any minor or major repairs. The Parties may make such adjustments as they deem necessary provided that any substantive or material adjustments shall require the written approval of the BOARD and amendment of this lease if applicable.

8.1.1.3. Grant Agreement Obligations. Representatives of the parties will confer to evaluate compliance with any reporting obligations imposed under the terms of any grant agreement entered into by CITY or DSCLA for the development or operation of the Premises, the Center, or the Center Exhibits. CITY agrees to assist DSCLA in obtaining any information or records necessary for the preparation of these reports.

8.1.2. Annual Report. Not later than twelve months following the Effective Date, and thereafter annually, DSCLA shall provide a copy of its annual report, which includes the financial, organizational, and programmatic activities of the Center to the General Manager.

8.1.3. Five Year Strategic Plan. Not later than four years following the Center's Opening Date, and on every fifth anniversary thereafter, DSCLA shall provide to the General Manager a report on proposed financial, organizational, and programmatic activities of the Center for the next five years. This report shall include a comprehensive outlook of anticipated Center attendance, pricing, revenues, and expenses, as well as plans for future exhibits, attractions, and programs.

8.2. Business Records. CITY maintains an interest in assuring that the facilities it provides at no or minimal rents are operated in a manner consistent with the CITY's intent. Accordingly, DSCLA shall maintain a method of accounting of all the receipts and disbursements received or made in connection with the Premises which shall correctly and accurately reflect the gross receipts and disbursements received or made by DSCLA from the operation of the Center and other activities on the Premises). These records shall be prepared by DSCLA's auditors or certified accountants and be consistent with recognized accounting principles.

8.3. Inspection and Audit of Records by CITY. All documents, books and accounting records required to be maintained or retained under this Article shall be open for inspection and re-inspection by CITY with reasonable prior notice during regular operating hours during the Term of this Lease and for a period of seven years thereafter. In addition, CITY may from time to time consistent with recognized accounting principles conduct, at CITY'S sole cost and expense, an audit or re-audit of the books and business conducted by DSCLA with respect to DSCLA'S operations of

the Premises and the Center and observe the operation of business so that accuracy of the above records can be confirmed.

ARTICLE 9. COMPLIANCE WITH ALL LAWS AND REGULATIONS

9.1. Federal, State and Local Laws. DSCLA agrees that in achieving its goals as set forth in this Lease, it will comply with all applicable laws, ordinances, rules and regulations enacted or promulgated or which are enacted or promulgated in the future by the City of Los Angeles, the County of Los Angeles, the State of California, and the Federal Government. DSCLA shall also adhere to all rules and regulations that have been adopted or that may be adopted by the BOARD or any successor Department, Board or Commission having jurisdiction over the Premises.

9.2. Compliance with Americans with Disabilities Act. DSCLA agrees that as between DSCLA and CITY, DSCLA shall be responsible for compliance, including all costs of compliance, with the Americans With Disabilities Act of 1990 (42 U.S.C. § 12101, *et seq.*) and any and all other federal, state, and local laws related to the accessibility of the Premises to persons with disabilities.

9.3. Right of Entry. CITY and the General Manager, their authorized representatives, agents and employees shall have the right to enter upon the Premises at any and all reasonable times within operating hours for the purposes of inspection and observation of DSCLA'S operations. CITY shall endeavor to conduct such inspections and observations in a manner calculated to minimize disruption to the use and enjoyment of the Premises by DSCLA, its employees, and patrons. Said inspections may be made by persons identified to DSCLA as CITY employees or by independent contractors engaged by CITY. Inspections of areas not open to the general public shall be made with reasonable prior notice (except in the case of emergency, where no notice is required).

9.4. Operating Permits and Licenses. DSCLA shall obtain, at its sole expense, any and all permits or licenses that may be required in connection with its operations including, but not limited to, tax permits, business licenses, and health permits. CITY is not responsible for payment of any fees nor for delays in permit processing or approvals.

ARTICLE 10. INSURANCE

10.1. Insurance. Prior to the occupancy of the Premises, under the provisions and conditions of this Lease, DSCLA shall furnish CITY with evidence of insurance from insurers (i) reasonably acceptable to CITY, and (ii) authorized to do business in the State of California, on a form reasonably acceptable to the CITY, Office of the City Administrative Officer (CAO), Risk Management for the following coverages and minimum limits of insurance specified on the Form Gen. 146R Forms attached hereto and incorporated herein by reference as Exhibit C "Form Gen. 146R Insurance Form". The following coverages shall be maintained by DSCLA at its sole cost and expense

throughout the Term of this Lease. Evidence of such coverage shall be provided to CITY by DSCLA in accordance with the Instructions and Information on Complying with City Insurance Requirements attached hereto and incorporated herein by reference as Exhibit D "Instructions and Information on Complying with City Insurance Requirements", which includes the following:

10.1.1. General Liability Insurance. DSCLA shall obtain Commercial General Liability insurance with coverage for Premises and Operations, Products and Completed Operations, Blanket Contractual Liability, Broad Form Property Damage, and Personal Injury coverages included and shall provide for total limits of not less than \$5,000,000 Combined Single Limit, per occurrence, for bodily injury and property damage (during any construction phase at the Center, Umbrella or Excess Liability coverages may be used to supplement primary coverages to meet required limits). Evidence of such coverage shall provide for the following:

10.1.1.1. Include CITY, its boards, officers, agencies, and employees as additional insureds with DSCLA for the development and operation of the Center at the Premises and all DSCLA'S activities and insured risks related thereto.

10.1.1.2. That the insurance is primary and not contributing with any other insurance maintained by the City of Los Angeles.

10.1.1.3. With respect to the interests of CITY, if an insurance company elects to cancel insurance before the stated expiration date, or declines to renew in the case of a continuous policy, or materially reduces the coverage period by changing the retroactive date (if any), or the extended discovery period (if any), or reduces the stated limits other than by impairment of an aggregate limit, or materially reduces the scope of coverage which affects CITY's interest, the company will provide CITY at least thirty days' prior written notice of such election (ten days for non-payment of premium). Notice will be addressed as follows: City of Los Angeles, CAO, Risk Management, 200 North Main Street, 12th Floor, Los Angeles, California 90012, or at such address as CITY may, from time to time, specify by written notice.

10.1.2. Property Coverage. At all times during the Term of the Lease with respect to any improvements on the Premises including, without limitation, the building containing the Center and Center Exhibits, DSCLA shall, at its sole cost and expense, cause to be provided and kept in force and effect insurance policies, protecting CITY and DSCLA as their interests may appear, against loss or damage to the improvements on the Premises, in an amount consistent with what a prudent operator of a comparable building would carry providing replacement cost coverage for perils typically insured against in a California standard all risk property insurance policy. The replacement cost of the

improvements shall be determined in accordance with the standard practices of the insurance industry and evidenced by the certificate of the insurance company or companies issuing such insurance at the time the policy or policies are obtained. DSCLA further covenants and agrees, at its sole cost and expense, to provide and keep in full force and effect Boiler and Machinery insurance on all air conditioning equipment, boilers, and other pressure vessels and systems, whether fired or unfired, serving the improvements on the Premises.

10.1.3. Builder's Risk Insurance. Prior to the commencement of any construction at, or expansion of, the Center, or major internal or external improvements to the Center's structure, DSCLA shall, at its sole cost and expense, cause to be provided and kept in full force and effect "All Risks Builder's Risk" insurance, including vandalism and malicious mischief, covering improvements in place, and all materials and equipment at the job site. Said insurance shall remain in full force and effect until the improvements shall have been completed and fully insured as provided in this Article.

10.1.4. Insurance on DSCLA Personal Property. DSCLA may obtain other insurance covering its equipment, exhibits, artifacts, memorabilia, and other personal property at its sole discretion. CITY, as Landlord, shall have no right to require such insurance nor shall CITY be deemed a beneficiary thereof. No claims will be made to CITY by DSCLA for losses sustained by DSCLA. Nothing in this Paragraph, however, shall be construed to restrict the right of the City of Los Angeles, or any of its Departments, Boards, Commissions, or officers, or any other person or organization, to require DSCLA to obtain insurance on any equipment, artifacts or other property loaned or otherwise provided to the Center or DSCLA by the City of Los Angeles for exhibits, display, or other purposes.

10.1.5 Workers' Compensation. DSCLA shall comply with the provisions of section 3700, *et seq.*, of the California Labor Code and shall be insured (and shall require that each of its contractors and subcontractors comply with such Code and be insured) against liability for workers' compensation and employers' risk in accordance with the provisions of such Code before commencing the performance of any work on or about the Premises or otherwise in relation to this Lease. A Waiver of Subrogation in favor of CITY is required.

10.1.6. Adjustment of Insurance Levels. CITY reserves the right at any time during the Term of this Lease, applying generally accepted Risk Management principles, to change the amounts and types of insurance required hereunder effective at the renewal date of insurance then in effect (in no case more than one year from the written notice) by giving DSCLA ninety days' written notice provided that such amounts and/or types shall be reasonably available to DSCLA at commercially reasonable premiums.

10.1.7. Reduction of Insurance Protection. If any of the required insurance coverages contain aggregate limits, or apply to other operations or

tenancies of DSCLA outside of this Lease, DSCLA shall give CITY prompt, written notice of any incident, occurrence, claim, settlement, or judgment against such insurance which in DSCLA'S best judgment may diminish the protection such insurance affords CITY. DSCLA shall further take immediate steps to restore such aggregate limits or shall provide other insurance protection for such aggregate limits.

10.2. Self-Insurance Programs. Self-insurance programs and self-insured retention in insurance policies are subject to separate approval by CITY upon review of evidence of financial capacity to respond. Additionally, such programs or retention must provide CITY with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance.

10.3. Failure to Maintain Insurance. DSCLA'S failure to procure or maintain required insurance shall constitute a material breach of this Lease under which CITY may immediately terminate this Lease, or, at its discretion, procure or renew such insurance to protect CITY's interest and pay any and all premiums in connection therewith, and recover all monies so paid from DSCLA. If CITY elects to terminate this Lease, DSCLA agrees to immediately cease all operations and activities under this Lease and to peacefully surrender the Premises.

10.4. Indemnification/Hold Harmless. Except for the active negligence or willful misconduct of CITY, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, DSCLA undertakes and agrees to defend, indemnify and hold harmless CITY and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including DSCLA'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Lease by DSCLA or its subcontractors of any tier. The provisions of this paragraph survive expiration or termination of this Lease.

ARTICLE 11. OWNERSHIP OF IMPROVEMENTS

11.1. Improvements. All improvements located on the Premises, including the building and tenant improvements constructed by the City or by DSCLA as of the Effective Date of this Lease, and all Tenant improvements constructed on the Premises by DSCLA at any time and from time to time during the Term, shall be owned by DSCLA during the Term. Except as hereinafter provided, all improvements on the Premises at the end of the Term shall, without any obligation on the part of CITY to compensate DSCLA therefore, become and remain CITY's property free and clear of all claims to or against such tenant improvements by DSCLA or any third party. CITY shall have the right to require DSCLA to demolish and remove all or any portion of the tenant improvements on the Premises. DSCLA shall take reasonable steps to remove all such

claims of third parties existing at that time. Notwithstanding the foregoing, all bronze and other decorative metal, stain glass windows, historic buildings and similar items or structures which DSCLA deems to be part of its collection shall be removable at the end of the Term, whether or not such items are tenant improvements or fixtures.

ARTICLE 12. DAMAGE AND RESTORATION

12.1. Damage. Except as otherwise provided in this Lease, if any improvements located on the Premises are damaged and such damage was caused by fire or other peril covered by DSCLA'S insurance, DSCLA agrees to repair such damage to the extent set forth in this Section, and this Lease shall continue in full force and effect. If such improvements are damaged as the result of any cause other than perils covered by DSCLA'S insurance then DSCLA may, at DSCLA'S option, either (i) repair such damage as soon as reasonably practicable at DSCLA'S sole cost and expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to CITY within ninety (90) days after the date of occurrence of such damage of DSCLA'S intention to cancel and terminate this Lease of the date of the occurrence of such damage. Upon such termination, DSCLA shall, if requested by CITY, complete demolition of the damaged Center or other damaged improvement and restoration of the Premises to the condition it was in prior to construction of the improvements at DSCLA'S sole cost and expense and shall transfer any proceeds received from DSCLA'S insurance that are attributable to damage to the real property underlying the Premises, if any, to CITY.

12.2. Obligation to Restore. If this Lease is not terminated pursuant to any of the provisions of this Article 12, DSCLA shall, to the extent of available insurance proceeds plus any deductible DSCLA elects to carry, promptly and diligently restore and repair the improvements to substantially the same condition, to the extent possible, they were in immediately prior to the occurrence of the damage, except for modifications required by building codes and other laws and except for any other modifications to the improvements considered desirable by DSCLA and approved by the General Manager. DSCLA'S obligation to restore is subject to reasonable delays for insurance adjustment and other matters beyond DSCLA'S reasonable control. During any period of restoration pursuant to this Section, the Center shall not be required to be open for operation (except where such restoration is minimal or reasonably would not affect partial operation of the Center).

ARTICLE 13. DESIGN AND CONSTRUCTION OF IMPROVEMENTS AND EXHIBITS

13.1 Design and Construction of Tenant Improvements and Exhibits by Tenant. DSCLA shall design the layout of the Center, design and construct improvements, and design and construct or have constructed the Center Exhibits pursuant to and in with conformance with the terms and conditions of the Improvements and Exhibit Agreement attached hereto by this reference and incorporated herein as Exhibit E "Improvements and Exhibit Agreement". DSCLA shall also design the Center and construct the

improvements and Center Exhibits in conformance with all the applicable federal, state, county, and city laws in force at the time of design.

13.2 Design and Construction of Improvements by CITY. CITY shall prior to the Center's Opening Date design and construct the improvements specified in Exhibit B "Premises Improvements to be Completed by City".

ARTICLE 14. HAZARDOUS MATERIALS

14.1. Hazardous Materials. CITY and DSCLA agree as follows with respect to the existence or use of Hazardous Materials (as defined in Paragraph 14.1.3. below) on the Premises:

14.1.1. Prohibition. DSCLA shall not cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises by DSCLA, its agents, employees, contractors or invitees in violation of law or in quantities which would require reporting to a governmental entity, without the prior written consent of the General Manager, which consent shall not be unreasonably withheld. If DSCLA breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Material on the Premises caused or permitted by DSCLA results in contamination of the Premises, or if contamination of the Premises by Hazardous Material otherwise occurs for which DSCLA is legally liable to CITY for damage resulting there from, then DSCLA shall indemnify, hold CITY harmless, and defend CITY (with counsel reasonably acceptable to CITY) from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact on marketing of space on the Premises, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) which arise during or after the Term as a result of such contamination. This indemnification of CITY by DSCLA includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises caused or permitted by DSCLA results in any contamination of the Premises, DSCLA shall promptly take all actions at its sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises; provided that CITY's approval of such actions shall first be obtained, which approval shall not unreasonably be withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises. However, the foregoing provisions shall not prohibit DSCLA from transportation to and from, and the use, storage, maintenance, and handling within the Premises of substances customarily used in connection with normal office or Center use provided: a) such substances shall

be used and maintained only in such quantities as are reasonably necessary for the permitted use of the Premises set forth in Section 5.1. of this Lease, strictly in accordance with applicable laws and the manufacturers' instructions therefore; b) such substances shall not be disposed of, released, or discharged at the Premises, and shall be transported to and from the Premises in compliance with all applicable laws, and as CITY shall reasonably require; c) if any applicable law or the trash removal contractor requires that any such substances be disposed of separately from ordinary trash, DSCLA shall make arrangements at DSCLA'S expense for such disposal directly with a qualified and licensed disposal company at a lawful disposal site, and shall ensure that disposal occurs frequently enough to prevent unnecessary storage of such substances on or around the Premises; and d) any remaining such substances shall be completely, properly, and lawfully removed from the Premises upon expiration or earlier termination of this Lease.

14.1.2. Compliance Costs. CITY and DSCLA acknowledge that CITY may become legally liable for the costs of complying with laws relating to Hazardous Material which are not the responsibility of DSCLA pursuant to Paragraph 14.1.1., including the following: (1) Hazardous Material present in the soil or ground water; (2) a change in Laws which relate to Hazardous Material which make such Hazardous Material which is present on the Premises as of the Effective Date, whether known or unknown to CITY, a violation of such new laws; (3) Hazardous Material that migrates, flows, percolates, diffuses or in any way moves on to or under the land; (4) Hazardous Material present on or under the land as a result of any discharge, dumping or spilling (whether accidental or otherwise) on the land by other owners of the Premises or their agents, employees, contractors or invitees, or by others. Accordingly, CITY and DSCLA agree that the cost of complying with laws relating to Hazardous Material on the Premises for which CITY may be legally liable shall be borne by CITY unless the cost of such compliance, as between CITY and DSCLA, is made the responsibility of DSCLA pursuant to this Lease.

14.1.3. "Hazardous Material" - Definition. As used herein, the defined term "Hazardous Material" means any chemical, substance, material, or waste or component thereof the presence of which requires investigation or remediation under any federal, state, or local statute, regulation, ordinance, order, action, policy, or common law, or which is now or hereafter listed, defined, or regulated as a flammable explosive, radioactive material, hazardous or toxic chemical, substance, material or waste or component thereof (whether injurious by themselves or in conjunction with other materials) by any federal, state, or local governing or regulatory body having jurisdiction, or which would trigger any employee or community "right-to-know" requirements adopted by such body, or for which any such body has adopted any requirements for the preparation or distribution of a material safety data sheet. "Hazardous Material" includes, without limitation, any material or substance which is: a) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under

Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); b) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act, California Health and Safety Code Section 25300, *et seq.*); c) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory, California Health and Safety Code Section 25500, *et seq.*); d) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances, California Health and Safety Code Section 25280, *et seq.*); e) petroleum; f) asbestos; g) defined as a "hazardous constituent," "hazardous material," "hazardous waste," or "toxic waste" under Article 2 of Chapter 10 (Section 66260.10) or defined as a "hazardous waste" under Article 1 of Chapter 11 (Section 66261.3) of Title 22 of the California Code of Regulations, Division 4.5 (Environmental Health Standards for the Management of Hazardous Waste, 22 C.C.R. Section 66001, *et seq.*); h) designated as a "hazardous substance" pursuant to Section 311 (33 U.S.C. § 1321) of the Clean Water Act of 1977, as amended (Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*); i) defined as a "hazardous waste" pursuant to Section 1004 (42 U.S.C. § 6903) of the Federal Resource Conservation and Recovery Act of 1976, as amended (RCRA, 42 U.S.C. § 6901, *et seq.*); j) defined as a "hazardous substance" pursuant to Section 101 (42 U.S.C. § 9601) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA, 42 U.S.C. § 9601, *et seq.*); or k) defined as "hazardous material" under Section 103 (49 U.S.C. § 1802) of the Hazardous Materials Transportation Act (49 U.S.C. § 1801, *et seq.*), as such laws may be amended from time to time, and the regulations adopted and publications promulgated pursuant to such laws.

14.1.4. Disposal of Hazardous Material. If DSCLA disposes of any soil, material or groundwater contaminated with hazardous material, DSCLA 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. Except where presence of Hazardous Material predated this Lease, CITY shall not appear on any manifest document as a generator of such material disposed of by DSCLA.

14.1.5. Hazardous Material Tests. Any tests required of DSCLA by this Article shall be performed by a State of California Department of Health Services certified testing laboratory satisfactory to CITY. By signing this Lease, DSCLA hereby irrevocably directs any such laboratory to provide CITY, upon written request from CITY, copies of all of its reports, test results, and data gathered. As

used in this Article, the term "DSCLA" includes agents, employees, contractors, subcontractors, and/or invitees of DSCLA.

14.1.6. Notice of Hazardous Substances. California Health and Safety Code section 25359.7(a) requires any owner of nonresidential real property who knows, or has reasonable cause to believe, that any release of hazardous substance has come to be located on or beneath that real property to, prior to the lease or rental of that real property or when the presence of such release is actually known, give written notice of that condition to the lessee or renter. California Health and Safety Code section 25359.7(b) requires any tenant of real property who knows, or has reasonable cause to believe, that any release of a hazardous substance has come to be located on or beneath that real property to give written notice of such condition to the owners. DSCLA and CITY shall comply with the requirements of section 25359.7 and any successor statute thereto and with all other statutes, laws, ordinances, rules, regulations and orders of governmental authorities with respect to hazardous substances.

ARTICLE 15. DEFAULT AND TERMINATION

15.1. Events of Default. The following occurrences are "Events of Default":

15.1.1. Breach of Lease. DSCLA or CITY materially breaches or fails in the performance of any of the provisions or conditions of this Lease; or

15.1.2. Failure to Conform to Laws. DSCLA fails to conform to applicable federal, state, county or local laws, rules, regulations or policies; or

15.1.3. Incapacity to Perform. DSCLA ceases to operate, exist or maintain its nonprofit corporate status (temporary suspension of status for a period not exceeding six (6) months shall not be considered a failure to maintain status) or becomes unable through corporate or personal incapacity to fulfill its obligations under this Lease; or

15.1.4. Lack of Funds. If DSCLA is no longer able to carry out the purposes of the Lease because of a lack of funds or funding; or

15.1.5. Non-conforming Use. DSCLA ceases to use the Premises for the purpose of a recreation and environmental awareness center as set forth in Article 5; or

15.1.6. Failure to Commence Construction Of The Center Exhibits. DSCLA fails to commence construction of the Center Exhibits on or before September 30, 2013, either CITY or DSCLA may terminate this Lease. DSCLA may request a change in this date, for which the City will not unreasonably withhold its consent if the requested deadline extension does not significantly impact the City's ability to meet the March 2015 opening deadline. Construction

of the Center Exhibits shall be deemed to have commenced on the date DSCLA or its subcontractors starts physical fabrication on the Center Exhibits through the execution of a contractual agreement(s); or

15.1.7. Breach of the Improvements and Exhibits Agreement. DSCLA materially breaches or fails in the performance of any of the provisions or conditions of the Exhibit E "Improvements and Exhibits Agreement"; or

15.1.8. Failure to Commence Center Operations. If DSCLA fails to open the Center on or before March 31, 2015, CITY may terminate this Lease at any time on or after March 31, 2015.

15.2. Default - CITY's Remedies. If any one or more of the "Events of Default" set forth in Section 15.1. above occurs, then CITY may, at its election, without any further notice to or authorization from DSCLA, and without waiving any of City's rights at any time to select any other remedy provided in this Section, or elsewhere in this Lease, if applicable, or under law, do any one or more of the following:

15.2.1. Termination of Lease. CITY may give DSCLA written notice of such "Event of Default." If DSCLA does not cure said default within thirty (30) days after notice (and forthwith for a default involving health, sanitary or safety conditions or pertaining to the maintenance of insurance required under this Lease) or such longer period as is reasonably necessary to remedy such default, as determined by either CITY, provided that DSCLA shall continuously and diligently pursue such remedy at all times until such default is cured, CITY may, by delivering written notice to DSCLA, terminate this Lease and DSCLA shall vacate the Premises and comply with Section 16.1.; and/or

15.2.2. Recovery at Law. CITY may recover at law any and all claims which may be due CITY; and/or

15.2.3. Self-help. In the event that neither the City nor DSCLA terminates the term of this lease agreement under the conditions herein defined, the CITY may, but is not obligated to, perform such work as it deems necessary to cure any "Event of Default" and charge DSCLA for the cost of labor and materials expended. The General Manager may exercise this option immediately in an "Event of Default" involving health, sanitary or safety considerations. Otherwise, the General Manager may exercise this option within sixty (60) days after giving DSCLA written notice of a default involving Premises' maintenance if DSCLA does not commence to cure. CITY shall provide DSCLA with reasonably detailed invoice for the labor and materials expended and DSCLA shall pay the full sum of the invoice within sixty (60) days of DSCLA'S receipt of the invoice, using as a first priority any monies remaining from the project escrow account as defined in section 9.2 of Exhibit E to this agreement. In the event DSCLA disputes any of the charges on the invoice or DSCLA'S obligation to pay for any or all of the items, DSCLA shall pay the full sum of the invoice within the sixty (60) day period,

subject to prompt reimbursement from CITY to the extent DSCLA prevails on any items in dispute.

The specified remedies to which CITY may resort under the provisions of this Lease are cumulative and not intended to be exclusive of any other remedies afforded by law or equity.

15.3. No Waiver. The conduct of either party or the acceptance of all or part of any payment by CITY after an "Event of Default" for any period after an "Event of Default" shall not be deemed a waiver of any rights and remedies, nor a waiver of the default of the same or any other provision, covenant or condition. Waiver by either CITY or DSCLA of any breach by the other of any covenant, condition or obligation herein contained or failure by either CITY or DSCLA to exercise any right or remedy in respect of any such breach shall not constitute a waiver or relinquishment for the failure of any such covenant, condition or obligation or of any subsequent breach of any such covenant, condition or obligation nor bar any right or remedy of CITY or DSCLA in respect of any such subsequent breach.

15.4. Default by CITY. In the event CITY defaults in the performance of any of the provisions or conditions of this Lease, and if a written notice of such default is issued to CITY by DSCLA, and if CITY does not commence to cure said default within sixty (60) days of receipt of said notice, DSCLA may immediately terminate this Lease and/or obtain specific performance.

ARTICLE 16. SURRENDER OF PREMISES

16.1. Surrender of Premises. Upon termination of this Lease, DSCLA shall quit and surrender possession of the Premises to CITY in good and usable condition, subject to normal wear and tear, provided, however, that the BOARD, at the BOARD's sole discretion, may require DSCLA to demolish and remove all or any portion of the improvements on the Premises and restore the demolished portion of the Premises to its original condition as of the effective date of the lease or to a reasonably acceptable condition as approved by the BOARD. Except as provided in Section 11.1, any improvements and Center Exhibits which have been constructed or erected on the Premises shall, upon termination of this Lease, become the property of CITY. DSCLA'S collections and all personal property and fixtures related thereto, and all property described in Section 11.1, shall remain the property of DSCLA or its assigns and may be removed by DSCLA from the Premises upon termination of this Lease. Should DSCLA fail to remove such property, improvements, or fixtures after the termination of this Lease, CITY may, at CITY's option: (1) retain all or any of such property, and title thereto shall thereupon vest in CITY; or (2) remove the same, in which event DSCLA shall pay to CITY upon demand the reasonable costs of such removal plus the cost to restore the Premises to an acceptable condition as approved by the BOARD.

16.2. No Implied Surrender. DSCLA agrees on the last day of the Term, or on the earlier termination of this Lease, to surrender the Premises, including all then existing improvements other than the items identified in Section 11.1, which are to be removed.

No act or thing done by CITY during the Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept such surrender shall be valid unless in writing and signed by CITY.

16.3. Failure to Surrender. If DSCLA fails to surrender the Premises, together with the improvements thereon, upon the termination of this Lease, DSCLA agrees to indemnify and hold harmless CITY from and against any loss or liability, including costs and reasonable attorney's fees, resulting from such failure to surrender, including, but not limited to, any claims made by any succeeding tenant based on or resulting from such failure to surrender. Nothing herein contained shall be construed as consent to any occupancy or possession of any portion of the Premises and the improvements thereon by DSCLA beyond the expiration of the Term or the earlier termination of this Lease.

ARTICLE 17. ASSIGNMENT AND BANKRUPTCY

17.1. Assignment and Subletting. DSCLA shall not under-let or sublet the Premises or any part thereof or allow the same to be used or occupied by any other person, group or organization for any other use than that herein specified, nor assign this Lease, nor transfer, assign or in any manner convey any of the rights or privileges herein granted without the consent of the BOARD and the City Council, which may give or deny consent at their sole discretion provided that DSCLA shall have the right to sublease or contract for the operation of a food service enterprise, gift shop, or other related undertaking with the prior written consent of the General Manager, which consent shall not be unreasonably withheld or delayed). In addition, the General Manager, or the BOARD, may give written consent for subleases of not more than five days in duration involving uses of portions of the Premises consistent with the provisions of this Lease. Short term and occasional use of the Premises for other activities such as location filming, special events, and projects with artists or other non-profit or governmental agencies shall not be considered as assignments or subletting and DSCLA may allow such use with the prior consent of CITY (however, net income, if any, from such activities is subject to the provisions of Section 5.7.). DSCLA shall not rent, lease, or offer any space for storing any article or articles unrelated to the permissible uses of the Center within or on the Premises. Any attempt to sublease, assign, or transfer without the consent required by this Section shall be void.

17.2. Bankruptcy. To the extent permitted by law, neither this Lease nor the rights herein granted shall be assignable or transferable by any process or proceedings in any court, or by attachment, execution, proceedings in insolvency or bankruptcy either voluntary or involuntary, or receivership proceedings. To the extent the previous sentence is not permitted by law, in the event that DSCLA shall be adjudicated a bankrupt, or become involved in any proceedings under the bankruptcy laws of the United States or the receivership laws of the State of California, or if the leasehold interest created by this Lease or any improvements constructed pursuant to this Lease are transferred due to operations of law, including, without limitation, the enforcement of a judgment, the trustee in bankruptcy, the receiver, the assignee, or the judgment

purchaser shall be bound by all provisions of this Lease, including, without limitation, the requirement that the Premises be operated as a Center (Section 5.1.).

ARTICLE 18. CONDEMNATION

18.1. Condemnation. Should any or all of the Premises be acquired for public use under the power of eminent domain or by purchase in lieu thereof, CITY shall be entitled to all compensation and severance damages attributable to the land and buildings. DSCLA shall receive any compensation and severance damages which may be paid for damage or loss of the leasehold interest only.

ARTICLE 19. NOTICES

19.1. Notices. All notices and demands which may or are to be required or permitted to be given by either party to the other hereunder shall be in writing. All notices and demands shall be personally delivered (including by means of professional messenger service), sent by United States mail, postage prepaid, return receipt requested, or transmitted by telecopier (e.g., Fax) or electronic mail (upon mutual agreement of participating parties), in which case the receiving party shall immediately confirm receipt of such telecopied or e-mailed notice. All notices are effective upon receipt. For the purposes of such notices, the addresses for the parties are set forth in Section 19.2 below. In the event CITY is unable to give notice to DSCLA at the address(es) provided to CITY by DSCLA, notice shall be deemed effective when addressed to DSCLA at the Premises. Either party may from time to time designate another person or place in a notice.

19.2. Notices - Where Sent. All notices given under this Lease which are mailed or telecopied shall be addressed (unless redesignated as provided above) to the respective parties as follows:

To CITY or General Manager:

City of Los Angeles
Board of Recreation and Park Commissioners
221 North Figueroa Street, Suite 1510
Los Angeles, California 90012
Telecopier: (213) 202-2612

with a copy of any notice to
General Manager, Department of Recreation and Parks
221 North Figueroa Street, Suite 1550
Los Angeles, California 90012
Telecopier: (213) 202-2614

with a copy of any notice to
Office of the City Attorney,
Real Property/Environment Division
200 North Main Street, Suite 700

Los Angeles, California 90012-4130
Telecopier: (213) 978-8090

with a copy of any notice to
Program Manager
Bureau of Engineering, Recreational and Cultural Facilities Program
1149 S. Broadway, 8th Floor
Los Angeles, California 90015
Telecopier: (213) 847-1926

To DSCLA:
Chairman of the Board
Discovery Science Center of Los Angeles
2500 North Main Street, Santa Ana, CA 92705.
Telecopier: (714) 263-3838

ARTICLE 20. STANDARD PROVISIONS FOR CITY CONTRACTS

20.1 Standard Provisions for City Contracts. This Lease is subject to CITY's Standard Provisions for City Contracts, attached hereto and incorporated herein by reference as Exhibit F "Standard Provisions for City Contracts".

ARTICLE 21. ORDINANCE MANDATED PROVISIONS

21.1 Child Support Assignment Orders. This Lease is subject to Section 10.10, Article 1, Chapter 1, Division 10 of the Los Angeles Administrative Code related to Child Support Assignment Orders. Pursuant to this Section, DSCLA (and any subcontractor of DSCLA providing services to City under this Lease) shall (1) fully comply with all State and Federal employment reporting requirements for DSCLA'S or DSCLA'S subcontractor's employees applicable to Child Support Assignment Orders; (2) certify that the principal owner(s) of DSCLA and applicable subcontractors are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (3) fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with California Family Code section 5230, *et seq.*; and (4) maintain such compliance throughout the Term of this Lease. Pursuant to Section 10.10.b of the Los Angeles Administrative Code, failure of DSCLA or an applicable subcontractor to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders and Notices of Assignment or the failure of any principal owner(s) of DSCLA or applicable subcontractors to comply with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally shall constitute a default of this Lease subjecting this Lease to termination where such failure shall continue for more than ninety days after notice of such failure to DSCLA by CITY (in lieu of any time for cure provided in Article 15).

21.2. Service Contract Worker Retention Ordinance. This Lease is subject to the Service Contract Worker Retention Ordinance ("SCWRO") (Section 10.36, *et seq*, of the Los Angeles Administrative Code. The SCWRO requires that, unless specific exemptions apply, all employers (as defined) under contracts that are primarily for the furnishing of services to or for the City of Los Angeles and that involve an expenditure or receipt in excess of \$25,000 and a contract term of at least three months shall provide retention by a successor contractor for a ninety-day transition period of the employees who have been employed for the preceding twelve months or more by the terminated contractor or subcontractor, if any, as provided for in the SCWRO. Under the provisions of Section 10.36.3(c) of the Los Angeles Administrative Code, CITY has the authority, under appropriate circumstances, to terminate this Lease and otherwise pursue legal remedies that may be available if CITY determines that the subject contractor violated the provisions of the SCWRO.

21.3. Living Wage Ordinance.

21.3.1. General Provisions: Living Wage Policy. This Lease is subject to the Living Wage Ordinance ("LWO") (Section 10.37, *et seq*, of the Los Angeles Administrative Code. The LWO requires that, unless specific exemptions apply, any employees of tenants or licensees of CITY property who render services on the leased or licensed premises are covered by the LWO if any of the following applies: (1) the services are rendered on premises at least a portion of which are visited by substantial numbers of the public on a frequent basis, (2) any of the services could feasibly be performed by CITY employees if the awarding authority had the requisite financial and staffing resources, or (3) the designated administrative agency of the City of Los Angeles has determined in writing that coverage would further the proprietary interests of the City of Los Angeles. Employees covered by the LWO are required to be paid not less than a minimum initial wage rate, as adjusted each year (July 1, 2006, levels: \$9.39 per hour with health benefits of at least \$1.25 per hour or otherwise \$10.64 per hour). The LWO also requires that employees be provided with at least twelve compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and at least ten additional days per year of uncompensated time pursuant to Section 10.37.2(b). The LWO requires employers to inform employees making less than twelve dollars (\$12.00) per hour of their possible right to the federal Earned Income Tax Credit ("EITC") and to make available the forms required to secure advance EITC payments from the employer pursuant to Section 10.37.4. DSCLA shall permit access to work sites for authorized CITY representatives to review the operation, payroll, and related documents, and to provide certified copies of the relevant records upon request by CITY. Whether or not subject to the LWO, DSCLA shall not retaliate against any employee claiming non-compliance with the provisions of the LWO, and, in addition, pursuant to Section 10.37.6(c), DSCLA agrees to comply with federal law prohibiting retaliation for union organizing.

21.3.2. Living Wage Coverage Determination. DEPARTMENT has made the initial determination that this Lease, as a public lease or a public license, is subject to the LWO. DSCLA, although subject to the LWO, may be exempt from most of the requirements of the LWO if DSCLA qualifies for such exemption under the provisions of the LWO. Determinations as to whether an employer or employee is exempt from coverage under the LWO are not final, but are subject to review and revision as additional facts are examined and/or other interpretations of the law are considered. Applications for exemption must be renewed every two years. To the extent DSCLA claims non-coverage or exemption from the provisions of the LWO, the burden shall be on DSCLA to prove such non-coverage or exemption and, where applicable, renew such exemption.

21.3.3. Compliance; Termination Provisions and Other Remedies: Living Wage Policy. If DSCLA is not initially exempt from the LWO, DSCLA shall comply with all of the provisions of the LWO, including payment to employees at the minimum wage rates, effective on the Execution Date of this Lease, and shall execute a Declaration of Compliance Form contemporaneously with the execution of this Lease. If DSCLA is initially exempt from the LWO, but later no longer qualifies for any exemption, DSCLA shall, at such time as DSCLA is no longer exempt, comply with the provisions of the LWO and execute the then-currently used Declaration of Compliance Form, or such form as the LWO requires. Under the provisions of Section 10.37.6(c) of the Los Angeles Administrative Code, violation of the LWO shall constitute a material breach of this Lease and CITY shall be entitled to terminate this Lease and otherwise pursue legal remedies that may be available, including those set forth in the LWO, if CITY determines that DSCLA violated the provisions of the LWO. The procedures and time periods provided in the LWO are in lieu of the procedures and time periods provided in Article 15 of this Lease. Nothing in this Lease shall be construed to extend the time periods or limit the remedies provided in the LWO.

21.4. Non-Discrimination.

21.4.1. Non-Discrimination in Use of Premises. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition in the lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Premises or any part of the Premises or any operations or activities conducted on the Premises or any part of the Premises, nor shall DSCLA or any person working under or through DSCLA establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use of occupancy of tenants, subtenants, or vendees of the Premises. Any sublease or assignment which may be permitted under this Lease shall also be subject to the non-discrimination clauses contained in this Section 21.4.

21.4.2. Non-Discrimination in Employment. DSCLA agrees and obligates itself in the performance of this Lease not to discriminate against any employee or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, sexual orientation, age, physical handicap, marital status, domestic partner status, or medical condition.

21.4.3. Equal Employment Practices. This Lease is a contract with or on behalf of the City of Los Angeles for which the consideration is one thousand dollars (\$1,000) or more. Accordingly, during the performance of this Lease, DSCLA further agrees to comply with Section 10.8.3 of the Los Angeles Administrative Code ("Equal Employment Practices"). By way of specification but not limitation, pursuant to Sections 10.8.3.E and 10.8.3.F of the Los Angeles Administrative Code, the failure of DSCLA to comply with the Equal Employment Practices provisions of this Lease may be deemed to be a material breach of this Lease. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard have been given to DSCLA. Upon a finding duly made that DSCLA has failed to comply with the Equal Employment Practices provisions of this Lease, this Lease may be forthwith terminated.

21.4.4. Equal Benefits Provisions. This Lease is subject to Section 10.8.2.1, Article 1, Chapter 1, Division 10 of the Los Angeles Administrative Code ("Equal Benefits Provisions") related to equal benefits to employees. DSCLA agrees to comply with the provisions of Section 10.8.2.1. By way of specification but not limitation, pursuant to Section 10.8.2.1.c of the Los Angeles Administrative Code, the failure of DSCLA to comply with the Equal Employment Practices provisions of this Lease may be deemed to be a material breach of this Lease. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard have been given to DSCLA. Upon a finding duly made that DSCLA has failed to comply with the Equal Employment Practices provisions of this Lease, this Lease may be forthwith terminated.

21.5. Contractor Responsibility Ordinance.

21.5.1. General Provisions; Contractor Responsibility Policy. This Lease is subject to the Contractor Responsibility Ordinance ("CRO") (Section 10.40, *et seq.*, of the Los Angeles Administrative Code) and the rules and regulations promulgated pursuant thereto as they may be updated. The CRO requires that, unless specific exemptions apply as specified in Section 10.40.4(a), lessees or licensees of City property who render services on the leased or licensed premises are covered by the CRO if any of the following applies: (1) the services are rendered on premises at least a portion of which are visited by substantial numbers of the public on a frequent basis, (2) any of the services could feasibly be performed by City employees if the awarding authority had the requisite financial and staffing resources, or (3) designated

administrative agency of the City has determined in writing that coverage would further the proprietary interests of the City. Lessees or licensees of City property who are not exempt pursuant to Section 10.40.4 (a) or (b), unless subject to the CRO solely due to an amendment to an existing lease or license, are required to have completed a questionnaire ("Questionnaire") signed under penalty of perjury designed to assist the City in determining that the lessee or licensee is one that has the necessary quality, fitness and capacity to perform the work set forth in the contract. All lessees or licensees of City property who are covered by the CRO, including those subject to the CRO due to an amendment, are required to complete the following Pledge of Compliance ("POC"):

- (1) comply with all applicable federal state, and local laws and regulations in the performance of the contract including, but not limited to, laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees;
- (2) notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation that may result in a finding that the lessee or licensee did not comply with Subsection (1) above in the performance of the lease or license;
- (3) notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the lessee or licensee has violated Subsection (1) above in the performance of the lease or license;
- (4) ensure within thirty days (or such shorter time as may be required by the awarding authority) that subcontractors working on the lease or license submit a POC to the awarding authority signed under penalty of perjury; and
- (5) ensure that subcontractors working on the lease or license abide by the requirements of the POC and the requirement to notify the awarding authority within thirty calendar days that any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Subsection (1) above in the performance of the lease or license.

DSCLA shall ensure that their subcontractors meet the criteria for responsibility set forth in the CRO and any rules and regulations promulgated thereto. DSCLA may not use any subcontractor that has been determined or found to be a non-responsible contractor by CITY. The listing of non-responsible contractors may be accessed on the internet at: <http://www.lacity.org/bidresp>. Subject to approval by the awarding authority, DSCLA may substitute a non-responsible subcontractor with another subcontractor with no change in the consideration for this Lease. DSCLA shall submit to CITY a POC for each subcontractor listed by the DSCLA in its Questionnaire, as performing work on this Lease within thirty calendar days of execution of this Lease, unless the Department of General Services requires in its discretion the submission of a POC within a shorter time

period. The signature of DSCLA on this Lease shall constitute a declaration under penalty of perjury that DSCLA shall comply with the POC.

21.5.2. Update of Information. DSCLA shall:

- (1) notify the awarding authority within thirty calendar days after receiving notification that any governmental agency has initiated an investigation that may result in a finding that DSCLA did not comply with any applicable federal, state, or local law in the performance of this Lease including, but not limited to, laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees;
- (2) notify the awarding authority within thirty calendar days of receiving notice of any findings by a government agency or court of competent jurisdiction that DSCLA violated any applicable federal, state, or local law in the performance of this Lease including, but not limited to, laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees; and
- (3) notify the awarding authority within thirty calendar days of becoming aware of any information regarding its subcontractors and investigations or findings regarding the subcontractor's violations of any applicable federal, state, or local law in the performance of this Lease including, but not limited to, laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees.

Updates of information contained in DSCLA'S responses to the Questionnaire must be submitted to the awarding authority within thirty days of any changes to the responses if the change would affect DSCLA'S fitness and ability to continue performing this Lease. Notwithstanding the above, DSCLA shall not be required to provide updates to the Questionnaire if DSCLA became subject to the CRO solely because of an amendment to the original lease or license. DSCLA shall cooperate in any investigation pursuant to CRO by providing such information as shall be requested by City. DSCLA agrees that City may keep the identity of any complainant confidential. DSCLA shall ensure that subcontractors who perform work on this Lease abide by these same updating requirements including the requirement to:

- (1) Notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the subcontractor did not comply with any applicable federal, state, or local law in the performance of this Lease including, but not limited to, laws regarding health and safety, labor and employment, wage and hour, and licensing laws which affect employees; and
- (2) Notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the subcontractor violated any applicable federal, state, or local law in the performance of this Lease including, but not limited to, laws regarding

health and safety, labor and employment, wage and hour, and licensing laws which affect employees.

The requirement that DSCLA provide Questionnaires and updates to Questionnaire responses does not apply to subcontractors.

21.5.3. Compliance; Termination Provisions and Other Remedies. If DSCLA is not exempt from the CRO, DSCLA shall comply with all of the provisions of the CRO and this Lease. Failure to comply with the provisions of the CRO, including without limitation the requirements that all responses to the Questionnaire are complete and accurate, to provide updates as provided therein and to correct any deficiencies within ten (10) days of notice by CITY, or failure to comply with the provisions of this Lease shall constitute a material breach of this Lease and CITY shall be entitled to terminate this Lease and otherwise pursue any legal remedies that may be available, including those set forth in the CRO. Nothing in this Lease shall be construed to extend the time periods or limit the remedies provided in the CRO.

21.6. Business Tax Registration Certificates and Tax Payments. This Section is applicable where DSCLA is engaged in business within the City of Los Angeles and DSCAL is required to obtain a Business Tax Registration Certificate ("BTRC") pursuant to one or more of the following articles (collectively "Tax Ordinances") of Chapter II of the Los Angeles Municipal Code: Article 1 (Business Tax Ordinance) [section 21.00, *et seq.*], Article 1.3 (Commercial DSCLA'S Occupancy Tax) [section 21.3.1, *et seq.*], Article 1.7 (Transient Occupancy Tax) [section 21.7.1, *et seq.*], Article 1.11 (Payroll Expense Tax) [section 21.11.1, *et seq.*], or Article 1.15 (Parking Occupancy Tax) [section 21.15.1, *et seq.*]. Prior to the execution of this Lease, or the effective date of any extension of the Term or renewal of this Lease, DSCLA shall provide to DEPARTMENT proof satisfactory to the General Manager that DSCLA has the required BTRCs and that DSCLA is not then currently delinquent in any tax payment required under the Tax Ordinances. CITY may terminate this Lease upon thirty days' prior written notice to DSCLA if CITY determines that DSCLA failed to have the required BTRCs or was delinquent in any tax payments required under the Tax Ordinances at the time of entering into, extending the Term of, or renewing this Lease. CITY may also terminate this Lease upon ninety days' prior written notice to DSCLA at any time during the Term of this Lease if DSCLA fails to maintain required BTRCs or becomes delinquent in tax payments required under the Tax Ordinances and DSCLA fails to cure such deficiencies within the ninety day period (in lieu of any time for cure provided in Article 15).

21.7. Slavery Disclosure Ordinance. This Lease is subject to the applicable provisions of the Slavery Disclosure Ordinance ("SDO") (Section 10.41, *et seq.* of the Los Angeles Administrative Code). Unless otherwise exempt in accordance with the provision of this Ordinance, DSCLA certifies that it has complied with the applicable provisions of the Ordinance. Under the provisions of Section 10.41.2(b) of the Los Angeles Administrative Code, CITY has the authority, under appropriate circumstances,

to terminate this Lease and otherwise pursue legal remedies that may be available to CITY if CITY determines that the DSCLA failed to fully and accurately complete the SDO affidavit or otherwise violated any provision of the SDO.

ARTICLE 22. MISCELLANEOUS PROVISIONS

22.1. Amendment of Lease. No amendment, modification, supplement or mutual termination of any provision of this Lease shall in any event be effective unless the same shall be approved by the BOARD and City Council and in writing and signed by CITY and DSCLA.

22.2. Binding Effect. Subject to the provisions of this Lease relative to assignment (Section 17.1), this Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, transferees, successors and assigns of the respective parties hereto.

22.3. Captions, Table of Contents, and Index. The captions and table of contents of this Lease are inserted only as a matter of convenience and reference, and they in no way define, limit, or describe the scope of any provisions of this Lease, or the intent of any provision of this Lease, and shall not be used with respect to the interpretation of any provision of this Lease.

22.4. Conflict of Laws and Venue. This Lease shall be governed by and construed under the laws of the State of California. Venue on any action arising out of this Lease will be proper only in the County of Los Angeles, State of California.

22.5. Corporate Resolution. DSCLA shall provide to CITY a current copy of its Corporate Resolution depicting the names and legal signatures of the officers of the corporation authorized to execute legal documents, including this Lease, on behalf of DSCLA. Within thirty (30) days of any change in such names, DSCLA shall provide to CITY the updated Corporate Resolution.

22.6. Counterparts. This Lease may be executed in one or more counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument.

22.7. Exhibits - Incorporation in Lease. All exhibits referred to are attached to this Lease and incorporated by reference.

22.8. Force Majeure. Whenever either party hereto shall be required by the provisions of this Lease or by law to perform any contract, act, work, construction, labor or services (excepting only the obligation to pay rent due hereunder), or to discharge any lien against the Premises, or to perform and comply with any laws, rules, orders, ordinances, regulations or zoning regulations, said party shall not be deemed to be in default herein and the other party shall not enforce or exercise any of its right under this Lease, if and so long as nonperformance or default herein shall be directly caused by

strikes, nonavailability of materials, war or national defense preemptions, governmental restrictions, acts of God or other similar causes beyond the reasonable control of the nonperforming party provided; however, that notwithstanding any of the provisions of the foregoing, the nonperforming party shall commence such performance and continue the same with diligence and continuity immediately after the removal of any of the causes hereinabove specified.

22.9. Gender. As used herein, the neuter gender includes the feminine and masculine, the masculine includes the feminine and the neuter, and feminine includes the masculine and the neuter, and each includes corporations, limited liability companies, partnerships or other legal entities when the context so requires.

22.10. Memorandum of Lease. A Memorandum of Lease, substantially in the form as that attached to this Lease as Exhibit G "Memorandum of Lease", shall be completed and executed by both parties concurrently with the execution of this Lease. CITY may record such Memorandum of Lease.

22.11. No Prior Agreements. This Lease contains all of the agreements of the parties hereto with respect to the matters covered hereby, and no prior agreements, oral or written, or understandings or representations of any nature whatsoever pertaining to any such matters shall be effective for any purpose unless expressly incorporated in the provisions of this Lease.

22.12. No Relocation Assistance. DSCLA acknowledges that it is not entitled to relocation assistance or any other benefits under the California Relocation Assistance Act (Government Code section 7260, *et seq.*), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C.A. § 4601, *et seq.*), or any other provisions of law upon termination of this Lease.

22.13. Quiet Enjoyment. If DSCLA is not in default as provided herein, DSCLA shall and may peaceably and quietly have, hold, and enjoy the Premises with necessary ingress and egress in accordance with the provisions hereof.

22.14. Severability. If any provision of this Lease or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

22.15. Sole Discretion. In those instances in this Lease where it is provided that CITY or the General Manager or other City of Los Angeles agency may approve a request in the exercise of "sole discretion" or words of like import, the parties expressly agree that CITY or the General Manager or other City of Los Angeles agency, as the case may be, has the absolute unfettered discretion to grant or withhold approval, either arbitrarily or otherwise, and with or without reason, and neither DSCLA nor any other party or

tribunal shall have any right or power to inquire into or review the granting or withholding of such approval or the reasons or lack of reasons therefore.

22.16. Time. Time is of the essence with respect to the performance or observance of each of the obligations, covenants and agreements under this Lease. Except where expressly stated to be "business days" or "working days," the word "days" shall mean "calendar days."

IN WITNESS WHEREOF, the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, Landlord herein, and DISCOVERY SCIENCE CENTER OF LOS ANGELES, a nonprofit public benefit corporation, Tenant herein, have caused this Lease to be executed as of the date of the attestation by the City Clerk.

APPROVED AS TO FORM:

CARMEN A. TRUTANICH, City Attorney

By: Deputy City Attorney

DATE: _____

CITY:

CITY OF LOS ANGELES, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS:

By: President

By: Secretary

DATE: _____

ATTEST:

JUNE LAGMAY, City Clerk

By: Deputy

DATE: _____

TENANT:

DISCOVERY SCIENCE CENTER OF LOS ANGELES, a California non-profit public benefit corporation

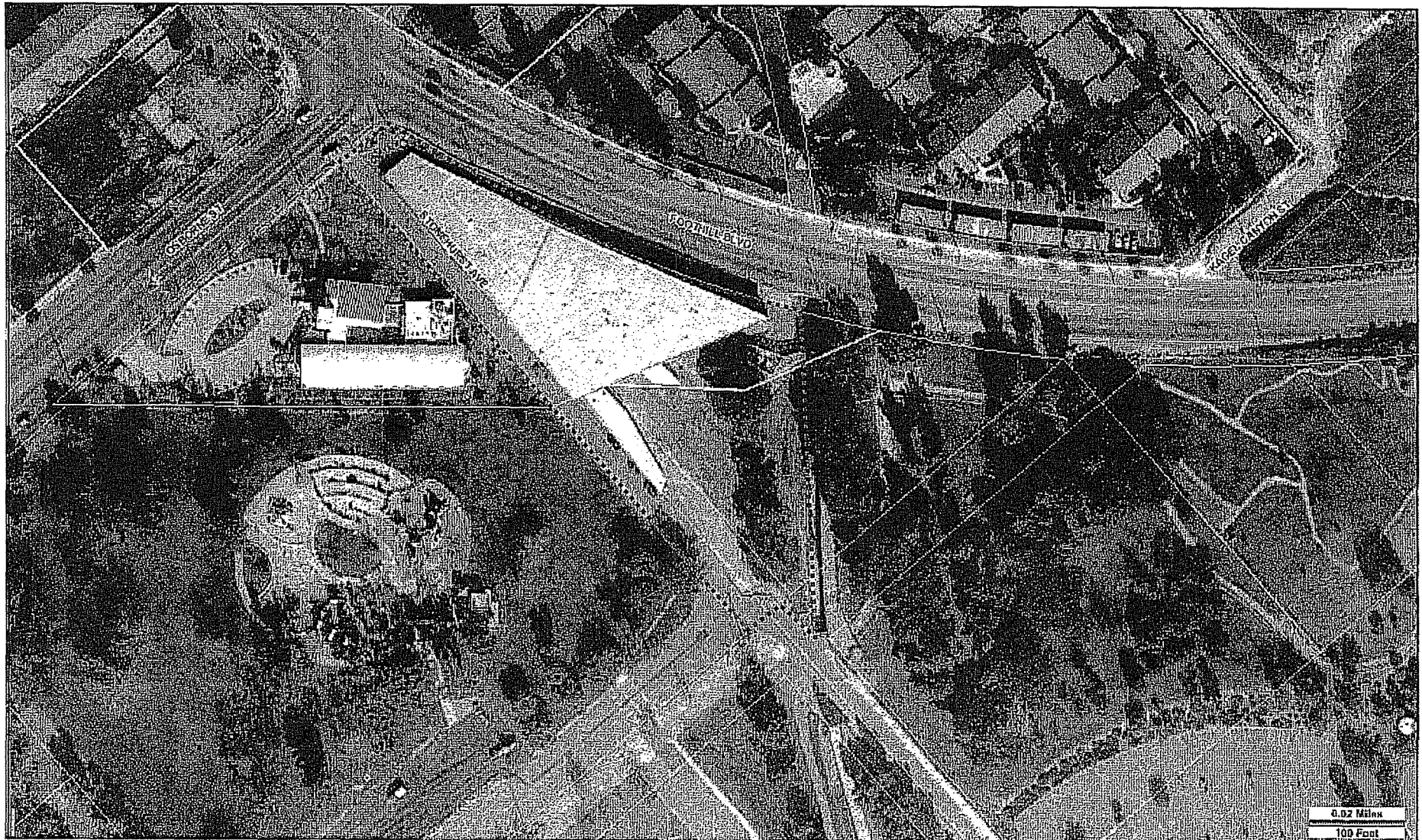
By: Joe Adams, Chairman of the Board

DATE: _____

EXHIBIT A
MAP AND LEGAL DESCRIPTION

To be included in final lease agreement

EXHIBIT A
MAP AND LEGAL DESCRIPTION



LEGAL DESCRIPTION: Pending completion of survey of area outlined in red above

EXHIBIT B
PREMISES IMPROVEMENTS TO BE COMPLETED BY CITY

Building Improvement	Estimated Cost
Parking lot exterior lighting	\$ 80,000
Rollup doors	100,000
Freight elevator	400,000
Building security system modifications	20,000
Exhibit maintenance shop buildout	300,000
Ticket booth buildout	150,000
Theater buildout	200,000
Loading dock & area fencing	<u>300,000</u>
Total:	<u>\$1,550,000</u>

EXHIBIT C
146R INSURANCE FORM

To be included in final lease agreement

Other: *Property insurance limits equal to the replacement cost of the Science Center. Builder's Risk insurance is required during construction or expansion of the Science Center with limits equal to value of construction/material on hand. The City of Los Angeles is to be included as a named insured and a loss payee as its interests may appear on all property and builder's risk insurance policies.

EXHIBIT D
INSTRUCTIONS ON COMPLYING WITH CITY INSURANCE REQUIREMENTS

To be included in final lease agreement

CITY OF LOS ANGELES

INSTRUCTIONS AND INFORMATION
ON COMPLYING WITH CITY INSURANCE REQUIREMENTS

(Share this information with your insurance agent or broker)

1. **Agreement/Reference** All evidence of insurance must identify the nature of your business with the CITY. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) included in your CITY documents.

2. **When to submit** Normally, no work may begin until a CITY insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.

3. **Acceptable Evidence and Approval** Electronic submission is the best method of submitting your documents. **Track4LA®** is the 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 by insurance brokers and agents as they submit client insurance certificates directly to the City. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format – the CITY is a licensed redistributor of ACORD forms. **Track4LA®** advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA®** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 that have been approved by the State of California may be accepted, however ***submissions other than through Track4LA® will significantly delay the insurance approval process as documents will have to be manually processed.*** All Certificates must provide a thirty (30) days' cancellation notice provision (ten (10) days for non-payment of premium) AND an Additional Insured Endorsement naming the CITY an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the CITY is an automatic or blanket additional insured. An endorsement naming the CITY, an Additional Named Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Completed **Insurance Industry Certificates other than ACORD 25 Certificates** are sent electronically to CAO.insurance.bonds@lacity.org.

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Verification of approved insurance and bonds may be obtained by checking **Track4LA®**, the CITY's online insurance compliance system, at <http://track4la.lacity.org>.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate or edit the existing Acord 25 Certificate through **Track4LA®** at <http://track4la.lacity.org>.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the CITY has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (<http://cao.lacity.org/risk/InsuranceForms.htm>) to the Office of the City Administrative Officer, Risk Management for consideration.

6. **General Liability** insurance covering your operations (and products, where applicable) is required whenever the CITY is at risk of third-party claims which may arise out of your work or your presence or special event on City premises. **Sexual Misconduct** coverage is a required coverage when the work performed involves minors. **Fire Legal Liability** is required for persons occupying a portion of CITY premises. Information on two CITY insurance programs, the SPARTA program, an optional source of low-cost insurance which meets the most minimum requirements, and the Special Events Liability Insurance Program, which provides liability coverage for short-term special events on CITY premises or streets, is available at (www.2sparta.com), or by calling (800) 420-0555.

7. **Automobile Liability** insurance is required only when vehicles are used in performing the work of your Contract or when they are driven off-road on CITY premises; it is not required for simple commuting unless CITY is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

8. **Errors and Omissions** coverage will be specified on a project-by-project basis if you are working as a licensed or other professional. The length of the claims discovery period required will vary with the circumstances of the individual job.

9. **Workers' Compensation and Employer's Liability** insurance are not required for single-person contractors. However, under state law these coverages (or a copy of the state's Consent To Self Insure) must be provided if you have any employees at any time during the period of this contract. Contractors with no employees must complete a Request for Waiver of Workers' Compensation Insurance Requirement (<http://cao.lacity.org/risk/InsuranceForms.htm>). **A Waiver of Subrogation** on the coverage is required only for jobs where your employees are working on CITY premises under hazardous conditions, e.g., uneven terrain, scaffolding, caustic chemicals, toxic materials, power tools, etc. The Waiver of Subrogation waives the insurer's right to recover (from the CITY) any workers' compensation paid to an injured employee of the contractor.

10. **Property Insurance** is required for persons having exclusive use of premises or equipment owned or controlled by the CITY. **Builder's Risk/Course of Construction** is required during construction projects and should include building materials in transit and stored at the project site.

11. **Surety** coverage may be required to guarantee performance of work and payment to vendors and suppliers. A **Crime Policy** may be required to handle CITY funds or securities, and under certain other conditions. **Specialty coverages** may be needed for certain operations. For assistance in obtaining the CITY required bid, performance and payment surety bonds, please see the City of Los Angeles Bond Assistance Program website address at <http://cao.lacity.org/risk/BondAssistanceProgram.pdf> or call (213) 258-3000 for more information.

**EXHIBIT E
IMPROVEMENTS AND EXHIBITS AGREEMENT**

IMPROVEMENTS AND EXHIBITS AGREEMENT

BETWEEN CITY OF LOS ANGELES AND THE
DISCOVERY SCIENCE CENTER OF LOS ANGELES
FOR THE DESIGN AND MODIFICATION OF AN EXISTING FACILITY
AND THE DESIGN, CONSTRUCTION, AND INSTALLATION OF EXHIBITS FOR THE
CENTER

ARTICLE 1. BASIC AGREEMENT PROVISIONS

1.1. Parties. This Improvements and Exhibits Agreement ("Agreement") is entered into this ___ day of _____ 20___, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, as Landlord ("CITY"), and DISCOVERY SCIENCE CENTER OF LOS ANGELES, a California non-profit corporation ("DSCLA"), with a principal mailing address of 2500 North Main Street, Santa Ana, California, 92705, as Tenant.

1.2. Recitals.

1.2.1. CITY owns and/or controls certain lands known as Hansen Dam Recreation Area under the management and control of the Board of Recreation and Park Commissioners ("BOARD"). A portion of the subject lands are owned by CITY and a portion of the subject lands are owned by the U.S. Army Corps of Engineers ("USACE") and are leased to CITY for recreational purposes pursuant to Department of the Army Lease No. DACW09-1-69-45 between USACE and the CITY for property located within the Hansen Flood Control Basin. The land at the corner of Osborne Street and Foothill Boulevard located at 11800 Foothill Boulevard, Los Angeles, California, is improved with a 57,000 square foot building which was designed and constructed with funding from the following public sources: Proposition 40 Specified Grant Program (Contract No. C0231250), Proposition 40 Roberti-Z'berg-Harris Grant Program (Contract No. C0231244), Proposition 40 Per Capita Grant Program (Contract No. C0231134), Proposition K Specified Grant Program (Contracts No. C-98362 and No. C-109472), Proposition K Competitive Grant Program (Contract No. C-100050), and private donations to the Children's Museum of Los Angeles, the former entity that oversaw partial construction of the subject facility.

1.2.2. CITY and DSCLA have entered into a Lease for the use of the improved land and building within the Hansen Dam Recreation Area described in Section 1.2.1 above (as shown in included in Exhibit A "Map and Legal Description" of Lease), which Lease shall set forth the duties, obligations, responsibilities, aims, and goals of the parties, for the specific purpose of

providing a Children's Museum and an Environmental Learning Center, together known as a science center (the "Center") within the existing building which emphasizes recreation and environmental awareness through focused learning about the natural environment using interactive exhibits that will provide both recreational and educational opportunities, that will increase the public's understanding and recognition of the need to sustain the environment for future generations.

1.2.3. CITY does not have personnel available in its employ with sufficient and appropriate expertise to develop the exhibits and operate and maintain the Center and CITY, due to current budgetary constraints, has frozen hiring and is unable to obtain the appropriate personnel to perform these specialized tasks.

1.2.4. DSCLA is a non-profit corporation formed for the purpose of providing recreational activities for youth and their families in the area as well as educating young minds, assisting teachers and increasing public understanding of the environment, science, math and technology, with a particular emphasis on environmental issues, through interactive exhibits and programs.

1.2.5. DSCLA has special abilities in the areas of presentation, fundraising, recreation, education, community support and operations with respect to the Center.

1.2.6. DSCLA has the staff and experience to operate and manage the Center, provide unique and highly specialized educational programs, and oversee the design, fabrication and installation, or acquisition of a state-of-the-art interactive exhibits that can be refreshed and rotated over time.

1.2.7. CITY and DSCLA desire to enter into an Agreement governing the design and layout and modification of the Center and the design and construction of the Center exhibits and displays to be installed inside the Center on the premises.

1.2.8 CITY and DSCLA desire to establish an accounting structure and disbursement procedure in order to assure the efficient and orderly payment of all costs associated with the design and construction of the Center improvements and Center Exhibits. In accordance with the terms of this Agreement, DSCLA shall deposit construction funds in a construction escrow or other designated account ("CENTER Funds Account") and CITY shall maintain construction funds in separate construction escrow or other accounts ("City Funds Accounts") as further provided in this Agreement.

1.3. Definitions in Lease. When used in this Agreement, or in any Exhibits or Attachments to this Agreement, except where a different definition is clearly and expressly given, the following words or phrases, capitalized as shown, shall mean:

1.3.1. BOARD. "BOARD" shall mean the Board of Recreation and Park Commissioners of the City of Los Angeles.

1.3.2. Center. "Center" shall mean the premises and the improvements thereon as of the Effective Date of this Agreement and any improvements, Center exhibits and facilities constructed on the premises by DSCLA or CITY at any time and from time to time during the Term for purposes of this Lease as set forth in Article 5.

1.3.3. Center Exhibits. "Center Exhibits" shall mean the exhibits and displays constructed and installed inside the Center and on the Premises.

1.3.4. CITY. "CITY" shall mean the City of Los Angeles, a municipal corporation acting by and through its Board of Recreation and Park Commissioners. Except where clearly and expressly provided otherwise in this Agreement, any action to be taken by the CITY may be taken for the CITY by the General Manager as defined in Paragraph 1.3.8. Except where clearly and expressly provided otherwise in this Lease, the capacity of the CITY in this Agreement shall be as Landlord, and any benefits, obligations, or restrictions conferred or imposed by this Agreement on the CITY shall be limited to that capacity and shall not relate to or otherwise affect any activity of the City of Los Angeles in its governmental capacity including, but not limited to: enacting laws; inspecting structures; reviewing and issuing permits; and all other legislative, administrative, or enforcement functions of the City of Los Angeles pursuant to federal, state, or local law.

1.3.5. DEPARTMENT. "DEPARTMENT" shall mean the Department of Recreation and Parks of the City of Los Angeles.

1.3.6. DSCLA. "DSCLA" shall mean the Discovery Science Center of Los Angeles, a California nonprofit public benefit corporation.

1.3.7. Effective Date. "Effective Date" shall mean the date the Office of the City Clerk of Los Angeles attests this Agreement.

1.3.8. General Manager. "General Manager" shall mean the General Manager of the Department of Recreation and Parks of the City of Los Angeles. General Manager shall also include any person designated in writing by the BOARD to act on behalf of the General Manager.

1.3.9. Improvements and Exhibits Agreement. "Improvements and Exhibits Agreement" shall mean this Agreement entered into by CITY and DSCLA governing the design and modification of the existing building or facility and the design, construction and installation of the Center Exhibits.

1.3.10. Lease. "Lease" shall mean the agreement entered into by CITY and DSCLA for the use of the Premises (defined below) for the specific purpose

of operating and maintaining a Center that emphasizes recreation and focused learning about the natural environment.

1.3.11. Opening Date. "Opening Date" shall be the date that DSCLA first opens the Center to members of the general public pursuant to the terms of use in Article 5 of Lease.

1.3.12. Premises. "Premises" shall collectively refer to the land, building, and improvements located at 11800 Foothill Boulevard, Los Angeles, California, and as depicted in Exhibit A "Map and Legal Description" of Lease.

1.3.13. USACE. "USACE" shall mean the United States Army Corps of Engineers.

ARTICLE 2. TERM

2.1 Term. The term of this Construction Agreement shall be concurrent with the Lease, unless previously terminated in accordance with other provisions of this agreement.

ARTICLE 3. PREMISES

3.1 Premises. The land and improvements located at 11800 Foothill Boulevard in the City of Los Angeles, County of Los Angeles, State of California, described in Section 1.2.1 above and as depicted in Exhibit A "Map and Legal Description" of Lease, and located within the Hansen Dam Recreation Area, Los Angeles, California. The portion of the Premises that is located on land owned by USACE and leased to CITY is subject to all existing easements, other restrictions of record, and Department of the Army Lease No. DACW09-1-69-45 between USACE and the CITY for property located within the Hansen Flood Control Basin.

3.2 Article 4 of Lease Not Superseded. Any and all references to Premises in this Agreement shall not supersede Article 4 of the Lease which shall remain in full force and effect.

ARTICLE 4. DESIGN AND MODIFICATION OF THE EXISTING BUILDING AND DESIGN, CONSTRUCTION AND INSTALLATION OF CENTER EXHIBITS

4.1 Initial Exhibit Plan. DSCLA shall at its own expense and at no cost to CITY, develop an Initial Exhibit Plan for the Center and shall deliver a completed Initial Exhibit Plan to the CITY on or before September 30, 2013.

4.2 Initial Exhibit Plan Requirements. The Initial Exhibit Plan shall include the concept design plan, layout within the Center, and cost for each exhibit to be developed and installed in the Center by the Opening Date. The Initial Exhibit Plan shall be consistent with the terms of any grant or funding agreements or other limitations on the use of Premises.

4.3 Design of Center and Center Exhibits. DSCLA shall design the Center and Center Exhibits in conformance with all applicable federal, state, county, and city laws in force at the time of design. All plans shall be prepared by DSCLA and must be submitted to DEPARTMENT for approval. DEPARTMENT shall direct DSCLA to submit the plans to the BOARD and/or other City of Los Angeles agencies for approval, including, without limitation, the Cultural Affairs Commission of the City of Los Angeles, the Department of Public Works of the City of Los Angeles, and the Department of Building and Safety of the City of Los Angeles. DEPARTMENT may direct DSCLA to submit the plans for any improvements located on the portion of the Premises that is owned by USACE, and leased to CITY, to USACE for their approval. Approvals shall be at the sole discretion of the DEPARTMENT and agencies involved. CITY is not responsible for payment of any fees nor for delays in permit processing or approvals.

4.4 Design Submission Requirements. During the design phase for the Center and the Center Exhibits, DSCLA shall provide DEPARTMENT with various submittals for approval. These include but are not limited to the following:

4.4.1 Schematic Plans. Schematic plans shall include at least the following: analysis of requirements and proposed uses including site utilization and computation of required floor, parking, yard and other areas necessary to the proposed uses; single-line drawings illustrating appropriate floor areas and arrangement of the various uses, and site utilization; specifications indicating construction methods, concepts and materials, including mechanical and electrical concepts; and approximate estimates of construction costs.

4.4.2 Preliminary Plans. Preliminary plans shall include at least the following: drawings illustrating in greater detail than the schematic plans, floor area relationship, the various requirements of different occupancies, elevations, sections, and architectural, structural, civil, mechanical, electrical, landscaping and other design aspects; preliminary specifications for the project arranged in Construction Specification Institute form; preliminary estimate cost of construction; and a colored perspective Delineation or Rendering of the project.

4.4.3 Working Drawings. Working drawings shall include at least the following: computations and specifications, in accordance with the approved preliminary plans, including necessary drawings in sufficient detail to provide adequate information for accurate minimum bids; a detailed final estimate of cost of construction of the project; and complete checking and coordination of all architectural, structural, civil, landscape, mechanical and electrical drawings.

4.4.4 Final Plans. Final plans shall include at least working drawings and specifications that have been processed through plan check review and other required corrections.

4.5 DEPARTMENT Participation. DSCLA shall design the Center and the Center Exhibits with the input of the DEPARTMENT. DEPARTMENT, and/or other City of Los Angeles agencies as determined by DEPARTMENT, shall be full participants in all design meetings.

4.6 USACE Participation. DSCLA shall consider the active input and participation of USACE in the design of any improvements located on the portion of the Premises that is located on land owned by USACE and leased to CITY, whether such facilities or uses will be temporary or permanent.

4.7 Subcontracting for Architectural/Design and Construction Services. DSCLA will select an architect/designer and construction subcontractors that are licensed by the State of California to design the project and to perform other functions as described in this Agreement and the subcontract. Whether or not the architectural/design or construction services are to be funded by the City, the Grantee shall require its architect/designer and construction subcontractors to execute Attachment No.1 - Assignment of Contract and Plans and Specifications and Permits, and submit the signed document and all attachment to the City for approval prior to the execution of this Agreement. If the Grantee has not selected an architect/designer and/or construction subcontractors prior to the execution of this Agreement, the Grantee shall certify that it will require its architect/designer and construction subcontractors to execute Attachment No. 1 Assignment of Contract and Plans and Specifications and Permits -and shall obtain such assignment when the Grantee obtains its architect/designer and construction subcontractors.

ARTICLE 5. MODIFICATION OF THE CENTER AND CENTER EXHIBITS

5.1 Modification of Center. DSCLA shall construct any modification to the Center and Center Exhibits in conformance with all applicable federal, state, county, and city laws in force at the time of the modifications and in conformance with designs approved pursuant to the design submittal and approval process described in Article 4 above in this Agreement.

5.1.1 Progress Report. DSCLA shall submit a construction progress report to DEPARTMENT on a monthly basis. This report shall only be used for informational purposes.

5.1.2 As Built Drawings. DSCLA shall submit to the DEPARTMENT reproducible "as built" drawings of all improvements constructed on the Premises with the exception of the security system. Such plans shall also include plans for landscaping and other outdoor improvements related to the Center.

5.1.3 No Creation of Liability. Nothing contained herein shall be construed or deemed to create any obligation or liability, including without limitation liability as a guarantor or surety, on the part of CITY with respect to the Center or any other

improvements constructed from time to time on the Premises, or any plans or specifications, construction contracts, financing or other matter, instrument or document of any nature whatsoever relating to such improvements. CITY is not and shall at no time be liable to any creditor of DSCLA or any other persons occupying any part of the Premises or the improvements thereon as a sublessee, licensee or otherwise or to any claimant against the estate or property of DSCLA or such other occupants for any of their debts, losses, contracts or other obligations. The relationship between CITY and DSCLA is solely that of landlord and tenant and is not and shall not be deemed a partnership or joint venture.

5.2 Department Participation. DSCLA shall modify the Center and construct Center Exhibits with the input of the DEPARTMENT. DEPARTMENT, and/or other City of Los Angeles agencies as determined by DEPARTMENT, shall be full participants in all construction meetings.

5.3 USACE Participation. DSCLA shall consider the active input and participation of USACE in the construction of any improvements located on the portion of the Premises that is located on land owned by USACE and leased to CITY, whether such facilities or uses will be temporary or permanent.

ARTICLE 6. OPERATIONS OF THE CENTER

6.1 Operations of the Center. The Center shall be used by DSCLA in accordance with Article 5 of the Lease.

ARTICLE 7. MAINTENANCE, CUSTODIAL SERVICES, SECURITY AND REPAIR OF THE CENTER DURING CONSTRUCTION

7.1 DSCLA'S Responsibilities. During any DSCLA initiated construction activities on Premises, DSCLA shall keep and maintain, at DSCLA'S sole cost and expense, the Premises and all improvements on the Premises, including Center Exhibits, in good condition and repair and in conformance with the standard of care identified in Article 6 of the Lease.

ARTICLE 8. UTILITIES

8.1 DSCLA'S Responsibilities. DSCLA shall pay all charges associated with the installation of electrical, natural gas, sewer, water and telephone services, as well as all periodic fees for said services, needed for any DSCLA initiated construction activities on Premises in conformance with Article 7 of the Lease.

ARTICLE 9. FINANCING AND DISBURSEMENT OF FUNDS

9.1. Financing. DSCLA shall be responsible to secure funding for any costs associated with the design and modification of the Center and the design, construction and installation of Center Exhibits for the uses set forth in Article 5 of the Lease. CITY may, but is not obligated to, assist DSCLA to identify and secure funding for the design

and modification of the Center and the design, construction and installation of Center Exhibits. For purposes of the Agreement, DSCLA shall be deemed to have "secured" funding only under the following circumstances:

9.1.1 DSCLA establishes an account, as hereinafter provided, and deposits cash into the account which can be withdrawn only as hereinafter provided for payment of costs associated with the design and construction of Center improvements and Center Exhibits; and/or

9.1.2 DSCLA secures an line of credit that may be drawn on solely for the design and construction of the Center and Center exhibits; and/or

9.1.3 DSCLA has fully executed grant or funding agreement(s) with federal, state, or local governmental agencies which provide guaranteed funds for the design and construction the Center and Center Exhibits.

9.2 Establishment of Center Funds Account. DSCLA shall establish a construction escrow or other designated account ("Center Funds Account") for the disbursement of construction funds for the Center modifications and improvements and the Center Exhibits. Disbursement of funds from such account shall solely be for the design and construction of the Center modifications and improvements and Center Exhibits.

9.3 Establishment of City Funds Accounts. CITY may establish, or identify, construction escrow or other designated accounts ("City Funds Accounts") for the disbursement of construction funds for the Center modifications and improvements and the Center Exhibits. Disbursement of funds from such account shall solely be for the design and construction of the Center modifications and improvements and Science Center Exhibits.

9.4 Financing for Initial Exhibit Plan. DSCLA shall demonstrate to satisfaction of CITY that the amount of funding available in the Center Funds Account and the City Funds Account, either individually or in combination, is sufficient to complete the Center modifications and improvements and Science Center Exhibit improvements identified on the Initial Exhibit Plan.

9.4.1 Review of Financing. From the Effective Date of this Agreement and prior to the Opening Date, representatives of the parties will confer, on a quarterly basis or as deemed necessary by either DSCLA or CITY, to evaluate adequacy of the financing for the Initial Exhibit Plan and operational responsibilities of each party, as stipulated in the Lease and in this Agreement and make any adjustments as they mutually deem necessary. DSCLA shall submit a Financing progress report to DEPARTMENT on a monthly basis.

9.5 Disbursement Requests From City Funds Account. DSCLA shall submit requests for disbursements of construction funds ("Disbursement Request") for the Center and the Center Exhibits from the City Funds Account to the CITY. Disbursement Requests shall be submitted in conformance with any forms and/or procedures required by the CITY and shall be made to the staff member(s) designed by the CITY to review all Disbursement Requests and the information contained in each. Disbursement Requests shall be only for costs incurred for the construction of the Center and the Center Exhibits and only for items for which the funds in the City Funds Account may be expended pursuant to applicable law.

9.5.1 Cash Advances and Payment to DSCLA. DSCLA may request cash advances as needed to fund allowable project expenses, in accordance with a draw down schedule approved by the City and using project monies designated for use as cash flow. DSCLA shall be reimbursed on a progress payment basis, no later than forty-five (45) days after receipt by the City of an acceptable Disbursement Request and approved invoice(s) for expenses authorized for material furnished, service rendered or work completed under the term and

conditions of this Agreement, subject to the availability of funds for the work and subject to all other provisions of the Agreement. Construction progress payment requests shall be certified by the project Architect and/or Manager and the Grantee. All charges and expenses shall be properly documented with adequate vouchers and receipts and approved by the City. Only those expenses that are eligible and relate directly to the scope and intent of the work shall be authorized and approved for reimbursement. Progress payment requests shall not be submitted more frequently than once a month.

9.5.2 Documentation of Construction Expenditures. Construction expenditures shall be supported and verified by properly executed General Contractor and subcontractors payrolls, time recorded, invoices, vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. Checks, payrolls, invoices, vouchers, orders or other accounting documents shall be clearly identified and readily accessible. The City may require additional substantiation of costs before making payment. All evidence of costs incurred or to be incurred shall identify or bear identification of the budget account to be charged.

9.5.3 Schedule of Payments. DSCLA, upon submittal of an acceptable Disbursement Request, and adequate proof of progress in the form of appropriate documentation shall be paid or reimbursed no more than once a month.

9.5.4 Withheld Payments. The City will withhold up to 10% of the total construction funds as Retention against the payment to DSCLA, with the option of reducing the retention to 5% when the City Project Manager has certified that the Center and Center Exhibit work is fifty percent (50%) complete and that there are no outstanding stop notices or liens, and that all vendor and/or subcontractor payments are current. The Retention is withheld to ensure that DSCLA completes the Center and Center Exhibits and that the Center is open to the public. DSCLA may request release of retention corresponding to individual phases of the project following completion of the following phases: a) exhibit design, b) exhibit fabrication, c) exhibit installation and d) completion of any building modifications design carried out by DSCLA or their architects and/or engineers, and e) completion of any building modifications carried out by DSCLA. In each case the Retention will be released after all of the following conditions are met: (i) Submittal of acceptable invoices for all project related costs; and (ii) Written confirmation submitted by DSCLA that they have received all assurances, and warranties for the project from any construction contractor(s); and, (iii) With respect to final project retention, compliance with any other project construction closeout requirement that may be specified by CITY. CITY has the authority to withhold funds under this Agreement pending a final determination by CITY of questionable expenditures or indebtedness to CITY arising from past or present Agreements between CITY and DSCLA. Upon final determination by CITY of disallowed expenditures or indebtedness, CITY may deduct and retain

the amount of the disallowance or indebtedness from the amount of the withheld funds. Payments to DSCLA may be withheld by CITY if DSCLA fails to comply with provisions of this Agreement.

9.5.5 Return of Unexpended Funds and Close-outs. Funds paid by CITY, and determined by CITY to be in excess of the amount actually required, shall be immediately returned to CITY. DSCLA shall submit to CITY a complete and accurate final close-out invoice of costs and reimbursements for services performed under this Agreement, within 45 days following the termination or completion of any design or construction work under this Agreement. Failure by DSCLA to comply with the 45 day requirement may result in a unilateral close-out of this Agreement by the CITY.

9.5.6 Approvals of Disbursement Requests. Approval of a Disbursement Request shall be at the sole discretion of the CITY. No Disbursement Requests shall be approved for the construction of any improvements or modification that are not designed and approved pursuant to the design submittal and approval process described in Article 4.

9.6 Records. CITY shall have the right to review documentation with respect to the design and construction costs of the Center and the Center Exhibits for, but not limited to, conformation with the budget for the improvements adopted pursuant to the design submittal and approval process described in Article 4.

9.7. Inspection and Audit of Records by CITY. All documents, books and accounting records required to be maintained or retained under this Article shall be open for inspection and re-inspection by CITY with reasonable prior notice during regular operating hours during the Term of this Lease and for a period of ten years thereafter. In addition, CITY may from time to time consistent with recognized accounting principles conduct, at CITY'S sole cost and expense, an audit or re-audit of the books and business conducted by DSCLA with respect to DSCLA'S construction of improvements at Center and observe the operation of business so that accuracy of the above records can be confirmed.

ARTICLE 10 DEFAULT AND TERMINATION

10.1. Events of Default. The following occurrences are "Events of Default:"

10.1.1. Breach of Lease. DSCLA or CITY materially breaches or fails in the performance of any of the provisions or conditions of the Lease; or

10.1.2. Failure to Conform to Laws. DSCLA fails to conform to applicable federal, state, county or local laws, rules, regulations or policies; or

10.1.3. Incapacity to Perform. DSCLA ceases to operate, exist or maintain its nonprofit corporate status (temporary suspension of status for a period not exceeding six (6) months shall not be considered a failure to maintain status) or becomes unable through corporate or personal incapacity to fulfill its obligations under the Lease or this Agreement; or

10.1.4. Lack of Funds. If DSCLA is no longer able to carry out the purposes of the Lease or this Agreement because of a lack of funds or funding; or

10.1.5. Non-conforming Use. DSCLA ceases to use the Premises for the purpose of a recreation and environmental awareness center as set forth in Article 5 of Lease; or

10.1.6. Termination of Lease. In the event the Lease is terminated; or

10.1.7. Failure to Deliver a Completed Initial Exhibit Plan. DSCLA fails to deliver a completed Initial Exhibit Plan on or before September 30, 2013; or

10.1.8. Failure To Commence Construction of Center Exhibits. DSCLA fails to commence construction of the Center Exhibits on or before September 30, 2013. Construction of Center Exhibits shall be deemed to have commenced on the date DSCLA or its subcontractors starts physical fabrication work on the Center Exhibits; or

10.2. Default - CITY's Remedies. If any one or more of the "Events of Default" set forth in Section 10.1. above occurs, then CITY may, at its election, without any further notice to or authorization from DSCLA, and without waiving any of City's rights at any time to select any other remedy provided in this Section, or elsewhere in this Agreement, if applicable, or under law, do any one or more of the following:

10.2.1. Termination of Agreement. CITY may give DSCLA written notice of such "Event of Default." If DSCLA does not cure said default within thirty (30) days after notice (and forthwith for a default involving health, sanitary or safety conditions or pertaining to the maintenance of insurance required under this Agreement) or such longer period as is reasonably necessary to remedy such default, as determined by either CITY, provided that DSCLA shall continuously and diligently pursue such remedy at all times until such default is cured, CITY may, by delivering written notice to DSCLA, terminate this Agreement; and/or

10.2.2. Recovery at Law. CITY may recover at law any and all claims which may be due CITY; and/or

10.2.3. Self-help. In the event that neither the City nor DSCLA terminate the term of this lease agreement under the conditions herein defined, the CITY may, but is not obligated to, perform such work as it deems necessary to cure any "Event of Default" and charge DSCLA for the cost of labor and materials expended. The General Manager may exercise this option immediately in an

"Event of Default" involving health, sanitary or safety considerations. Otherwise, the General Manager may exercise this option within sixty (60) days after giving DSCLA written notice of a default involving Premises' maintenance if DSCLA does not commence to cure. CITY shall provide DSCLA with reasonably detailed invoice for the labor and materials expended, and DSCLA shall pay the full sum of the invoice within sixty (60) days of DSCLA'S receipt of the invoice, using as a first priority any monies remaining from the project escrow account as defined in section 9.2 of Exhibit E to this agreement. In the event DSCLA disputes any of the charges on the invoice or DSCLA'S obligation to pay for any or all of the items, DSCLA shall pay the full sum of the invoice within the sixty (60) day period, subject to prompt reimbursement from CITY to the extent DSCLA prevails on any items in dispute.

The specified remedies to which CITY may resort under the provisions of this Lease are cumulative and not intended to be exclusive of any other remedies afforded by law or equity.

10.3. No Waiver. The conduct of either party or the acceptance of all or part of any payment by CITY after an "Event of Default" for any period after an "Event of Default" shall not be deemed a waiver of any rights and remedies, nor a waiver of the default of the same or any other provision, covenant or condition. Waiver by either CITY or DSCLA of any breach by the other of any covenant, condition or obligation herein contained or failure by either CITY or DSCLA to exercise any right or remedy in respect of any such breach shall not constitute a waiver or relinquishment for the failure of any such covenant, condition or obligation or of any subsequent breach of any such covenant, condition or obligation nor bar any right or remedy of CITY or DSCLA in respect of any such subsequent breach.

10.4. Default by CITY. In the event CITY defaults in the performance of any of the provisions or conditions of this Agreement, and if a written notice of such default is issued to CITY by DSCLA, and if CITY does not commence to cure said default within sixty (60) days of receipt of said notice, DSCLA may immediately terminate this Agreement and/or obtain specific performance.

ARTICLE 11. NOTICES

11.1. Notices. All notices and demands which may or are to be required or permitted to be given by either party to the other hereunder shall be in writing. All notices and demands shall be personally delivered (including by means of professional messenger service), sent by United States mail, postage prepaid, return receipt requested, or transmitted by telecopier (e.g., Fax) or electronic mail (upon mutual agreement of participating parties), in which case the receiving party shall immediately confirm receipt of such telecopied or e-mailed notice. All notices are effective upon receipt. For the purposes of such notices, the addresses for the parties are set forth in Section 19.2 below. In the event CITY is unable to give notice to DSCLA at the address(es) provided to CITY by DSCLA, notice shall be deemed effective when addressed to DSCLA at the

Premises. Either party may from time to time designate another person or place in a notice.

11.2. Notices - Where Sent. All notices given under this Lease which are mailed or telecopied shall be addressed (unless redesignated as provided above) to the respective parties as follows:

To CITY or General Manager:

City of Los Angeles
Board of Recreation and Park Commissioners
221 North Figueroa Street, Suite 1510
Los Angeles, California 90012
Telecopier: (213) 202-2612

with a copy of any notice to
General Manager, Department of Recreation and Parks
221 North Figueroa Street, Suite 1550
Los Angeles, California 90012
Telecopier: (213) 202-2614

with a copy of any notice to
Office of the City Attorney,
Real Property/Environment Division
200 North Main Street, Suite 700
Los Angeles, California 90012-4130
Telecopier: (213) 978-8090

with a copy of any notice to
Program Manager
Bureau of Engineering, Recreational and Cultural Facilities Program
1149 S. Broadway, 8th Floor.
Los Angeles, California 90015
Telecopier: (213) 847-1926

To DSCLA:

Chairman of the Board
Discovery Science Center of Los Angeles
2500 North Main Street, Santa Ana, CA. 92705
Telecopier: (714) 263-3838

ARTICLE 12. MISCELLANEOUS PROVISIONS

12.1. Amendment of Agreement. No amendment, modification, supplement or mutual termination of any provision of this Agreement shall in any event be effective unless the same shall be in writing and signed by CITY and DSCLA.

12.2. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, transferees, successors and assigns of the respective parties hereto.

12.3. Captions, Table of Contents, and Index. The captions and table of contents of this Agreement are inserted only as a matter of convenience and reference, and they in no way define, limit, or describe the scope of any provisions of this Agreement, or the intent of any provision of this Agreement, and shall not be used with respect to the interpretation of any provision of this Agreement.

12.4. Conflict of Laws and Venue. This Agreement shall be governed by and construed under the laws of the State of California. Venue on any action arising out of this Agreement will be proper only in the County of Los Angeles, State of California.

12.5. Corporate Resolution. DSCLA shall provide to the CITY a current copy of its Corporate Resolution depicting the names and legal signatures of the officers of the corporation authorized to execute legal documents, including this Agreement, on behalf of DSCLA. Within thirty (30) days of any change in such names, DSCLA shall provide to the CITY the updated Corporate Resolution.

12.6. Counterparts. This Agreement may be executed in one or more counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument.

12.7. Exhibits - Incorporation in Improvements and Exhibits Agreement. All exhibits referred to are attached to this Agreement and incorporated by reference.

12.8. Force Majeure. Whenever either party hereto shall be required by the provisions of this Agreement or by law to perform any contract, act, work, construction, labor or services (excepting only the obligation to pay rent due hereunder), or to discharge any lien against the Premises, or to perform and comply with any laws, rules, orders, ordinances, regulations or zoning regulations, said party shall not be deemed to be in default herein and the other party shall not enforce or exercise any of its right under this Agreement, if and so long as nonperformance or default herein shall be directly caused by strikes, non-availability of materials, war or national defense preemptions, governmental restrictions, acts of God or other similar causes beyond the reasonable control of the nonperforming party provided; however, that notwithstanding any of the provisions of the foregoing, the nonperforming party shall commence such performance and continue the same with diligence and continuity immediately after the removal of any of the causes hereinabove specified.

12.9. Gender. As used herein, the neuter gender includes the feminine and masculine, the masculine includes the feminine and the neuter, and feminine includes the masculine and the neuter, and each includes corporations, limited liability companies, partnerships or other legal entities when the context so requires.

12.10. No Prior Agreements. This Agreement, and the Lease, contains all of the agreements of the parties hereto with respect to the matters covered hereby, and no

prior agreements, oral or written, or understandings or representations of any nature whatsoever pertaining to any such matters shall be effective for any purpose unless expressly incorporated in the provisions of this Agreement.

12.11. No Relocation Assistance. DSCLA acknowledges that it is not entitled to relocation assistance or any other benefits under the California Relocation Assistance Act (Government Code section 7260, et seq.), the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C.A. § 4601, et seq.), or any other provisions of law upon termination of this Agreement.

12.12. Quiet Enjoyment. If DSCLA is not in default as provided herein, DSCLA shall and may peaceably and quietly have, hold, and enjoy the Premises with necessary ingress and egress in accordance with the provisions hereof.

12.13. Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

12.14. Sole Discretion. In those instances in this Agreement where it is provided that the CITY or the General Manager or other City of Los Angeles agency may approve a request in the exercise of "sole discretion" or words of like import, the parties expressly agree that CITY or the General Manager or other City of Los Angeles agency, as the case may be, has the absolute unfettered discretion to grant or withhold approval, either arbitrarily or otherwise, and with or without reason, and neither DSCAL nor any other party or tribunal shall have any right or power to inquire into or review the granting or withholding of such approval or the reasons or lack of reasons therefore.

12.15. Time. Time is of the essence with respect to the performance or observance of each of the obligations, covenants and agreements under this Agreement. Except where expressly stated to be "business days" or "working days," the word "days" shall mean "calendar days."

12.16. Indemnification. Except for the active negligence or willful misconduct of CITY, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, DSCLA undertakes and agrees to defend, indemnify and hold harmless CITY and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including DSCLA'S employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement by DSCLA or its subcontractors of any tier. The provisions of this paragraph survive expiration or termination of this Agreement.

12.17. Insurance. During the term of this Agreement and without limiting DSCLA's indemnification of the CITY, DSCLA shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by DSCLA, but not less than the amounts and types listed on Exhibit C "146R Insurance Form" of the Lease, covering its operations hereunder. Such insurance shall conform to CITY requirements established by Charter, ordinance or policy, in accordance with Exhibit D "Instructions and Information on Complying with City Insurance Requirements" of Lease and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management.

IN WITNESS WHEREOF, the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, Landlord herein, and DISCOVERY SCIENCE CENTER OF LOS ANGELES, a California nonprofit public benefit corporation, Tenant herein, have caused this Tenant Improvement Agreement to be executed as of the date of the attestation by the City Clerk.

APPROVED AS TO FORM:

CARMEN A. TRUTANICH, City Attorney

By: Deputy City Attorney

DATE:

ATTEST:

JUNE LAGMAY, City Clerk

By: Deputy

DATE:

CITY:

CITY OF LOS ANGELES, a municipal corporation, acting by and through its BOARD OF RECREATION AND PARK COMMISSIONERS:

By: President

By: Secretary

DATE:

TENANT:

DISCOVERY SCIENCE CENTER OF LOS ANGELES, a California non-profit public benefit corporation

By: Joe Adams, Chairman of the Board

DATE:

**ATTACHMENT NO. 1 TO IMPROVEMENTS AND EXHIBIT AGREEMENT
(EXHIBIT E TO LEASE)**

GRANTEE: _____

**ASSIGNMENT OF ARCHITECT/DESIGNER/CONSTRUCTION CONTRACT
AND PLANS AND SPECIFICATIONS AND PERMITS
(With Architect/Designer/Construction contractor's Consent and Certificate)**

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, _____, a California non profit corporation (the "Contractor"), as security for the obligations incurred and to be incurred by Contractor pursuant to the Lease and the Improvements and Exhibit Agreement executed between Contractor and the City of Los Angeles, a municipal corporation (the "City"), which is engaged in administering the lease between the Discovery and the City for the use, operation and maintenance of the Discovery Science Center of Los Angeles and the related Improvements and Exhibits Agreement, hereby assigns and transfers to the City, its successors and assigns, all of (1) Contractor's rights in and to those certain Plans and Specifications together with all amendments, modifications, supplements, general conditions and addenda thereto relating to the Site, prepared pursuant to the Lease and the Improvements and Exhibits Agreement (the "Plans") by _____ ("Architect/Designer/Construction contractor"), (2) Contractor's right, title and interest in that certain agreement dated _____, between Contractor and Architect/Designer/Construction contractor, a true and complete copy of which is attached hereto and incorporated herein by reference (the "Contract"), and (3) all permits to be obtained by or for the benefit of Contractor relating to the Plans or the Project ("Permits"). Architect/Designer/Construction contractor consents to this Assignment, and has executed the Consent and Certificate attached hereto and incorporated herein by this reference.

Neither this Assignment nor any action or actions on the part of the City shall constitute an assumption by the City of any of Contractor's obligations under the Contract unless and until the City shall have given written notice to Architect/Designer/Construction contractor of its election to complete construction of the Project following a default by Contractor under the Lease and the Improvements and Exhibit Agreement. Contractor shall continue to be liable for all obligations under the Contract and Contractor hereby agrees to perform each and all such obligations. In the event of a default under the under the Lease and the Improvements and Exhibit Agreement and Exhibit Agreement, the City may elect to reassign its rights to the Plans, the Permits and the specifications under the Contract to any person or entity selected by the City to complete the Project. Such person or entity shall succeed to all of the rights of Contractor thereunder without the necessity of any consent from Contractor or Architect/Designer and the City shall have no liability for any failure of such person or entity to perform the obligations under the Contract. Provided, however, that in the event the City reassigns its rights to the Plans to another person or entity, the Architect/Designer/Construction contractor's name

shall not be used in connection therewith unless the Architect/Designer/Construction contractor so approves in writing.

Contractor hereby represents and warrants to the City that (1) the Contract is in full force and effect with no defaults thereunder by either Contractor or Architect/Designer, (2) no event has occurred that would constitute a default under the Contract upon the giving of notice or the lapse of time or both, and (3) Contractor has made no previous assignment of, and Loaned no security interest in, its rights to the Plans, the Permits or the specifications under the Contract. Contractor agrees that (a) it will not assign, transfer or encumber its, rights to the Plans, the Permits or under the Contract so long as any obligation under the under the Lease and the Improvements and Exhibit Agreement and Exhibit Agreement remains unsatisfied, (b) it will not agree to any amendment of the Contract without the prior written consent of the City, (c) it will not terminate the Contract or accept a surrender thereof, or waive, excuse, condone or in any manner release or discharge Architect/Designer/Construction contractor of or from the obligations and agreements by Architect/Designer/Construction contractor to be performed thereunder, in the manner and at the place and time specified therein without the prior written consent of the City, and (d) it will indemnify the City against any liabilities, losses, costs and expenses, including reasonable attorneys' fees, which may be incurred by the City as a result of the exercise of its rights under this Assignment.

The City shall have the right at any time (but shall have no obligation) to take in its name or in the name of Contractor or otherwise such action as the City may at the time or from time to time determine to be necessary to cure any default under the Contract, to protect the rights of Contractor or the City thereunder, or enforce all rights of Contractor under the Contract. Contractor hereby irrevocably constitutes and appoints the City its true and lawful attorney in contractor's name or in the City's name or otherwise to take all such action. The exercise of the City's rights hereunder shall not constitute a waiver of any of the remedies of the City under the under the Lease and the Improvements and Exhibit Agreement and Exhibit Agreement or any other document or agreement or otherwise existing at law or otherwise.

Executed this _____ day of _____,

Grantee	_____
Signature	_____
Print Name & Title	_____
Grantee (Borrower)	_____
Address	_____

**ASSIGNMENT OF ARCHITECT/DESIGNER/CONSTRUCTION CONTRACT AND
PLANS AND SPECIFICATIONS AND PERMITS
(With Architect/Designer/Construction contractor's Consent and Certificate)**

(DISCOVERY SCIENCE CENTER OF LOS ANGELES PROJECT)

ARCHITECT/DESIGNER/CONSTRUCTION CONTRACTOR'S CONTRACT

[Follows this sheet]

**ASSIGNMENT OF ARCHITECT/DESIGNER/CONSTRUCTION CONTRACT
AND PLANS AND SPECIFICATIONS AND PERMITS
(With Architect/Designer/Construction contractor's Consent and Certificate)**

CONSENT AND CERTIFICATE

Pursuant to that certain assignment of Architect/Design/Construction Contract and Plans and Specifications and Permits (the "Assignment") executed by _____, a California non-profit corporation ("Contractor") on _____, the undersigned, as Architect/Designer/Construction contractor, hereby consents to the assignment by Contractor of the Plans (all defined terms herein shall have the meaning defined in the Assignment), the Permits and the Contract to the City of Los Angeles, a municipal corporation ("City"), and to each and all of the terms and conditions of such attached assignment and confirms to the City that (a) the Contract constitutes the entire agreement between the undersigned and Contractor relating to the Project, (b) the Contract is in full force and effect with no defaults thereunder, (c) no event has occurred that would constitute a default under the Contract upon the giving of notice or the lapse of time or both, (d) no material modification shall be made in the Contract without the prior written consent of the City, (e) the undersigned agrees to be bound by the provisions of the Lease and the Improvements and Exhibit Agreement restricting the ability of Contractor to make changes in the Plans without the prior written consent of the City, (f) the undersigned is not aware of any prior assignment of the Plans, the Permits or the Contract by Contractor, and (g) a complete copy of the Plans and all Permits will be delivered to the City. The undersigned agrees that in the event of any default by Contractor under the Contract, the undersigned will give written notice to the City thereof and the City shall have the right, but not the obligation, to cure said default within sixty (60) days from the City's receipt of such notice.

The undersigned further agrees that in the event the City becomes the owner of the Project, or undertakes to complete construction thereof, or assigns its rights to the Plans, the Permits and the specifications under the Contract to another person or entity, or otherwise requires the use of the Plans, the Permits and the specifications, the City, its successors and assigns are authorized to use the Plans, the Permits and the specifications without additional cost or expense beyond that stated in the Contract, all rights under the Contract otherwise exercisable by Contractor may be exercised by the City or such successor or assign, and the undersigned will perform its obligations in conformity with the Contract for the benefit of the City, its successors or assigns.

In order to induce the City to enter into the Lease and the Improvements and Exhibit Agreement and make the advances and/or payments contemplated therein, the undersigned certifies to the City as follows:

(a) As represented in the Plans, the Development will comply with (1) all statutes, rules, regulations and ordinances of all governmental agencies having jurisdiction over the Project, including, without limitation, those relating to zoning, building, pollution control and energy use; (2) all applicable covenants, conditions and restrictions affecting the

Site and the Project, and (3) the requirements of the appropriate board of fire underwriters.

(b) Construction of the Project in accordance with the Plans will not result in any encroachment on any adjoining property or on any surface easement.

(c) The Plans will include (1) any recommendations contained in any soil or other geological test performed on the Site, and (2) parking for cars sufficient to meet the requirements of all applicable statutes, rules, regulations, ordinances, tract map conditions and leases.

(d) The undersigned is duly licensed to conduct its business in the jurisdiction where its services are to be performed and will maintain such license in full force and effect throughout the term of the Contract.

The City shall have the right at any time to use all plans, specifications and drawings from the Project prepared by or for the undersigned for the Project, including, without limitation, the Plans, and the ideas, designs and concepts contained therein, without payment of any additional fees or charges to the undersigned for such use.

The undersigned hereby assigns to the City all of the undersigned's right, title and interest in, to and under all subcontracts which are now or hereafter entered into by the undersigned in furtherance of its obligations under the Contract; provided, however, that until a default occurs by the undersigned under the Contract, the City shall not exercise any rights in the subcontracts which are hereby assigned.

The undersigned acknowledges that the City is relying on, among other things, the Consent, confirmations, agreements and assurances provided herein in entering into the Lease and the Improvements and Exhibit Agreement and agreeing to advance funds thereunder to Contractor for construction of the Project.

DATED: Executed this _____ day of _____

Architect/Designer/Construction contractor

Print Name: _____

Title: _____

Company Name: _____

Signature: _____

EXHIBIT F
STANDARD PROVISIONS FOR CITY CONTRACTS

To be included in final lease agreement

STANDARD PROVISIONS FOR CITY CONTRACTS

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. CONSTRUCTION OF PROVISIONS AND TITLES HEREIN

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Contract shall be construed according to its fair meaning and not strictly for or against the **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" herein in this Contract includes the party or parties identified in the Contract. The singular shall include the plural; if there is more than one **CONTRACTOR** herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. NUMBER OF ORIGINALS

The number of original texts of this Contract shall be equal to the number of the parties hereto, one text being retained by each party. At the **CITY'S** option, one or more additional original texts of this Contract may also be retained by the City.

PSC-3. APPLICABLE LAW, INTERPRETATION AND ENFORCEMENT

Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Contract.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Contract, the validity of the remaining parts, terms or provisions of the Contract shall not be affected thereby.

PSC-4. TIME OF EFFECTIVENESS

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR** hereto;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of the **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-5. INTEGRATED CONTRACT

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in paragraph PSC-6 hereof.

PSC-6. AMENDMENT

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-4.

PSC-7. EXCUSABLE DELAYS

In the event that performance on the part of any party hereto is delayed or suspended as a result of circumstances beyond the reasonable control and without the fault and negligence of said party, none of the parties shall incur any liability to the other parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the parties hereunder include, but are not limited to, acts of God or of the public enemy; insurrection; acts of the Federal Government or any unit of State or Local Government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; freight embargoes or delays in transportation, to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

PSC-8. BREACH

Except for excusable delays as described in PSC-7, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights

and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

PSC-9. WAIVER

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC-10. TERMINATION

A. TERMINATION FOR CONVENIENCE

The **CITY** may terminate this Contract for the **CITY'S** convenience at any time by giving **CONTRACTOR** thirty days written notice thereof. Upon receipt of said notice, **CONTRACTOR** shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. The **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to affect such termination. Thereafter, **CONTRACTOR** shall have no further claims against the **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon the date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

B. TERMINATION FOR BREACH OF CONTRACT

1. Except for excusable delays as provided in PSC-7, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, the **CITY** may give **CONTRACTOR** written notice of such default. If **CONTRACTOR** does not cure such default or provide a plan to cure such default which is acceptable to the **CITY** within the time permitted by the **CITY**, then the **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then the **CITY** may immediately terminate this Contract.
3. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates the

CITY'S lobbying policies, then the **CITY** may immediately terminate this Contract.

4. In the event the **CITY** terminates this Contract as provided in this section, the **CITY** may procure, upon such terms and in such manner as the **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to the **CITY** for all of its costs and damages, including, but not limited, any excess costs for such services.
5. All finished or unfinished documents and materials produced or procured under this Contract, including all intellectual property rights thereto, shall become **CITY** property upon date of such termination. **CONTRACTOR** agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.
6. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-10(A) Termination for Convenience.
7. The rights and remedies of the **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

PSC-11. INDEPENDENT CONTRACTOR

CONTRACTOR is acting hereunder as an independent contractor and not as an agent or employee of the **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the **CITY**.

PSC-12. CONTRACTOR'S PERSONNEL

Unless otherwise provided or approved by the **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. The **CITY** shall have the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** agrees to remove personnel from performing work under this Contract if requested to do so by the **CITY**.

CONTRACTOR shall not use subcontractors to assist in performance of this Contract without the prior written approval of the **CITY**. If the **CITY** permits the use of subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of

this Contract. The **CITY** has the right to approve **CONTRACTOR'S** subcontractors, and the **CITY** reserves the right to request replacement of subcontractors. The **CITY** does not have any obligation to pay **CONTRACTOR'S** subcontractors, and nothing herein creates any privity between the **CITY** and the subcontractors.

PSC-13. PROHIBITION AGAINST ASSIGNMENT OR DELEGATION

CONTRACTOR may not, unless it has first obtained the written permission of the **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

PSC-14. PERMITS

CONTRACTOR and its directors, officers, partners, agents, employees, and subcontractors, to the extent allowed hereunder, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance hereunder and shall pay any fees required therefor. **CONTRACTOR** certifies to immediately notify the **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents.

PSC-15. CLAIMS FOR LABOR AND MATERIALS

CONTRACTOR shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), against **CONTRACTOR'S** rights to payments hereunder, or against the **CITY**, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-16. CURRENT LOS ANGELES CITY BUSINESS TAX REGISTRATION
CERTIFICATE REQUIRED**

If applicable, **CONTRACTOR** represents that it has obtained and presently holds the Business Tax Registration Certificate(s) required by the **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code. For the term covered by this Contract, **CONTRACTOR** shall maintain, or obtain as necessary, all such Certificates required of it under the Business Tax Ordinance, and shall not allow any such Certificate to be revoked or suspended.

PSC-17. RETENTION OF RECORDS, AUDIT AND REPORTS

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form, in accordance with

requirements prescribed by the **CITY**. These records shall be retained for a period of no less than three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. Said records shall be subject to examination and audit by authorized **CITY** personnel or by the **CITY'S** representative at any time during the term of this Contract or within the three years following final payment made by the **CITY** hereunder or the expiration date of this Contract, whichever occurs last. **CONTRACTOR** shall provide any reports requested by the **CITY** regarding performance of this Contract. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

PSC-18. FALSE CLAIMS ACT

CONTRACTOR acknowledges that it is aware of liabilities resulting from submitting a false claim for payment by the **CITY** under the False Claims Act (Cal. Gov. Code §§ 12650 *et seq.*), including treble damages, costs of legal actions to recover payments, and civil penalties of up to \$10,000 per false claim.

PSC-19. BONDS

All bonds which may be required hereunder shall conform to **CITY** requirements established by Charter, ordinance or policy, and shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Sections 11.47 through 11.56 of the Los Angeles Administrative Code.

PSC-20. INDEMNIFICATION

Except for the active negligence or willful misconduct of the **CITY**, or any of its Boards, Officers, Agents, Employees, Assigns and Successors in Interest, **CONTRACTOR** undertakes and agrees to defend, indemnify and hold harmless the **CITY** and any of its Boards, Officers, Agents, Employees, Assigns, and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this Contract by **CONTRACTOR** or its subcontractors of any tier. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-20 shall survive expiration or termination of this Contract.

PSC-21. INTELLECTUAL PROPERTY INDEMNIFICATION

CONTRACTOR, at its own expense, undertakes and agrees to defend, indemnify, and hold harmless the **CITY**, and any of its Boards, Officers, Agents, Employees, Assigns,

and Successors in Interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by the **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information right (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its subcontractors of any tier, in performing the work under this Contract; or (2) as a result of the **CITY'S** actual or intended use of any Work Product furnished by **CONTRACTOR**, or its subcontractors of any tier, under the Agreement. Rights and remedies available to the **CITY** under this provision are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the **CITY**. The provisions of PSC-21 shall survive expiration or termination of this Contract.

PSC-22. INTELLECTUAL PROPERTY WARRANTY

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity and proprietary information.

PSC-23. OWNERSHIP AND LICENSE

Unless otherwise provided for herein, all Work Products originated and prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract shall be and remain the exclusive property of the **CITY** for its use in any manner it deems appropriate. Work Products are all works, tangible or not, created under this Contract including, without limitation, documents, material, data, reports, manuals, specifications, artwork, drawings, sketches, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas matters and combinations thereof, and all forms of intellectual property. **CONTRACTOR** hereby assigns, and agrees to assign, all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared by **CONTRACTOR** under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for the **CITY** to perfect, memorialize, or record the **CITY'S** ownership of rights provided herein.

For all Work Products delivered to the **CITY** that are not originated or prepared by **CONTRACTOR** or its subcontractors of any tier under this Contract, **CONTRACTOR** hereby grants a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of the **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract to contractually bind or otherwise oblige its subcontractors performing work under this Contract such that the **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

PSC-24. INSURANCE

During the term of this Contract and without limiting **CONTRACTOR'S** indemnification of the **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits customarily carried and actually arranged by **CONTRACTOR**, but not less than the amounts and types listed on the Required Insurance and Minimum Limits sheet (Form General 146 in Exhibit 1 hereto), covering its operations hereunder. Such insurance shall conform to **CITY** requirements established by Charter, ordinance or policy, shall comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto) and shall otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-25. DISCOUNT TERMS

CONTRACTOR agrees to offer the **CITY** any discount terms that are offered to its best customers for the goods and services to be provided hereunder and apply such discount to payments made under this Contract which meet the discount terms.

PSC-26. WARRANTY AND RESPONSIBILITY OF CONTRACTOR

CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

PSC-27. NON-DISCRIMINATION

Unless otherwise exempt, this Contract is subject to the non-discrimination provisions in Sections 10.8 through 10.8.2 of the Los Angeles Administrative Code, as amended from time to time. The **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and the **CITY**. In performing this Contract, **CONTRACTOR** shall not

discriminate in its employment practices against any employee or applicant for employment because of such person's race, religion, national origin, ancestry, sex, sexual orientation, age, disability, domestic partner status, marital status or medical condition. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract.

Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with such obligations shall subject **CONTRACTOR** to the imposition of any and all sanctions allowed by law, including but not limited to termination of **CONTRACTOR'S** contract with the **CITY**.

PSC-28. EQUAL EMPLOYMENT PRACTICES

Unless otherwise exempt, this Contract is subject to the equal employment practices provisions in Section 10.8.3 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of this Contract, **CONTRACTOR** agrees and represents that it will provide equal employment practices and **CONTRACTOR** and each subcontractor hereunder will ensure that in his or her 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 or medical condition.
 - 1. This provision applies to work or service 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. **CONTRACTOR** agrees to post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **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 or medical condition.
- C. As part of the **CITY'S** supplier registration process, and/or at the request of the awarding authority, or the Board of Public Works, Office of Contract Compliance, **CONTRACTOR** shall certify in the specified format that he or she has not discriminated in the performance of **CITY** contracts against any employee or applicant for employment on the basis or because of

race, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

- D. **CONTRACTOR** shall permit access to and may be required to provide certified copies of all of his or her records pertaining to employment and to employment practices by the awarding authority or the Office of Contract Compliance for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of **CITY** contracts. On their or either of their request **CONTRACTOR** shall provide evidence that he or she has or will comply therewith.
- E. The failure of any **CONTRACTOR** to comply with the Equal Employment Practices provisions of this Contract may be deemed to be a material breach of **CITY** contracts. Such failure shall only be established upon a finding to that effect by the awarding 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 or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to **CONTRACTOR**.
- F. Upon a finding duly made that **CONTRACTOR** has failed to comply with the Equal Employment Practices provisions of a **CITY** contract, the contract may be forthwith canceled, 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**. In addition thereto, such failure to comply may be the basis for a determination by the awarding authority or the Board of Public Works that the **CONTRACTOR** is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Charter of the City of Los Angeles. In the event of such a determination, **CONTRACTOR** shall be disqualified from being awarded a contract with the **CITY** for a period of two years, or until **CONTRACTOR** shall establish and carry out a program in conformance with the provisions hereof.
- G. Notwithstanding any other provision of this Contract, the **CITY** shall have any and all other remedies at law or in equity for any breach hereof.
- H. Intentionally blank.
- I. Nothing contained in this Contract shall be construed in any manner so as to require or permit any act which is prohibited by law.
- J. At the time a supplier registers to do business with the **CITY**, or when an individual bid or proposal is submitted, **CONTRACTOR** shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of **CITY** Contracts.

- K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Hiring practices;
 2. Apprenticeships where such approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 3. Training and promotional opportunities; and
 4. Reasonable accommodations for persons with disabilities.
- L. Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject **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**.

PSC-29. AFFIRMATIVE ACTION PROGRAM

Unless otherwise exempt, this Contract is subject to the affirmative action program provisions in Section 10.8.4 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of a **CITY** contract, **CONTRACTOR** certifies and represents that **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 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. **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. **CONTRACTOR** will, in all solicitations or advertisements for employees placed by or on behalf of **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 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, **CONTRACTOR** shall certify on an electronic or hard copy form to be supplied, that **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 or medical condition..
- D. **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 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 **CONTRACTOR**.
- F. Upon a finding duly made that **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**. 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** 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 **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 **CONTRACTOR** by the **CITY** 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** shall have any and all other remedies at law or in equity for any breach hereof.
- I. Intentionally blank.
- 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. **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 months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, **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, **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. **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 **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;
 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. Intentionally blank.

- 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**.

PSC-30. CHILD SUPPORT ASSIGNMENT ORDERS

This Contract is subject to the Child Support Assignment Orders Ordinance, Section 10.10 of the Los Angeles Administrative Code, as amended from time to time. Pursuant to the Child Support Assignment Orders Ordinance, **CONTRACTOR** will fully comply with all applicable State and Federal employment reporting requirements for **CONTRACTOR'S** employees. **CONTRACTOR** shall also certify (1) that the Principal Owner(s) of **CONTRACTOR** are in compliance with any Wage and Earnings Assignment Orders and Notices of Assignment applicable to them personally; (2) that **CONTRACTOR** will fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with Section 5230, *et seq.* of the California Family Code; and (3) that **CONTRACTOR** will maintain such compliance throughout the term of this Contract.

Pursuant to Section 10.10(b) of the Los Angeles Administrative Code, the failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment Orders or Notices of Assignment, or the failure of any Principal Owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract, subjecting this Contract to termination if such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

Any subcontract entered into by **CONTRACTOR**, to the extent allowed hereunder, shall include a like provision for work to be performed under this Contract. Failure of **CONTRACTOR** to obtain compliance of its subcontractors shall constitute a default by **CONTRACTOR** under this Contract, subjecting this Contract to termination where such default shall continue for more than ninety (90) days after notice of such default to **CONTRACTOR** by the **CITY**.

CONTRACTOR certifies that, to the best of its knowledge, it is fully complying with the Earnings Assignment Orders of all employees, and is providing the names of all new employees to the New Hire Registry maintained by the Employment Development Department as set forth in Section 7110(b) of the California Public Contract Code.

PSC-31. LIVING WAGE ORDINANCE AND SERVICE CONTRACTOR WORKER RETENTION ORDINANCE

- A. Unless otherwise exempt, this Contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 *et seq.* of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time. These Ordinances require the following:
1. **CONTRACTOR** assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of compensated and uncompensated days off and health benefits, as defined in the LWO.
 2. **CONTRACTOR** further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. **CONTRACTOR** shall require each of its subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. **CONTRACTOR** shall deliver the executed pledges from each such subcontractor to the **CITY** within ninety (90) days of the execution of the subcontract. **CONTRACTOR'S** delivery of executed pledges from each such subcontractor shall fully discharge the obligation of **CONTRACTOR** with respect to such pledges and fully discharge the obligation of **CONTRACTOR** to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
 3. **CONTRACTOR**, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the **CITY** with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. **CONTRACTOR** shall post the Notice of Prohibition Against Retaliation provided by the **CITY**.
 4. Any subcontract entered into by **CONTRACTOR** relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of PSC-31 and shall incorporate the provisions of the LWO and the SCWRO.

5. **CONTRACTOR** shall comply with all rules, regulations and policies promulgated by the **CITY'S** Designated Administrative Agency which may be amended from time to time.
- B. Under the provisions of Sections 10.36.3(c) and 10.37.6(c) of the Los Angeles Administrative Code, the **CITY** shall have the authority, under appropriate circumstances, to terminate this Contract and otherwise pursue legal remedies that may be available if the **CITY** determines that the subject **CONTRACTOR** has violated provisions of either the LWO or the SCWRO, or both.
- C. Where under the LWO Section 10.37.6(d), the **CITY'S** Designated Administrative Agency has determined (a) that **CONTRACTOR** is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the **CITY** in such circumstances may impound monies otherwise due **CONTRACTOR** in accordance with the following procedures. Impoundment shall mean that from monies due **CONTRACTOR**, **CITY** may deduct the amount determined to be due and owing by **CONTRACTOR** to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures described therein through final and binding arbitration. Whether **CONTRACTOR** is to continue work following an impoundment shall remain in the sole discretion of the **CITY**. **CONTRACTOR** may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.
- D. **CONTRACTOR** shall inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Credit (EIC). **CONTRACTOR** shall also make available to employees the forms informing them about the EIC and forms required to secure advance EIC payments from **CONTRACTOR**.

PSC-32. AMERICANS WITH DISABILITIES ACT

CONTRACTOR hereby certifies that it will comply with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and its implementing regulations. **CONTRACTOR** will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. **CONTRACTOR** will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any subcontract entered into by **CONTRACTOR**, relating to this Contract, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

PSC-33. CONTRACTOR RESPONSIBILITY ORDINANCE

Unless otherwise exempt, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 *et seq.*, of the Los Angeles Administrative Code, as amended from time to time, which requires **CONTRACTOR** to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect **CONTRACTOR'S** fitness and ability to continue performing this Contract.

In accordance with the provisions of the Contractor Responsibility Ordinance, by signing this Contract, **CONTRACTOR** pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this Contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. **CONTRACTOR** further agrees to: (1) notify the **CITY** within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that **CONTRACTOR** is not in compliance with all applicable federal, state and local laws in performance of this Contract; (2) notify the **CITY** within thirty calendar days of all findings by a government agency or court of competent jurisdiction that **CONTRACTOR** has violated the provisions of Section 10.40.3(a) of the Contractor Responsibility Ordinance; (3) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, submit a Pledge of Compliance to the **CITY**; and (4) unless exempt, ensure that its subcontractor(s), as defined in the Contractor Responsibility Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify the **CITY** within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Contractor Responsibility Ordinance in performance of the subcontract.

PSC-34. MINORITY, WOMEN, AND OTHER BUSINESS ENTERPRISE OUTREACH PROGRAM

CONTRACTOR agrees and obligates itself to utilize the services of Minority, Women and Other Business Enterprise firms on a level so designated in its proposal, if any. **CONTRACTOR** certifies that it has complied with Mayoral Directive 2001-26 regarding the Outreach Program for Personal Services Contracts Greater than \$100,000, if applicable. **CONTRACTOR** shall not change any of these designated subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of the **CITY**, provided that such approval shall not be unreasonably withheld.

PSC-35. EQUAL BENEFITS ORDINANCE

Unless otherwise exempt, this Contract is subject to the provisions of the Equal Benefits Ordinance (EBO), Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

- A. During the performance of the Contract, **CONTRACTOR** certifies and represents that **CONTRACTOR** will comply with the EBO.
- B. The failure of **CONTRACTOR** to comply with the EBO will be deemed to be a material breach of this Contract by the **CITY**.
- C. If **CONTRACTOR** fails to comply with the EBO the **CITY** may cancel, terminate or suspend this Contract, in whole or in part, and all monies due or to become due under this 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.
- D. Failure to comply with the EBO may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.
- E. If the **CITY'S** Designated Administrative Agency determines that a **CONTRACTOR** has set up or used its contracting entity for the purpose of evading the intent of the EBO, the **CITY** may terminate the Contract. Violation of this provision may be used as evidence against **CONTRACTOR** in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 *et seq.*, Contractor Responsibility Ordinance.

CONTRACTOR shall post 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. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Office of Contract Compliance at (213) 847-1922."

PSC-36. SLAVERY DISCLOSURE ORDINANCE

Unless otherwise exempt, this Contract is subject to the Slavery Disclosure Ordinance, Section 10.41 of the Los Angeles Administrative Code, as amended from time to time. **CONTRACTOR** certifies that it has complied with the applicable provisions of the Slavery Disclosure Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Contract.

EXHIBIT 1

INSURANCE CONTRACTUAL REQUIREMENTS

CONTACT For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at www.lacity.org/cao/risk. The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

1. Additional Insured/Loss Payee. The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

2. Notice of Cancellation. All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

3. Primary Coverage. CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

4. Modification of Coverage. The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

5. Failure to Procure Insurance. All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

6. Workers' Compensation. By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

7. California Licensee. All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

8. Aggregate Limits/Impairment. If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

9. Commencement of Work. For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-4, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

Exhibit 1 (Continued)

Required Insurance and Minimum Limits

Name: _____ Date: _____

Agreement/Reference: _____

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

_____ Workers' Compensation – Workers' Compensation (WC) and Employer's Liability (EL)	WC EL	<u>Statutory</u> _____
☐ Waiver of Subrogation in favor of City	☐ Longshore & Harbor Workers	
	☐ Jones Act	

_____ General Liability	
☐ Products/Completed Operations	☐ Sexual Misconduct _____
☐ Fire Legal Liability _____	
☐ _____	

_____ **Automobile Liability** (for any and all vehicles used for this Contract, other than commuting to/from work) _____

_____ **Professional Liability** (Errors and Omissions) _____

_____ Property Insurance (to cover replacement cost of building – as determined by insurance company)	
☐ All Risk Coverage	☐ Boiler and Machinery
☐ Flood _____	☐ Builder's Risk
☐ Earthquake _____	☐ _____

_____ Pollution Liability	
☐ _____	

_____ Surety Bonds – Performance and Payment (Labor and Materials) Bonds	100 % of Contract Price
_____ Crime Insurance	_____

Other: _____

EXHIBIT G
MEMORANDUM OF LEASE

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CITY OF LOS ANGELES
DEPARTMENT OF GENERAL SERVICES
c/o Office of the City Attorney
Carmen A. Trutanich, City Attorney
Annette Bogna , Deputy City Attorney
Real Property/Environment Division
700 City Hall East
200 North Main Street
Los Angeles, California 90012

Free recording in accordance with
California Government Code section 6103

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE ("Memorandum") is made as of the date of attestation by the City Clerk of the City of Los Angeles of page 2 of this Memorandum, by and between the CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners, as Landlord ("CITY") and Discovery Science Center of Los Angeles, a California non-profit public benefit corporation ("DSCLA"), with a principal mailing address at 11800 Foothill Blvd, Los Angeles, California , as Tenant, who agree as follows:

1. **Term and Premises.** CITY leases to DSCLA, and DSCLA leases from CITY, the real property located in the City of Los Angeles, County of Los Angeles, State of California, described as:

Lot ____, Tract No. ____, as per map recorded in Book ____, pages ____, of Maps, in the office of the County Recorder of Los Angeles County, excepting therefrom those portions within public streets and subject to all easements of record, commonly known as the Hansen Dam Recreation Area, for a term of Thirty (30) Years, commencing on or about the date of this Memorandum on the provisions of the lease between the parties, which lease ("Lease") is dated on the same date as this Memorandum. These provisions are incorporated into this Memorandum by reference.

2. **Provisions Binding on DSCLA.** The provisions of the Lease to be performed by DSCLA, whether affirmative or negative in nature, are intended to and shall bind Tenant and its successors and assigns at any time, and shall inure to the benefit of CITY and its successors and assigns.

3. **Provisions Binding on CITY.** The provisions of the Lease to be performed by CITY, whether affirmative or negative in nature, are intended to and shall bind CITY and its successors and assigns at any time, and shall inure to the benefit of DSCLA and its successors and assigns.

4. **Purpose of Memorandum.** This Memorandum is prepared for the purpose of recordation, and it in no way modifies the provisions of the Lease.

5. **Reference to Lease for All Purposes.** Reference is hereby made to the entire Lease for any and all purposes. A true copy of the Lease is on file with the City Clerk of the City of Los Angeles, whose office is Room 360, City Hall, 200 North Spring Street, Los Angeles, California 90012.

**APPROVED AS TO FORM AND
LEGALITY:**

CARMEN A. TRUTANICH, City Attorney

By: Deputy City Attorney

DATE:

ATTEST:

JUNE LAGMAY, City Clerk

By: Deputy

DATE:

CITY:

CITY OF LOS ANGELES, a municipal
corporation, acting by and through its
BOARD OF RECREATION AND PARK
COMMISSIONERS:

By: President

By: Secretary

DATE:

TENANT:

DISCOVERY SCIENCE CENTER OF LOS
ANGELES, a California non-profit public

benefit corporation

By: Joe Adams, Chairman of the Board

DATE:

CONSENT TO LEASEHOLD DEED OF TRUST AND MODIFICATION OF LEASE

THIS CONSENT TO LEASEHOLD DEED OF TRUST AND MODIFICATION OF LEASE ("this Consent") is made and entered into as of this ____ day of December, 2012, by and among DISCOVERY SCIENCE CENTER OF LOS ANGELES, a California non-profit corporation ("Lessee"), USBCDE SUB-CDE 82, LLC, a Missouri limited liability company ("USBCDE Sub-CDE"), LADF VIII, LLC, a California limited liability company ("LADF Sub-CDE") (USBCDE Sub-CDE and LADF Sub-CDE are collectively and each individually referred to herein as the "Lender"), and CITY OF LOS ANGELES, a California municipal corporation ("Lessor").

WHEREAS, Lessor owns and/or controls certain lands known as Hansen Dam Recreation Area under the management and control of the Board of Recreation and Parks Commissioners, which are more particularly described on Exhibit A attached hereto and by this reference made a part hereof (the "Premises"); and

WHEREAS, Lessor and Discovery Science Center Leverage Lender, LLC ("Original Lessee") entered into that certain Lease Agreement dated as of _____, 2012, between Original Lessee as tenant and Lessor as landlord (the "Lease"), which Original Lease was superseded by the successor lease between the City and Discovery Science Center of Los Angeles hereinafter referred to as "Lessee" dated as of _____, 2012, by and among Lessee and Lessor (the successor lease, as modified by the provisions of this Consent, is hereinafter referred to as the "Lease"); and

WHEREAS, a memorandum of the Lease is recorded in the office of the Recorder of Deeds of the County of _____, California in Book _____ at Page _____; and

WHEREAS, Lender has committed to Lessee to make certain loans to Lessee upon certain terms and conditions; and

WHEREAS, the Lender's loan will be secured, inter alia, by a Leasehold Deed of Trust and Security Agreement (the "Deed of Trust") on Lessee's rights in and to the Premises pursuant to the Lease and certain property located thereon; and

WHEREAS, to induce Lender to make the loans to Lessee, Lessor has agreed to review and reasonable consent to the Lender's Deed of Trust, and Lessor and Lessee have further agreed to modify and amend the Lease in order to accommodate the Lender.

NOW, THEREFORE, for and in consideration of the Premises and the mutual covenants and promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, the parties hereby agree as follows:

1. Consent to Deed of Trust. Subject to Lessor's review and reasonable approval: Lessor hereby consents to Lessee's execution of the Deed of Trust, pursuant to which Lessee grants to Lender a first lien on, inter alia, Lessee's right, title and interest in and to the Premises under the Lease (the "Tenancy"). Lessor hereby acknowledges and agrees that Lessee's grant of the Deed of Trust will not be deemed to violate any of the terms of the Lease or cause a default thereunder.

2. Modification of Lease. Lessor and Lender agree that the Lease is hereby modified, as between Lessor and Lender, as of the date hereof as hereinafter provided in this Consent. As between Lessor and Lender, the terms of this Consent shall supersede any inconsistent provisions of the Lease and any rights and remedies granted to Lender under this Consent shall, to the extent inconsistent therewith,

supersede any rights and remedies of Lessor and Lessee under said Lease. Except as expressly and specifically set forth in this Consent, nothing contained herein shall be deemed to alter or modify any of the terms, conditions, or provisions of the Lease, and Lessor shall have the right to insist upon and receive strict performance of all the terms, conditions and provisions of the Lease and of all the obligations of Lessee under the Lease. It is expressly understood that Lessor shall not, by virtue of its execution of this Consent, be deemed to be a grantor under the Deed of Trust or to have subjected to the lien of the Deed of Trust, any of its right, title or interest in and to the said Premises. Lessor and Lessee agree that they will not further modify or amend the Lease without the prior written consent of Lender. Lessor hereby agrees to subordinate any lien Lessor may have on the assets of Lessee (including, but not limited to, the landlord's lien under the Lease) to any lien and/or security interest Lender may now or hereafter have upon Lessee's assets such that Lessor's liens and/or security interests in Lessee's assets shall be subordinate and inferior to the liens and/or security interests Lessee now or hereafter grants in favor of Lender. Lessor and Lessee hereby represent and warrant that as of the date hereof there is no existing default under the Lease.

3. Notices to Lender. a) Lessor agrees to give notice of default or the nonperformance by Lessee of its obligations under the Lease to Lender in the manner hereinafter provided, concurrently with the giving of such notice to Lessee. Lessor and Lessee each further agree to provide Lender with a copy of any notice given to the other party under the Lease, concurrently with the giving of such notice. b) Lender agrees to give Lessor notice of default or the nonperformance by the Lessee of its obligations under the Lender's loan secured by Deed of Trust, concurrently with the giving of such notice to Successor Lessee.

4. Right of Lender to Perform Obligations of Lessee. At all times while the Lease is in effect, Lender shall have the right, but not the obligation, to perform on behalf of Lessee any and all of the obligations of Lessee under the Lease in accordance with the terms of the Lease, and Lessor shall accept any such performance by Lender on behalf of Lessee as performance by Lessee without any prejudice to the rights of Lessee under the Lease.

5. Lender's Right to Cure Prior to Termination of the Lease. Lender shall have the right, but not the obligation, to cure any default by Lessee under the Lease upon the terms and conditions set forth therein, but Lender's right to effect such cure shall extend from the date notice of default is given to Lender, and if the default is cured by Lender within such period or periods as is permitted by the Lease, the Lease shall remain in full force and effect.

6. Lender's Rights Upon Termination of the Lease. In the event that Lessee's rights under the Lease are terminated by reason of Lessee's default, Lender shall, nonetheless, have the right, but shall not be obligated, to reinstate the Lease by curing Lessee's default(s) thereunder (irrespective of whether or not Lessee is given the right to cure such default under the Lease) within ten (10) days after notice of termination of the Lease is given by Lessor to Lender if such default is a monetary default; or thirty (30) days, extended for such additional reasonable periods as may be necessary to permit cure to be effected if efforts to cure are being made and cure is not possible within said thirty (30) days, if such default(s) involve matters other than the payment of money. In any such event, the Lease shall be reinstated and remain thereafter in full force and effect provided that the obligations of Lessee thereunder are performed in accordance with the terms of the Lease. If Lessee's rights under the Lease are terminated by reason of any Noncurable Defaults (hereinafter defined), then, at the option of Lender, the Lease shall be reinstated and remain thereafter in full force and effect and all events constituting Noncurable Defaults shall be deemed to be permanently and fully remedied, provided that (i) Lender assumes all obligations of Lessee under the Lease; provided, however, Lender shall not be required to indemnify Lessor for any acts of Lessee or Lessee's employees, agents, invitees, or officers while Lessee has possession of the Premises,

(ii) no other defaults which do not constitute Noncurable Defaults remain unremedied, and (iii) the obligations of Lessee under the Lease are performed in accordance with the terms of the Lease.

7. Noncurable Defaults. For the purposes hereof, the term "Noncurable Defaults" shall refer to the following events: (i) the abandonment of the Premises by Lessee, (ii) the insolvency or bankruptcy of Lessee, (iii) any other event constituting an event of default under the Lease which, by virtue of the fact that the event is triggered upon the passage of a stated date or period of time which has elapsed prior to the time that is allotted to the Lender for cure of the same, is not susceptible of cure by Lender (it being understood that upon subsequent assumption of Lessee's obligations under the Lease, the Lender shall be obligated thereafter to cure such event).

8. Lender's Rights Upon Lessee's Default Under Loan Documents. In the event of Lessee's default under the Note or the Deed of Trust, or under any other agreement further evidencing or securing the Lender's loans to Lessee or any other future obligations or indebtedness of Lessee to Lender including all extensions and renewals thereof (all of such obligations are herein collectively referred to as "Lessee's Obligations"), the Lender may, at its option, upon giving written notice to Lessor, enter upon the Premises and exercise all of Lessee's rights under the Lease, provided that Lender during any such time assumes and performs the obligations of Lessee under the Lease. Irrespective of any limitations on subletting set forth in the Lease, Lender shall have the right to sublet the Premises or any part thereof and collect the rents therefrom which are due or to become due, and apply the same after payment of all charges and expenses, to Lessee's Obligations, without the need to seek Lessor's consent thereto or otherwise to satisfy any applicable provision of the Lease relating to subletting, provided that Lender shall extend to Lessor the option to purchase the Lessee's Obligations and all security therefor and the right of first refusal to purchase or sublet the tenancy and all items covered by Lender's lien which are proposed to be sold, leased or subleased, all as stated in paragraph 9 below.

9. Lender's Right to Assign the Tenancy. After any default by Lessee under Lessee's Obligations, and provided the Lease is then in effect, Lender shall have the right to sell and assign the Tenancy without the consent of Lessor and without the necessity of complying with any other provisions of the Lease relative to such an assignment, provided that (i) Lender's assignee as part of such assignment agrees to assume and perform all of the obligations of Lessee under the terms of the Lease, (ii) Lender gives written notice to Lessor of a proposed sale and assignment of the Tenancy at least thirty (30) days prior to making such assignment and (iii) Lessor has, at its election, either (a) the right to purchase Lessee's Obligations and all security therefor on terms satisfactory to Lender and Lessor (said right to be exercised and purchase to be consummated within thirty (30) days after Lessor receives notice of Lender's intention to sell or transfer the Tenancy) or (b) in the event the Lender proposes to sell the Tenancy by way of private sale, the right of first refusal to purchase the Tenancy and those items covered by Lender's lien which are proposed to be sold on the same terms and conditions as have been offered to and accepted by the proposed purchaser, which terms shall be stated in the Lender's notice thereof to Lessor, said right of first refusal to be exercised by Lessor within said thirty (30) day period after receipt of Lender's notice to Lessor. In the event that Lender sells and assigns the Tenancy and has complied with the terms set forth in clause (iii) of this paragraph, Lender shall have no liability to Lessor or any other person under the Lease after the effective date of any such sale and assignment.

10. Subordination. Notwithstanding the provisions of the Lease to the contrary, Lessee shall neither be obligated nor permitted to execute any instrument on or after the date hereof which subordinates the Lease to a deed of trust or mortgage on Lessor's fee interest in and to the Premises (the "Fee Deed of Trust") unless such subordination instrument is in form and substance satisfactory to Lender and provides that the foreclosure of the Fee Deed of Trust will not extinguish the Lease or the lien of the Lender's Deed of Trust or in any way impair the Lender's security interest in its collateral for Lessee's obligations, provided that all obligations of Lessee under the Lease have been satisfied. If the

subordination instrument is in a form satisfactory to Lender, Lender shall be obligated to sign such instrument in its capacity as well.

11. Notice to Parties. Any notice provided for hereunder shall be in writing and shall be deemed given if delivered by personal service or by certified or registered mail, return receipt requested, postage prepaid, addressed to the party to whom said notice is directed, at the following addresses:

If to USBCDE Sub-CDE:

USBCDE Sub-CDE 82, LLC
c/o USBCDE LLC
1307 Washington Avenue, Suite 300
St. Louis, MO 63103
Attention: Director of Asset Management (NMTC); Deal #21701

with a copy to:

Thompson Coburn LLP
One US Bank Plaza
St. Louis, Missouri 63101
Attn: Amelia Frankel

If to LADF Sub-CDE:

LADF VIII, LLC
c/o Los Angeles Development Fund
1200 W. 7th Street, 2nd Floor
Los Angeles, CA 90017
Attention: Sandy Rahimi

with a copy to:

Bergman & Allderdice
1200 Wilshire Blvd., Suite 610
Los Angeles, CA 90017
Attn: Beth Bergman

If to Lessee:

Discovery Science Center of Los Angeles
2500 North Main Street
Santa Ana, CA 92705
Attn: Mike McGee

with a copy to:

Bocarsly Emden Cowan Esmail & Arndt LLP
633 West Fifth Street, 70th Floor
Los Angeles, CA 90071
Attn: Eugene Cowan

If to Lessor:

City of Los Angeles
Board of Recreation and Park Commissioners
221 North Figueroa Street, Suite 1510
Los Angeles, CA 90012
Attn: _____

with copies to:

General Manager, Department of Recreation and Parks
221 North Figueroa Street, Suite 1550
Los Angeles, CA 90012

and to:

Office of the City Attorney
Real Property/Environment Division
200 North Main Street, Suite 700
Los Angeles, CA 90012-4130

and to:

Program Manager
Bureau of Engineering, Recreational and Cultural Facilities Program
200 North Main Street, 8th Floor
Los Angeles, CA 90015

or at such other address as any party may from time to time designate by notice given as provided herein. All notices given as provided herein shall be deemed given on the date of personal service or the date of postmark.

12. Liability of Lender. Nothing contained herein shall be held or construed to transfer or pass to or impose upon Lender any liability, obligation, warranty, duty, or undertaking of any kind or nature which has been or is imposed upon, agreed to, or assumed by Lessee under the Lease, unless Lender assumes such obligation for the purpose of maintaining the Lease in effect or curing a default or defaults by Lessee as provided herein, whether prior to or after termination of the Lease. The Lender shall be released and discharged from any liability it assumes with respect to the Lease at such time as the Lender sells and assigns the tenancy.

13. Liability of Lessee. Nothing contained herein shall affect, modify, release, or relieve Lessee from any obligations, warranties, liabilities, duties, or undertakings under the terms of the Lease, all of which shall be and remain enforceable against Lessee. Lessee hereby consents to the provisions hereof.

14. Successors and Assigns. This Consent shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns. For the purposes hereof, the terms "Lessor," "Lessee" and "Lender" shall be deemed to include the respective successors and assigns of each of said parties.

15. Recordation. Lender shall be entitled to record this Consent.

16. Satisfaction and Release of Deed of Trust. Upon satisfaction of all the obligations under the loan secured by Deed of Trust, Lender agrees to execute, record and deliver to Lessor such documents as may be reasonably necessary to effectuate satisfaction and release of Deed of Trust.

[Remainder of Page Intentionally Left Blank – Signature Page Follows]

IN WITNESS WHEREOF, this Consent to Leasehold Deed of Trust and Modification of Lease is executed as of the day and year first above written.

USBCDE SUB-CDE 82, LLC, a Missouri limited liability company

By: USBCDE LLC, a Delaware limited liability company, its Managing Member

By: U.S. Bancorp Community Development Corporation, a Minnesota corporation, its Managing Member

By: _____
Timothy Karp, Officer

LADF VIII, LLC, a California limited liability company

By: LADF Management, Inc., a _____ corporation, its Managing Member

By: _____
Name: _____
Title: _____

DISCOVERY SCIENCE CENTER OF LOS ANGELES, a California non-profit corporation

By: _____
Name: _____
Title: _____

CITY OF LOS ANGELES, a municipal corporation, acting by and through its Board of Recreation and Park Commissioners

By: _____
Name: _____
Title: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2012, before me, _____, personally appeared Timothy Karp who, being first duly sworn, did say that he is an Officer of U.S. Bancorp Community Development Corporation, a Minnesota Corporation, the Managing Member of USBCDE LLC, a Delaware limited liability, the Managing Member of USBCDE Sub-CDE 82, LLC, a Missouri limited liability company, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2012, before me, _____, personally appeared _____ who being first duly sworn, did say that he/she is the _____ of LADF Management, Inc., a _____ corporation, the Managing Member of LADF VIII, LLC, a California limited liability company, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2012, before me, _____, personally appeared _____ who being first duly sworn, did say that he/she is the _____ of Discovery Science Center of Los Angeles, a California non-profit corporation, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On _____, 2012, before me, _____, personally appeared _____ who being first duly sworn, did say that he/she is the _____ of the City Los Angeles, a municipal corporation acting by and through its Board of Recreation and Park Commissioners, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

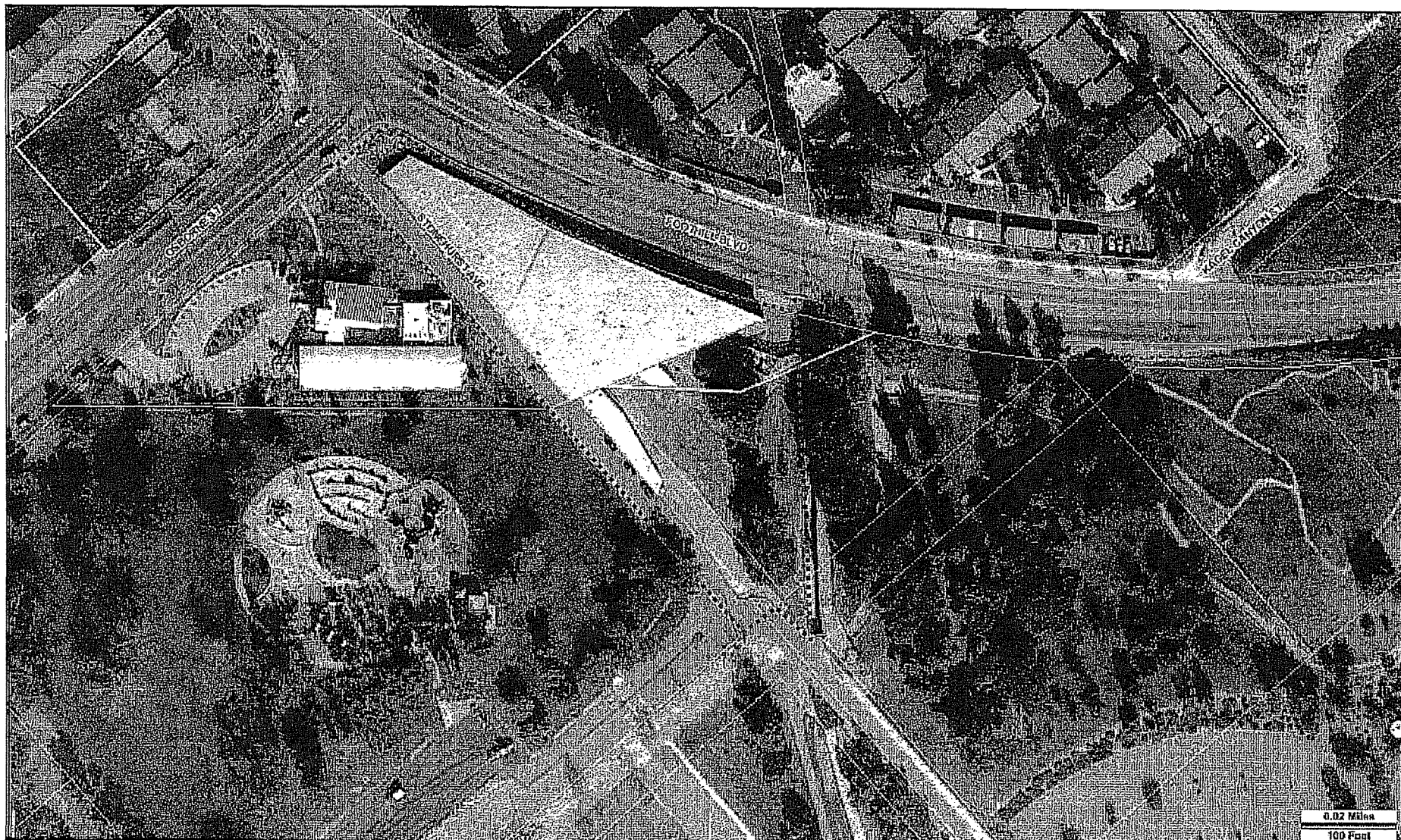
WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

(To Be Attached)

EXHIBIT A
MAP AND LEGAL DESCRIPTION



LEGAL DESCRIPTION: Pending completion of survey of area outlined in red above

REPORT OF GENERAL MANAGER

APPROVED
DEC 10 2012

NO. 12-327

DATE December 10, 2012

**BOARD OF RECREATION
& PARK COMMISSIONERS**

C.D. 7

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: HANSEN DAM PARK - DISCOVERY SCIENCE CENTER OF LOS ANGELES - RESCISSION OF PREVIOUSLY APPROVED LEASE AGREEMENT WITH THE DISCOVERY SCIENCE CENTER FOR THE USE, OPERATION, AND MAINTENANCE OF DISCOVERY SCIENCE CENTER OF LOS ANGELES; REVISED LEASE AGREEMENTS; CONSENT TO LEASEHOLD DEED OF TRUST

R. Adams _____

K. Regan _____

H. Fujita _____

*M. Shull ms

V. Israel _____

N. Williams _____

[Signature]
General Manager

Approved _____

Disapproved _____

Withdrawn _____

RECOMMENDATIONS:

That the Board:

1. Rescind approval of Board Report No. 12-308, approved by the Board at its meeting of November 7, 2012, which approved a Lease Agreement, substantially in the form on file in the Board Office, between the Department of Recreation and Parks (RAP) and the Discovery Science Center of Los Angeles (DSCLA), for the use, operation, and maintenance of a museum and environmental learning center at Hansen Dam Park, proposed to be called the Discovery Science Center of Los Angeles;
2. Approve a proposed Lease Agreement, substantially in the form on file in the Board Office, between RAP and Discovery Science Center Leverage Lender, LLC (DSC, LLC) for the use, operation, and maintenance of a museum and environmental learning center at Hansen Dam Park, proposed to be called the Discovery Science Center of Los Angeles, subject to the approval of the Mayor, the City Council, the U.S. Army Corps of Engineers (USACE) and the City Attorney as to form;
3. Approve a proposed Lease Agreement, substantially in the form on file in the Board Office, between RAP and the Discovery Science Center of Los Angeles (DSCLA) for the use, operation, and maintenance of a museum and environmental learning center at

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Hansen Dam Park, proposed to be called the Discovery Science Center of Los Angeles, subject to the approval of the Mayor, the City Council, the U.S. Army Corps of Engineers (USACE) and the City Attorney as to form;

4. Approve a proposed Consent to Leasehold Deed of Trust and Modification of Lease, substantially in the form on file in the Board Office, between DSCLA, RAP, and the Lenders to effectuate the New Market Tax Credit (NMTC) financing for DSCLA to develop the Center's improvements and exhibit program, subject to the approval of the Mayor, the City Council, and the City Attorney as to form;
5. Authorize the General Manager to execute any documents between DSC, LLC, DSCLA, and RAP, that may be necessary to effectuate Recommendation No. 4 for DSCLA to obtain New Market Tax Credit financing under Internal Revenue Code Section 45 for the Center's improvements and exhibit program, subject to approval of the City Attorney as to form;
6. Request that the City Council consent to DSC, LLC, DSCLA, and RAP entering into any agreements, that may be necessary for DSCLA to obtain New Market Tax Credit financing under Internal Revenue Code Section 45 for the Center's improvements and exhibit program;
7. Direct the Board Secretary to transmit the proposed Agreements and the Consent to Leasehold Deed of Trust concurrently to the Mayor in accordance with Executive Directive No. 3, and to the City Attorney for review and approval as to form; and,
8. Authorize the Board President and Secretary to execute the Agreements and the Consent to Leasehold Deed of Trust upon receipt of the necessary approvals.

SUMMARY:

In Board Report No. 12-308, approved by the Board of Recreation and Park Commissioners (Board) at its meeting of November 7, 2012, a Lease Agreement, between the Discovery Science Center of Los Angeles (DSCLA), a non-profit organization formed by the Discovery Science Center based in the City of Santa Ana in Orange County (DSC-OC), and the City of Los Angeles, acting by and through the Board was approved, for the use, operation, and maintenance of a museum and environmental learning center at Hansen Dam Park, proposed to be called the Discovery Science Center of Los Angeles.

Subsequent to the November 7, 2012 meeting of the Board, it was determined that various modifications are needed to the Lease Agreement to comply with New Markets Tax Credits (NMTC) funding requirements and to maximize the amount of funds the project is eligible to

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receive. The Discovery Science Center in Orange County (DSC-OC) created a new legal entity, the DSC Leverage Lender, LLC (DSC LLC), to serve as a conduit for leveraging additional equity to maximize the amount of New Market Tax Credit (NMTC) financing that DSCLA would be eligible to receive for the Center's improvements and exhibit program.

In order to effectuate the necessary NMTC transactions, a lease agreement with the City must be initially executed with the DSC, LLC, instead of the Discovery Science Center of Los Angeles (DSCLA) as was approved by the Board at its meeting of November 7, 2012. Once the NMTC financing deal closes, the DSC, LLC will assign its lease to DSCLA, at which time the successor lease between RAP and DSCLA will become effective, and the lease between RAP and the DSC, LLC will terminate. The NMTC financing is provided to DSCLA by the lender in the form of a loan that DSCLA essentially repays by creating jobs and providing services in a low income community. This concept is discussed in more detail below. The loan is secured by a Leasehold Deed of Trust on the leasehold interests of the DSCLA. In the event of a default on the loan by DSCLA, the NMTC structure allows the lender to select a replacement operator that would be required to operate the Center within the terms of the lease between RAP and DSCLA. The proposed Consent to Leasehold Deed of Trust and Modification of Lease effectuates the lender securing the loan with DSCLA's leasehold interests and provides remedies to the lender in the event DSCLA defaults on the loan. Alternatively, in the event DSCLA defaults on the loan, RAP would have the right to terminate the Lease with DSCLA and operate the center itself or secure another operator. Neither the City nor RAP would have any liability for DSCLA's obligations under the NMTC financing. The City Attorney has reviewed the related transactional documentation and has opined that they are in order.

Lease Agreements

As discussed above, staff is recommending that the Board approve two separate lease agreements for the Center – the initial lease with DSC, LLC, which will terminate upon the successor lease with DSCLA becoming effective. The terms and conditions of the two lease agreements are substantially the same.

A summary of the major provisions of the lease agreements is provided below:

- Term - Thirty (30) years with an option to extend by one twenty (20) year term subject to successful negotiation of a new lease between the City and USACE to extend the terms of the City's lease of the Hansen Flood Control Basin.
- Center Opening Date - On or before March 31, 2015.
- Center Hours of Operation - Typical Hours of Operation will be from 10:00 a.m. to 5:00 p.m. seven (7) days a week, and an estimate two hundred seventeen (217) hours per

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month. Additionally, DSCLA may sponsor up to thirty (30) evening events annually at the Center, with the prior written approval of the General Manager.

- Admission Fees - DSCLA may charge a reasonable admission fee subject to the written approval of the General Manager. The standard used to approve admission fees shall be that the proposed fee is comparable to that of unsubsidized science centers in the United States of America.
- Parking - City will make available the non-exclusive use of not less than 250 surface parking spaces located within 750 feet of the Center.
- Financing - DSCLA shall be responsible for any costs associated with the long-term operation and maintenance of the Center. The City may, but has no obligation to, assist DSCLA in identifying and securing funding for the operation and maintenance of the Center.
- Ownership of Center and Improvements - All improvements located on the site, including the building and tenant improvements constructed by the City or by DSCLA at the Center at any time during the Term of the lease, would be owned by DSCLA during the Term. At the end of the Term of the lease, the Ownership of the building and tenant improvements revert to the City upon termination of the Lease Agreement.
- Improvements and Exhibit Agreement - The "Improvements and Exhibits Agreement", which is Exhibit E of the lease agreements, governs (a) the design and modification of the existing building on site, (b) the design, construction and installation of the Center's improvements and exhibit program, and (c) the financing and disbursement of payments for the Center improvements and exhibits.
- Quarterly Reports - DSC and City representatives shall confer on a quarterly basis to evaluate (a) the adequacy of the functional and operational responsibilities of each party, (b) the adequacy of the maintenance levels at the Center, and (c) compliance with any funding or grant agreements reporting obligations.
- Termination - Lease agreements provide for early termination if (a) by September 30, 2013, DSC and City fail to raise and make available the funds necessary to make improvements to the existing building and needed to proceed with design, fabrication and installation of the Center's exhibits, (b) sufficient funding commitments have not been secured to open and operate the Center by the March 31, 2015 deadline, and (c) DSC fails to open the Center on or before March 31, 2015.

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Again, it should be noted that the DSC, LLC lease will terminate once NMTC funds are issued, and upon termination of that lease the lease with DSCLA would become effective.

U.S. Army Corps of Engineers

A portion of the land proposed to be leased to DSC, LLC and then to DSCLA for the Center is City-owned land and a portion of the land is Federally-owned land managed by the U.S. Army Corps of Engineers (USACE). The Federally-owned land is leased to City for recreational purposes pursuant to Department of the Army Lease No. DACW09-1-69-45 between USACE and the City for property located within the Hansen Flood Control Basin.

Pursuant to the terms of Department of the Army Lease No. DACW09-1-69-45, the lease agreements are subject to the approval of USACE, as any subletting of land leased to the City within Hansen Flood Control Basin requires the approval of USACE.

Additionally, it should be noted that, for example, admission fees charged by DSC for entry to the Center, food and/or beverages concession operations at the Center, and the planning and permitting of improvements to the Center by DSC, may also be subject to approval of USACE.

New Market Tax Credits

It is the intention of DSCLA to pursue NMTC financing to help fund improvements to the Center's improvements and exhibit program. DSC anticipates it will be able to secure up to \$3.2 million in NMTC allocations for the project.

New Market Tax Credits are funded from the Community Development Financial Institutions (CDFI) Fund of the U.S. Department of the Treasury. The NMTC Program was established by Congress in 2000 to facilitate economic development in low income communities. The NMTC Program allows individual and corporate investors to receive a tax credit in exchange for making equity investments in specialized financial institutions called Community Development Entities (CDEs). The credit totals 39 percent of the original investment amount and is claimed over a period of seven (7) years. In the recent past, the CDFI Fund has released Notices of Funding Availability to allow CDEs to apply (on a competitive basis) for a new allocation of NMTC each Fiscal Year.

To allow a project to receive the NMTC funds, it is necessary that a single-asset entity be formed to be the borrower and sign the lease and operate the project. This entity is known as a Qualified Active Low-Income Community Business (QALICB).

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The proposed lease agreements with DSC, LLC and DSCLA would allow for DSCLA to pursue NMTC funds for the Center's exhibit program. In order to effectuate the necessary NMTC transactions and maximize the amount of funds the project is eligible to receive, the lease with the City must be initially executed with the DSC, LLC. Then DSCLA essentially purchases the building and lease from DSC, LLC, and the value of the building and lease increase the borrower's (DSCLA) equity, thereby maximizing the NMTC funds that DSCLA is eligible to receive for the Center. Once the NMTC funds are issued to DSCLA, the successor lease between the City and DSCLA will become effective, and the lease with DSC, LLC will terminate.

Pursuant to Article 17.1 of the lease agreements, DSC, LLC and DSCLA are not permitted to sublet, transfer, or assign the Center or Center Improvements without the consent of the Board and the City Council. Therefore, in order to permit DSCLA to pursue NMTC to help fund improvements to the Center and the Center exhibit's program, it is also necessary for the Board to approve the proposed Consent to Leasehold Deed of Trust and Modification of Lease and to authorize the General Manager to entering into any collateral agreements that may be necessary for DSCLA to obtain NMTC financing for the Center, subject to approval by the City Attorney as to form.

Improvements and Exhibit Program

At this time, the detailed final plan for the exhibit program for the Center is not complete. Pursuant to the terms of the "Improvements and Exhibit Agreement" (which is an exhibit to each of the lease agreements), the plans and design for the Center's exhibit program, when completed, will be submitted to staff for review, and presented to the Board for approval, prior to any construction taking place at the site. The deadline for DSCLA to start fabrication of the Center's exhibits is September 30, 2013. The budget for exhibit program is currently estimated at \$21.3 million. City and DSC have identified sufficient capital funds, including the \$3.2 million in NMTC funds discussed above, needed in order to fully fund the proposed exhibit program.

Environmental Review

Staff has determined that the project has been previously evaluated for environmental impacts in compliance with City California Environmental Quality Act (CEQA) Guidelines, and the proposed Lease Agreements will not cause any additional adverse environmental impacts. A Mitigated Negative Declaration (MND) was adopted by the Los Angeles City Council on May 24, 2000 in connection with the Children's Museum of Los Angeles project, including the operations of the facility. A Notice of Determination was filed with the Los Angeles City and County Clerks on June 20, 2000. The proposed operation of the Center, under the terms of the Lease Agreements, will not substantially change the scope of the original operational plan of the Children's Museum of Los Angeles project, nor require any additional mitigation measures.

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Therefore, the previously adopted MND is still valid for these Lease Agreements, and no additional CEQA documentation is required for Board approval.

FISCAL IMPACT STATEMENT:

The approval and execution of the proposed lease agreements and Consent to Leasehold Deed of Trust and Modification of Lease will have no significant impact on the Department's General Fund.

The costs for the design, development, and construction of building improvements and tenant improvements that may be developed at the Center through the implementation of the Lease Agreements are anticipated to be funded by funding sources other than the Department's General Fund. The costs associated with the long-term operation and maintenance of the Center will be the responsibility of DSCLA.

Implementation of these lease agreements may result in an increase the overall level of daily maintenance required at Hansen Dam Park as it is anticipated that the opening of the Center will result in a net increase in daily visitors to the park.

This report was prepared by Darryl Ford, Management Analyst II, Planning, Construction Division, and Maintenance.