

1 MARA W. ELLIOTT, City Attorney
M. TRAVIS PHELPS, Assistant City Attorney
2 ROSEMARY A. SULLIVAN, Deputy City Attorney
California State Bar No. 99157
3 Office of the City Attorney
1200 Third Avenue, Suite 1100
4 San Diego, California 92101-4100
Telephone: (619) 533-5800
5 Facsimile: (619) 533-5856
E-Mail: rasullivan@sandiego.gov

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
09/19/2023 at 08:29:22 AM
Clerk of the Superior Court
By Isaiah Irizarry, Deputy Clerk

6 Attorneys for Plaintiff,
7 CITY OF SAN DIEGO

Exempt from fees per Gov't Code § 6103
To the benefit of the City of San Diego

8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO**

10
11 CITY OF SAN DIEGO, a municipal) Case No.: 37-2023-00040836-CU-BC-CTL
corporation,)
12) **COMPLAINT FOR BREACH OF**
Plaintiff,) **LEASE**
13)
v.) **[IMAGED FILE]**
14)
15 SEA WORLD, LLC, a Delaware limited liability)
company, FKA Sea World, Inc.; and DOES 1) *[Action is an Unlimited Civil Case - Amount*
16 through 50 inclusive,) *Demanded Exceeds \$25,000]*
17)
Defendants.)
18)

19 Plaintiff CITY OF SAN DIEGO (City) alleges as follows:

20 **THE PARTIES**

21 1. City is a municipal corporation, and at all times herein mentioned was a
22 California charter city, duly organized and existing by virtue of the laws of the State of
23 California. City is the owner and landlord of land, buildings, and facilities consisting of
24 approximately 190 acres, commonly known as SeaWorld San Diego, AKA SeaWorld, located
25 generally at 500 Sea World Drive, San Diego, California (Premises).

26 2. On information and belief, at all times mentioned, Defendant Sea World, LLC
27 (Sea World) is and was a limited liability company organized and existing under the laws of the
28 State of Delaware and conducting business in the County of San Diego, State of California. It

1 was formally known as Sea World, Inc., a Delaware corporation. Sea World, Inc. converted to
2 Sea World, LLC in or about 2009.

3 3. The true names and capacities, whether individual, corporate, or otherwise, of
4 Defendants named as DOES 1 through 50, inclusive, and each of them, are unknown to City
5 who, therefore, sues said Defendants, and each of them, by such fictitious names. City will seek
6 leave to amend this complaint to allege their true names and capacities when ascertained.

7 4. On information and belief, City alleges that at all times relevant each Defendant
8 was the agent and/or employee of the other Defendants and was acting within the scope and
9 authority of such agency and/or employment.

10 **JURISDICTION AND VENUE**

11 5. This Court has personal jurisdiction over Sea World because it is doing business
12 within the State of California.

13 6. This is a matter of unlimited jurisdiction as it involves a claim for money damages
14 greater than \$25,000.

15 7. Venue is proper in the County of San Diego because the Premises are located
16 within San Diego County.

17 **GENERAL ALLEGATIONS**

18 **A. The Lease**

19 8. City first leased a portion of the Premises to Sea World in 1963. The parties have
20 amended the initial lease many times over the years. The initial lease and numerous amendments
21 were terminated and superseded by a Lease Amendment dated December 14, 1977, and various
22 subsequent amendments (collectively, Lease). More specifically, the Lease consists collectively
23 of: Amendment to Lease dated December 14, 1977, Amendment to Lease dated January 29,
24 1979, Amendment to Lease dated December 12, 1983, Amendment to Lease dated June 24,
25 1985, Amendment to Lease dated September 22, 1986, Amendment to Lease dated June 29,
26 1998, and Amendment to Lease dated July 9, 2002. Consistent with a process for periodic rent
27 adjustments described in the Lease, City and Sea World confirmed the evolving rent amounts
28 owed under the Lease in a Percentage Rent Adjustment Letter dated June 20, 2012, and three

1 Minimum Rent Adjustment Letters dated January 31, 2014, January 3, 2017, and January 31,
2 2019. True and exact copies of the Lease and the relevant rent adjustment letters are attached
3 collectively as Exhibit 1 and incorporated by reference.

4 9. Currently the Premises are leased under a 50-year agreement commencing on
5 July 1, 1998, under the Lease Amendment dated June 29, 1998 (1998 Lease Amendment), at B.2
6 regarding Article II. The Lease term expires in 2048.

7 10. Sea World is required to pay monthly rent to City due on the last day of each
8 month (unless the last day falls on a non-business day, in which case the rent is due on the
9 following business day). Monthly rent equals a percentage of SeaWorld's gross income from the
10 Premises (percentage rent), or the minimum rent as agreed upon, whichever of the two sums is
11 greater, together with a 3 percent surcharge, as set forth in the 1998 Lease Amendment, at B.4
12 regarding Article IV, Paragraph A and at B.6 regarding Subparagraph A.1.r.

13 11. Currently, and since January 1, 2014, Sea World's minimum rent is
14 \$10,401,305.69 per annum, or \$866,775.47 per month (minimum rent).

15 12. The 1998 Lease Amendment, at B.9 regarding Article IV, Paragraph C, requires
16 the calculation of rent on a monthly basis, as follows:

17 For purposes of this Paragraph C, the term of this Lease shall be divided
18 into "accounting years" and each accounting year into "accounting
19 periods." Each accounting year will be commensurate with each calendar
20 year during the term of this Lease and each accounting period shall be
21 commensurate with each month during each calendar year; provided,
22 however, that if the first day of the term is a date other than January 1,
then the first accounting year shall commence with the commencement of
the term of this Lease, as provided in Article II above, and extend through
December 31 of that year, and the last accounting year shall extend from
the last January 1 through the end of the term.

23 On or before the last day of each accounting period LESSEE shall render
24 to CITY, in a form prescribed by CITY, a detailed report of gross income
25 for that portion of the accounting year which ends with and includes the
26 last day of the immediately preceding accounting period. Each report shall
27 be signed by LESSEE or its responsible agent under penalty of perjury,
28 attesting to the accuracy thereof, shall be legally binding upon LESSEE,
and shall include the following: (1) the total gross income for said portion
of the accounting year, itemized as to each of the business categories for
which a separate percentage rental rate is established; (2) the related
itemized amounts of percentage rent computed as herein provided and the

1 total thereof; and (3) the total rent previously paid by LESSEE for the
2 accounting year within which the immediately preceding accounting
3 period falls. Concurrently with the rendering of each report LESSEE shall
4 pay to CITY, in payment of the percentage or minimum rent required by
5 Section A of this Article IV, the greater of the following two amounts:

6 1. The total percentage rent computed for that portion of the accounting
7 year ending with and including the last day of the immediately preceding
8 accounting period (Item (2) above), less total rent previously paid for the
9 accounting year (Item (3) above); or

10 2. One-twelfth (1/12) of the minimum rent, multiplied by the number of
11 accounting periods from the beginning of the accounting year to and
12 including the immediately preceding accounting period, less total rent
13 previously paid for the accounting year (Item (3) above). Notwithstanding
14 the foregoing the final accounting year and accounting period shall end on
15 the last day of the term of this Lease, as the same may be extended, and
16 the accounting and reporting therefor shall be furnished to CITY within
17 thirty (30) days thereafter.

18 In addition, the Surcharge referred to in subsection A.1.r above shall be
19 payable concurrently with the rendering of each report referred to above in
20 an amount equal to three percent (3%) of the payment required to be made
21 for the accounting period covered by such report provided that the amount
22 of the Surcharge shall be adjusted at the end of each accounting year as
23 necessary to ensure that the Surcharge shall be no more or no less than
24 three percent (3%) of the total rental due for such accounting year without
25 taking the Surcharge into account. In calculating the amounts due each
26 accounting period as provided in subsections 1 and 2 of this subsection C,
27 the 'total rent previously paid for the accounting year' shall not include
28 any payments of the Surcharge. Notwithstanding the foregoing, there shall
be an adjustment at the end of each accounting year, if and to the extent
necessary to ensure that LESSEE shall pay no more and no less than the
minimum rent or the percentage rent, computed on an annual basis,
whichever is greater.

13. If Sea World is delinquent in the payment of rent by more than 16 days, City is
entitled under the Lease to collect a late fee of 10 percent of the delinquent amount. Specifically,
the Lease Amendment dated December 12, 1983 (1983 Lease Amendment), at B.11 regarding
Article IV, Section G, provides, *inter alia*:

If LESSEE fails to pay the rent as provided in this Lease when due,
LESSEE shall pay in addition to the unpaid rents an amount equal to five
(5%) percent of the delinquent rent. If the rent is still unpaid at the end of
fifteen (15) days following the date it is due, then LESSEE shall pay an
additional amount equal to five (5%) (making a total of ten (10%) percent)
which is hereby mutually agreed by the parties to be appropriate to

1 compensate CITY for loss resulting from rent delinquency including lost
2 interest, opportunities, legal costs and the cost of servicing the delinquent
3 account.

4 14. The Lease provides for City to audit the rent payments. In the event the audit
5 discloses Sea World has underpaid rent for the audited period in excess of 5 percent of the total
6 required rent, Sea World shall pay City audit interest. As relevant to this Complaint, the audit
7 interest is 10 percent per annum, from the date the amount should have been paid until it is paid,
8 as compensation to CITY for administrative costs and loss of interest. Specifically, the
9 1983 Lease Amendment, at B.11 regarding Article IV, Section G further provides, *inter alia*:

10 In the event that the CITY audit, if applicable, discloses that the rent for
11 the audited period has been underpaid in excess of five (5%) percent of the
12 total required rent, then LESSEE shall pay CITY for the cost of the audit
13 plus interest at the greater of ten (10%) percent per annum or the prime
14 rate of the Bank of America from time to time in effect on the amount by
15 which said rent was underpaid, from the date said amount should have
16 been paid until it is paid, in addition to the unpaid rents as shown to be due
17 CITY, as compensation to CITY for administrative costs and loss of
18 interest as referred to above.

19 15. The Lease provides for the recovery of legal fees and costs to the prevailing party
20 in the event of litigation. Specifically, the 1983 Lease Amendment, at B.15 regarding Article
21 XLI, Section B provides: “In the event of any litigation regarding this Lease, the prevailing party
22 shall be entitled to an award of reasonable legal costs, including court costs and attorneys’ fees.”

23 16. The Lease provides, at Article XXXV of the 1977 Lease Amendment, that “this
24 Lease cannot be enlarged, modified or changed in any respect except by written agreement duly
25 executed by and between the said parties.”

26 17. At all times relevant to this Complaint, including at present, Sea World has
27 continuously occupied the Premises.

28 18. To date, City has not terminated the Lease.

B. Tenant’s Default Under the Lease

 19. In late 2022, City conducted an audit of rent paid by Sea World to City for the
 period of January 1, 2019 through April 30, 2022. The audit revealed Sea World underpaid rent

1 by \$8,637,471.61 and underpaid the surcharge of \$259,124.18 for the years 2019 through 2021.
2 The underpaid amount is greater than 5 percent of the total due to City. Accordingly, Sea World
3 is required to pay City audit interest on the total underpaid amount at the rate of 10 percent per
4 annum from the date the amount was due until it is paid. As of the filing of this Complaint, the
5 underpaid amount remains unpaid. Through June 30, 2023, the accrued, unpaid audit interest was
6 \$2,516,299.77. Audit interest continues to accrue at the daily rate of \$2,437.42, until paid, or
7 until judgment is entered, whichever occurs first.

8 20. For 2019, Sea World failed to pay the full rent and surcharge due to City. The
9 audit revealed that the 2019 rent paid resulted in a deficit of \$39,312.47, plus the 3 percent
10 surcharge of \$1,179.39, for a total underpayment of \$40,491.86. That underpaid amount should
11 have been paid with a catch-up payment by January 31, 2020. Sea World failed to make any such
12 payment, resulting in the first material breach of the Lease at issue in this Complaint.

13 21. Sea World failed to timely pay any rent due under the Lease for the months of
14 February through October 2020. Belatedly, on January 4, 2021, it paid the much lower
15 percentage rent and surcharge for those months, plus for November 2020. It failed to pay the
16 greater minimum rent and related surcharge for any month in 2020. For 2020, the deficit was
17 \$8,545,077.39, comprised of the minimum rent portion of \$8,296,191.64 plus the 3 percent
18 surcharge of \$248,885.75. City assessed late fees of a flat 10 percent (\$89,277.87 per month) for
19 the nine months when Sea World failed to make a timely payment.

20 22. For 2021, Sea World only paid the percentage rent each month, even in months
21 when the minimum rent was higher and was required to be paid. For 2021, the deficit was
22 \$311,026.54, comprised of the rent portion of \$301,967.50 plus the 3 percent surcharge of
23 \$9,059.04.

24 23. To the date of filing this Complaint, Sea World has failed to pay the full rent for
25 2019 due on January 31, 2023, as well as the full rent due for 2020 and 2021, in the total amount
26 of at least \$8,637,471.61. It has also failed to pay the required 3 percent surcharge for that period
27 of at least \$259,124.18. The delinquent rent and surcharge for that time period totals
28 \$8,896,595.79 as revealed by the audit.

1 34. Late fees due for the months of February through October 2020, at a flat 10
2 percent charge, total \$803,500.83.

3 35. Sea World is also liable for the cost of the audit in the principal amount of
4 \$11,810.74, plus interest at the legal rate of \$3.24 per day from the due date of December 2,
5 2022. Through June 30, 2023, the accrued, unpaid interest is \$679.52. Interest continues to
6 accrue beyond June 30, 2023, until paid, or until judgment is entered, whichever occurs first.

7 36. By reason of Sea World's continuing defaults under the Lease, including its
8 failure to pay monetary amounts due and owing, City has had to initiate this litigation and has
9 had to, and will continue to, incur attorneys' fees and costs, in an amount to be proven in a
10 motion, hearing or at trial.

11 37. As a result of Sea World's continuing defaults under the Lease, City has been
12 damaged in an amount subject to proof at trial, which is at least \$12,228.886.65 through June 30,
13 2023. Audit and statutory interest on the monetary obligations will continue to accrue beyond
14 June 30, 2023, until paid, or until judgment is entered, whichever occurs first.

15 **PRAYER**

16 WHEREFORE, City of San Diego prays for judgment against Defendant Sea World and
17 all DOE Defendants as follows:

18 A. For judgment in favor of City for unpaid rent plus surcharge in the amount of at
19 least \$8,896,595.79;

20 B. For audit interest at the Lease rate of the greater of 10 percent per annum or the
21 prime rate of Bank of America from the date each obligation became due through the earlier of
22 the ultimate date of payment or the date of entry of judgment which, at 10 percent, is
23 \$2,516,299.77 through June 30, 2023. After that date, the daily rate of the audit interest is
24 \$2,437.42.

25 C. For cost of the audit in the principal amount of \$11,810.74, plus interest at the
26 legal rate of \$3.24 per day from the due date of December 2, 2022;

27 D. For late fees at the Lease rate of a flat 10 percent on the delinquent amount of
28 each late payment which, for the months of February through October 2020, total \$803,500.83;

1 E. For an award of pre-judgment interest at the legal rate from the date each
2 obligation became due through the earlier of the ultimate date of payment or the date of entry of
3 judgment;

4 F. For an award of attorneys' fees in an amount to be determined;

5 G. For costs of suit incurred; and

6 H. For such other and further relief as this Court deems fair and proper.

7 Dated: September 7, 2023

MARA W. ELLIOTT, City Attorney

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By *Rosemary A. Sullivan*
Rosemary A. Sullivan
Deputy City Attorney

Attorneys for Plaintiff,
CITY OF SAN DIEGO

EXHIBIT 1

COPY

LEASE AMENDMENT

THIS LEASE AMENDMENT, executed in duplicate 14 day of Dec., 1977 at San Diego, California, by and between THE CITY OF SAN DIEGO, a municipal corporation, in the County of San Diego, State of California, hereinafter referred to as the "CITY" and Sea World, Inc., a Delaware corporation, whose address is 1720 South Shores Road, San Diego, California 92109, hereinafter referred to as "LESSEE", is entered into in reference to the following:

1. The Lease between City of San Diego and Marine Park Corporation (by change of corporate name and subsequent merger now vested in Sea World, Inc.) dated July 11, 1963 and the following Amendments thereto:

First Amendment dated January 13, 1966;

Second Amendment dated June 30, 1966;

Third Amendment dated December 5, 1967;

Fourth Amendment dated September 24, 1968;

Fifth Amendment dated March 12, 1971;

Sixth Amendment dated November 10, 1975;

of Premises occupied by Sea World Park.

2. The Lease between City of San Diego and Sea World, Inc. dated February 7, 1967 of Premises occupied by the Atlantis Restaurant, and Amendments as follows:

June 12, 1967;

December 27, 1967.

3. The Lease between City of San Diego and Herman Poe, Herbert Bruggeman and Ernet A. Ries subsequently assigned to BRP, Inc. dated September 8, 1960 of Premises occupied by Perez Cove Marina, Mission Bay Park and the following Amendments thereto;

- First Amendment dated February 19, 1962;
- Second Amendment dated August 6, 1962;
- Third Amendment dated December 23, 1963;
- Fourth Amendment dated June 25, 1964;
- Fifth Amendment dated April 27, 1965;
- Sixth Amendment as deleted dated December 16, 1965;
- Seventh Amendment dated March 16, 1967;
- Eighth Amendment dated April 27, 1971.

4. Sea World, Inc. and BRP, Inc. have entered into an agreement, subject to the approval of the City, providing for the assignment of the Lease of The Perez Cove Marina Premises to Sea World and Sea World's purchase of leasehold improvements situated thereon.

5. The Perez Cove Marina property is contiguous on one side of the property covered by the Sea World Lease and on another side by property covered by the Atlantis Restaurant Lease. Upon consummation of the Perez Cove Assignment the three properties will constitute a contiguous parcel under one ownership.

6. The foregoing leases contain numerous provisions that are identical or similar in both language and legal effect.

7. To simplify management of the property and administering the leases it is desired that the three Lease Agreements be consolidated into a single document, and that the property be managed and leases administered accordingly.

Therefore, in consideration of each of the parties agreeing to the modification of the commitments on their part to be performed, which are contained in said leases; of the benefits to each of the parties derived from such modifications; and in further consideration of the promises, covenants and mutual commitments herein set forth, the parties agree that each of the foregoing referred to Leases

and Amendments thereto, are terminated in their entirety on the effective date of this Agreement, which date is hereinabove set forth and, in lieu thereof, the parties enter into this Lease Agreement as follows:

W I T N E S S E T H

ARTICLE I

DEMISE

THE CITY hereby leases to LESSEE and LESSEE hereby leases and hires from CITY those parcels of real property and water area, together with appurtenances thereto situated in the COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, which are set forth in Exhibit "1". Said parcels are herein collectively referred to as the Premises, and individually are referred to as Parcel "A", Parcel "B" and Parcel "C".

ARTICLE II

TERM

The term hereafter referred to as the "Term", of this Lease shall be the period of 40 years, beginning January 1, 1978 and ending December 31, 2018.

ARTICLE III

USE OF THE PREMISES

A. Parcel "A" of the Premises herein referred to as Parcel "A" shall be used for the primary purpose of constructing, operating and maintaining thereon an ocean aquarium exhibit (also referred to herein as "marine life exhibit") substantially of the type and nature described in the Precise Plan of development of said Parcel (also referred to herein as "Master Plan") filed in the Office of the City Clerk as Document No. 762202, as mutually revised in writing between CITY and LESSEE, and for the following incidental uses: Operating and maintaining boat rides, skyride, sky tower and shamu ride concessions; snack bars; gift shops; institutional advertising

which is incidental to the foregoing uses as described in Article XXXIX, herein, and for such other incidental uses as are specifically approved in writing by the City Manager of CITY; provided, however, all incidental activities and uses stated herein or hereafter authorized shall be complimentary to the primary use of an ocean aquarium exhibit or otherwise deemed desirable in the opinion of the City Manager to serve the patrons of said ocean aquarium exhibit; provided further, that boat rides and institutional advertising as authorized herein shall be subject to the provisions of Articles XXXIX and XL, respectively, hereof.

B. Parcel "B" of the Premises are leased for the purpose of constructing, operating and maintaining thereon a marina facility to serve the general boating public, which facility may include boat launching facilities, boatslips, boat storage, marine fuel dock, sale of marine hardware, parts and accessories; those commercial facilities permitted for Parcel "B" under the study entitled Mission Bay Park Master Plan for Land and Water Use, 1976; offices, service facilities and laboratories for Sea World Park and Hubbs-Sea World Research Institute; and, may include at LESSEE's option, a restaurant and cocktail lounge, snack bar, the sale of beer for off-site consumption, and such other allied uses which are first approved in writing by the City Manager of CITY.

C. Parcel "C" of the Premises shall be used for the primary purpose and LESSEE shall have the right of constructing, operating and maintaining thereon a quality restaurant and cocktail lounge, a skyride terminal, a boat pier and selling rides on watercraft, and a banquet facility. LESSEE shall in addition to the foregoing have the right to use Parcel "C" to operate and maintain thereon activities which are incidental to the foregoing and such activities as may from time to time be desirable to serve the patrons of the restaurant and the public as may have first been approved by the City Manager in writing.

D. In connection with the maintenance and operation and selling of rides on watercraft from or upon Parcels "A" and "C", LESSEE shall have and CITY hereby grants and extends to LESSEE the right and privilege to operate watercraft in the public waterways of Mission Bay; LESSEE shall also have the right to embark and disembark passengers at Parcels "A" and "C" and the right to construct and maintain into the said Parcel "A" and "C" from the waterways fronting on said Parcels a channel at the location and of the dimension indicated on the Master Plan.

Granting of this right and privilege in connection with use and operation of watercraft on the waters of Mission Bay may be suspended by the CITY at any time when, in the opinion of the City Manager, such use becomes detrimental or hazardous to the other uses of Mission Bay. In any event, the CITY shall have the right upon ten (10) days written notice to require LESSEE to suspend the use and operation of watercraft for limited and predetermined periods when, in the opinion of the City Manager, such use and operation would unduly interfere with the use of Mission Bay for major public events.

Such suspension shall be without liability to the CITY for damages of any kind suffered by the LESSEE as a result of such suspension. The rights and privileges hereby granted shall be subject to the availability of operating area at approved speeds, and under such other municipal, state and federal rules and regulations as are applicable to the operation of watercraft.

E. In connection with Parcels "A" and "C", LESSEE shall have the right to operate an aerial sky ride over the waters of Mission Bay Park between the points Mission Bay Co-ordinates North 6,121.00 feet and West 12,864.36 feet, and North 6,460.00 feet and West 14,229.00 feet of said San Diego City Engineer's Mission Bay Co-ordinates Systems. Further, LESSEE shall have the right to construct and maintain two supporting towers for the sky ride in a 20-foot square area, the center of which is located at the following points:

(a) Mission Bay Co-ordinates North 6,206.59 feet and West
13,205.92 feet.

(b) Mission Bay Co-ordinates North 6,368.30 feet and West
13,919.36 feet.

F. LESSEE shall use the Premises only for the purpose of conducting thereon the businesses for which they are demised, and shall diligently conduct such businesses to produce a reasonable and substantial gross income.

ARTICLE IV

RENT

The rent which LESSEE hereby agrees to pay to CITY and which shall be paid at the Office of the Treasurer of THE CITY OF SAN DIEGO, Room 162, Civic Center, San Diego, California 92101, is as follows:

A. LESSEE shall pay to CITY a sum of money equal to the total of the sums computed on the basis of the various percentages of LESSEE'S gross income from this Premises as hereinafter set forth in this ARTICLE IV, or the minimum yearly rent as hereinafter set forth in this ARTICLE IV, whichever of the two sums is the greater.

1. The percentage rental which LESSEE agrees to pay CITY shall be computed on the basis of the following percentages:

a. TWO AND ONE-HALF PERCENT (2½%) of the first \$600,000.00 of gross income derived from the dispensing of food and non-alcoholic beverages upon Parcel "C" including gross income derived from the operation of any restaurant, snack bar, cocktail lounge, bar, delicatessen, and from the sale of groceries during each year.

b. THREE PERCENT (3%) of all gross income in excess of the \$600,000.00 referred to in the preceding sub-paragraph a., derived from the dispensing of food and non-alcoholic beverages including such gross income derived from the operation of any restaurant, snack bar, cocktail lounge, bar, delicatessen or from the sale of groceries.

c. TWO AND ONE-HALF PERCENT (2½%) of the gross income derived from the sale of general admission tickets which tickets are defined as those tickets which permit entry into the Sea World Park area.

d. FIVE PERCENT (5%) of the gross income from operations of any cocktail lounge, bar or other facility whose primary function is dispensing alcoholic beverages or from the sale or service of any alcoholic beverages dispensed from any facility regardless of its primary function, excepting meals or food served on the Premises from any such facility shall be subject to the rent stated in a. and b. above.

e. SEVEN PERCENT (7%) of the gross income, if any, from operation of the parking lot or lots.

f. SEVEN PERCENT (7%) of the gross income, from any other sale, service or operation on the Premises approved under the purposes for which this Lease is granted; or such other percentage of gross income as may be agreed upon by the City Manager prior to the commencement of any such activity, service or operation. In the event the parties cannot reach an agreement on the percentage rent to be paid to CITY, then such activity, service or operation shall not be entered into by LESSEE.

g. Rent paid to City from coin-operated vending machines shall be computed and included in the computation of rent due in accordance with sub-paragraphs a., b. or d. of this paragraph 1., on the basis of total income from said machines. Provided, however, that said rent paid for telephones, cigarette machines and other coin-operated vending machines which may from time to time be mutually acknowledged and agreed to be installed primarily for the public convenience; shall be computed on the basis of the income received by LESSEE rather than on the gross income of the machine, if LESSEE has no ownership equity in said machine and if the total gross income from all vending machines on the leased Premises does not exceed \$800.00 per month.

h. THREE PERCENT (3%) of the gross income from operation of the boat rides, skyride and shamu ride concessions, and THREE PERCENT (3%) of the gross income from operation of the sky tower ride concession. Any other ride concession that may be added by approval of the City Manager pursuant to ARTICLE III hereof shall be subject to such rent as is mutually agreed in writing between the City Manager and LESSEE.

i. THREE PERCENT (3%) of the gross income derived from sale of animal food for feeding animals by spectators.

j. FIVE PERCENT (5%) of the gross income derived from any game or amusement device.

k. TWO AND ONE-HALF PERCENT (2½%) of gross income from all institutional advertising as authorized herein.

l. THREE PERCENT (3%) of gross income from sale of petroleum products excepting diesel fuel.

m. ONE AND ONE-HALF PERCENT (1½%) of gross income from sale of diesel fuel.

n. TWO PERCENT (2%) of gross income from sale of boats and motors, including any accessories installed at the time of initial sale.

o. FOUR PERCENT (4%) of gross income from service of boats and motors, sale of boat and motor parts, accessories to boats and motors, and of marine hardware.

p. SEVEN PERCENT (7%) of gross income from rental of boat storage, and related boating operations.

q. TWENTY PERCENT (20%) of gross income from the rental of boat slips.

r. All income received by LESSEE from the sale of licenses or permits for a governmental agency, shall be excluded from computation of gross income as defined above. Also, all income to LESSEE from sale of merchandise to other dealers, at actual cost, with no mark-up, as a method of changing inventories and resulting in no profit for LESSEE shall be excluded from computation of gross income. Galley sales

of food and beverages made from boats operating from the Premises outside of Mission Bay shall be excluded from computation of gross income. Also, allowances made by LESSEE for "traded-in" merchandise shall be excluded from computation of gross income, provided LESSEE keeps adequate records, in the opinion of the CITY, from which CITY can determine what allowances were made.

2. The minimum annual rental for the Premises shall be the sum of Two Hundred Eighty Thousand Dollars (\$280,000). Provided, that for the second five years of this Lease Agreement, commencing with the sixth year of this Lease Agreement, and for each subsequent five-year period during the term of this Lease Agreement, the annual minimum rent, at CITY'S option, may be adjusted to a figure of not more than sixty-six and two-thirds percent (66-2/3%) of the average actual rent paid during the previous five-year period, but in no event shall said annual minimum rent be less than \$280,000.

B. When a portion of the Premises is leased by LESSEE to a sub-lessee, the rental and use of the Premises shall be subject to approval of the CITY in the manner set forth in ARTICLE XL of this Agreement. It is contemplated that the CITY shall not receive less rent under a sub-lease Agreement than if that operation were conducted by the LESSEE. The rent received by LESSEE from the sub-Lessee above rental to CITY shall not be computed as part of the LESSEE'S gross income against which the percentage rental applies.

C. LESSEE shall render monthly to CITY an accounting of gross income and rent due based upon the percentage rental therein set forth and shall, in accordance with such accounting, pay to CITY percentage rent due for such month on or before the thirtieth day following the month in which such gross income was earned and specified in ARTICLE V of this Lease Agreement. In the event LESSEE fails to pay such rent when due, LESSEE shall pay CITY, in addition to the delinquent rent, a sum of money equal to 5% of said delinquent rent. In the event said delinquent rent is still unpaid after fifteen days of becoming delinquent, LESSEE shall pay CITY, in addition to delinquent rent, a sum of money equal to 10% of said delinquent rent. Such

additional sum, or sums, shall be deemed compensation to CITY for loss and expenses resulting from such delinquency, including cost of servicing the delinquent account. The City Manager of CITY may for a good cause waive any such delinquency compensation charge upon written application of LESSEE prior to the delinquent period.

Notwithstanding the foregoing provisions for delinquent rent compensation, a failure of LESSEE to pay said rent when due shall constitute a default which at the option of the City Manager shall be grounds for termination by CITY under the provisions of ARTICLE XVI of this Agreement.

ARTICLE V

MAINTENANCE OF RECORDS

Gross Income as used in this Lease shall include all income resulting from occupancy of the demised Premises from whatever source derived whether received or to become due, (except such income as shall be specifically excluded elsewhere in this Agreement) including the amount of any manufacturer's or importer's excise tax included in the prices of property sold, even though the manufacturer or importer is also the retailer thereof, and it is immaterial whether the amount of such excise tax is stated as a separate charge. Gross income, however, shall not include Federal, State or Municipal taxes collected from the consumer as a separate charge and paid over periodically by LESSEE to a governmental agency accompanied by a tax return or statement, but the amount of such taxes shall be shown on the books and records elsewhere herein required to be maintained.

Whenever the rent hereunder is dependent on percentage calculations of gross income accruing to LESSEE, LESSEE shall keep, or cause to be kept, true, accurate and complete records and double entry books from which the CITY can at all times determine the nature and amounts of income subject to rental percentage from the operation of the Premises. Such records shall show all transactions relative to the conduct of the operation, and such transactions shall be supported by documents

or original entry such as sales slips, cash register tapes, purchase invoices and tickets issued. In the event of admission charges, LESSEE shall either (i.) issue serially-numbered tickets for each paid admission and shall keep adequate records of said serial numbers issued and of those unused or (ii) record admission charges by means of a cash register system which automatically issues a customer's receipt. All sales or rentals of merchandise and services rendered shall be recorded by means of cash register system which automatically issues a customer's receipt or certifies the amount recorded on a sales slip. All said cash register systems shall have a locked-in total which is constantly accumulating, which total cannot be reset, and at the option of the CITY, a constantly locked-in accumulating printed transaction counter which cannot be reset, and/or printed detailed audit tape located within the register. Complete beginning and ending cash register readings shall be made a matter of daily record. Said books of account and records shall be kept or made available at one location within the limits of the City of San Diego. Not later than the thirtieth of each month, LESSEE shall render to CITY a detailed statement as to the source of the receipts showing all money accrued and sales made during the preceding month together with the amount payable to CITY as hereinabove provided and shall accompany same with a remittance of the amount so shown to be due CITY. CITY shall, through its duly authorized agents or representatives, have the right to at any and all reasonable times examine and audit said records for the purpose of determining the accuracy thereof, and of the monthly statements of moneys accrued and sales made on said Premises.

ARTICLE VI

QUIET POSSESSION

LESSEE, paying the said rent and performing the covenants and agreements aforesaid, shall and may at all times during the said term peaceably and quietly have, hold and enjoy the Premises for the Term aforesaid. If CITY for any reason

whatsoever cannot deliver possession of the Premises to LESSEE at commencement of said Term as hereinbefore specified, or, if LESSEE is dispossessed through action of a title superior to CITY'S, then and in either of such events, this Lease shall not be void or voidable nor shall CITY be liable to LESSEE for any loss or damage resulting therefrom; but there shall be determined and stated in writing by the City Manager of CITY a proportionate deduction of the rent covering the period or periods during which LESSEE is prevented from having the quiet possession of the demised Premises.

ARTICLE VII

INSURANCE RISKS

The LESSEE shall not use, or permit the Premises, or any part thereof, to be used, for any purpose or purposes other than the purpose or purposes for which the Premises are hereby leased. Unless included within said purposes authorized by CITY or necessarily incidental to such uses, no use shall be made or permitted to be made, or permitted to be made of the Premises, nor acts done, which will increase the existing rate of insurance upon the building or buildings, if any, belonging to CITY which may be located on the Premises or in which the Premises may be located, or cause a cancellation of any insurance policy covering said building or buildings, or any part thereof, nor shall any article which may be prohibited by the standard form of fire insurance policy be or be permitted to be kept, used, or sold in or about said Premises. The LESSEE shall at its sole cost and expense, comply with any and all requirements, pertaining to the Premises, of any insurance organization or company, necessary for the maintenance of reasonable fire and public liability insurance, covering said buildings and appurtenances.

ARTICLE VIII

MECHANIC'S LIEN BOND

LESSEE will save CITY free and harmless and indemnify CITY against all claims for labor and materials in connection with improvements, repair or alterations to the Premises, and the cost of defending against such claims, including reasonable attorney's fees.

In the event that improvements, repairs, or alterations are being constructed on the Premises by anyone other than the CITY and a lien is filed, LESSEE shall file with the CITY within five days a bond sufficient to pay in full all claims of all persons seeking relief under the lien. The bond shall be acknowledged by the LESSEE as principal and by a corporation satisfactory to CITY licensed by the Insurance Commissioner of the State of California to transact the business of a fidelity and surety insurance company as surety.

ARTICLE IX

ENTRY AND INSPECTION

CITY reserves, and shall always have the right to enter the Premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interest in the Premises or to inspect the operations conducted on said Premises. In the event that such entry or inspection by CITY discloses in the opinion of the City Manager, that the Premises are not in a safe, healthy and satisfactory condition or a violation of any Municipal, State or Federal ordinance, statute or law, or any breach of condition of Lease, CITY shall have the right, after ten (10) days' written notice to LESSEE, to have any necessary maintenance work done for and at the expense of the LESSEE. LESSEE agrees to pay promptly any and all costs incurred, including reasonable expenses of CITY in having such necessary work done in order to keep said Premises in a safe, healthy and satisfactory condition and to cure any violations of breach of conditions of Lease. Repayment thereof shall be deemed to be a part of the rental and paid as such on the next day upon which said rent becomes due.

Upon demand by CITY, LESSEE shall file a faithful performance bond in an amount equal to one-half of the annual rent paid to CITY based on the previous twelve-month period. The rights reserved in this and the following section shall not create any obligation on CITY or increase obligations elsewhere in this Lease imposed on CITY.

ARTICLE X

ASSIGNMENT

LESSEE shall not assign this Lease or any interest herein, and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the agents, officers and employees of CITY excepted) to occupy or use the Premises, except as consistent with the purpose of this Agreement, without prior written consent of the City Manager of CITY. A consent to one assignment, subletting, occupation or use by any other person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation or use by another person. Any such assignment or subletting without such consent shall be void. This Lease shall not, nor shall any interest therein, be assignable, as to the interest of LESSEE, by operation of law, without the written consent of the City Manager. Provided, however, any lender whose loan has been approved by the CITY has the option to take over as LESSEE, as provided in ARTICLE XXVIII - Lease Encumbrance.

ARTICLE XI

COMPLIANCE WITH LAW

LESSEE shall, at its sole cost and expense, comply and secure compliance with all requirements of Municipal, State and Federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, or the operations conducted thereon, and shall faithfully observe, and secure observance with, in the use of the Premises, all Municipal ordinances and State and Federal statutes now in force

or which may hereafter be in force, and shall pay before delinquency all taxes, assessments and fees assessed or levied upon the LESSEE or the Premises by reason of any buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained by LESSEE or by reason of the business or either activities of LESSEE upon or in connection with the said demised Premises. The Final Judgement after appeal, if appeal is taken, of any court of competent jurisdiction, or the admission of LESSEE or any sublessee or permittee in any action or proceeding against them or any of them, whether CITY is a party thereto or not, that the LESSEE, sublessee or permittee has violated any such ordinance or statute in the use of the Premises shall be conclusive of that fact as between CITY and LESSEE.

ARTICLE XII

ASSIGNS

Time is of the essence of each and all of the terms and provisions of this Lease and this Lease shall inure to the benefit of and be binding upon the parties hereto and any successors of LESSEE as fully and to the same extent as though specifically mentioned in each instance, and all covenants, stipulations and agreements in this Lease shall extend to and bind any assigns or SUBLESSEES of LESSEE.

ARTICLE XIII

WAIVER

The Waiver by CITY of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of rent hereunder by CITY shall not be deemed to be a waiver of any preceding breach by LESSEE of any term, covenant or condition of this Lease, other than failure of LESSEE to pay the particular rental so accepted, regardless of CITY'S knowledge of such preceding breach at the time of acceptance of such rent,

nor shall any failure on the part of CITY to require or exact full and complete compliance with any of the covenants, conditions or agreements of this Lease be construed as in any manner changing the terms hereof or to stop CITY from enforcing the full provisions hereof, nor shall the terms of this Lease be changed or altered in any manner whatsoever other than by written agreement of the CITY and LESSEE.

ARTICLE XIV

MERGER

The voluntary or other surrender of this Lease by LESSEE or a mutual cancellation thereof, shall not work a merger and shall, at the option of CITY, terminate all or any existing subleases or subtenancies or may, at the option of CITY, operate as an Assignment to it of any or all such subleases or subtenancies.

ARTICLE XV

NOTICES

Control and administration of this Lease is under the jurisdiction of the City Manager of THE CITY OF SAN DIEGO and any communication relative to the terms or conditions or any changes thereto or any notice or notices provided for by this Lease or by law to be given or served upon CITY may be given or served by letter deposited in the United States mails, postage prepaid, and addressed to the City Manager, Civic Center, San Diego, California 92101; any notice or notices provided for by this Lease or by law to be given or served upon LESSEE may be given or served by letter deposited in the United States mails, postage prepaid, and addressed to LESSEE at 1720 South Shores Road, San Diego, California 92109; or to such other addresses, as CITY or LESSEE may from time to time designate by written notice to the other of such change of address. In lieu of notice by use of United States mail, notice may be personally served upon either CITY or LESSEE or any person hereafter authorized by LESSEE to receive such notice. Any notice or notices given or served as provided

herein shall be effectual and binding for all purposes upon the principals of the parties so served. A copy of any notice or notices sent to LESSEE shall be also sent by registered or certified mail to any lender whose loan has been approved by the CITY.

ARTICLE XVI

REMEDIES OF CITY

A. Default by Lessee. In the event that:

- (1) LESSEE shall default in the performance or fulfillment of any covenant or condition herein required to be performed or fulfilled by LESSEE and shall fail to cure said default within thirty days following the service on LESSEE of a written notice from CITY specifying the default complained of; or
- (2) LESSEE shall voluntarily file or have involuntarily filed against him any petition under any bankruptcy or insolvency act or law; or
- (3) LESSEE shall be adjudicated a bankrupt; or
- (4) LESSEE shall make a general assignment for the benefit of creditors; then CITY may, at its option, without further notice or demand upon LESSEE or upon any person claiming through LESSEE, immediately terminate this Lease and all rights of LESSEE and of all persons claiming rights through LESSEE in or to the said Premises or in or to further possession thereof and CITY may thereupon enter and take possession of said Premises and expel LESSEE and all persons so claiming rights thereto. Provided, however, in the event that any default described in Part A, (1) of this section is not curable within thirty (30) days after the service of a written notice upon LESSEE, CITY shall not terminate this Lease pursuant to said default if LESSEE immediately commences to cure said default and diligently pursues such cure to completion.

Provided further, in the event that there is a deed of trust or mortgage on the leasehold interest, CITY shall not terminate this lease until it first shall have served upon the mortgagee or beneficiary written notice of

the default or defaults complained of, and the mortgagee or beneficiary shall have thirty (30) days from service of such notice within which to commence such cure as may be necessary and this Lease shall not terminate if said mortgagee or beneficiary shall prosecute said cure with reasonable diligence thereafter, and said thirty-day period shall be extended during the time required for said mortgagee or beneficiary to perfect, through litigation or through foreclosure, its rights to cure.

Provided, however, that in the event rent paid to CITY is calculated on the basis of a percentage or percentages of LESSEE'S gross income, and during said period required for mortgagee or beneficiary to perfect a cure of any default or defaults which have been caused by LESSEE'S failure to pay said rent; then in those events if CITY is paid the minimum rent due under this Agreement, CITY will not prosecute its right to terminate the mortgagee's or beneficiary's interest. Provided further, that when the mortgagee or beneficiary has secured control of said Premises, and before an assignment to a new lessee, mortgagee or beneficiary shall cause to be paid to CITY, any amounts due CITY, as a result of the gross income of the said Premises exceeding that amount necessary for payment of the minimum rent. In computing the gross rent upon which the computation of the CITY rent is based, reasonable administrative expenses of a court appointed receiver may first be deducted.

B. City Recourse. If the mortgagee or beneficiary shall be required to perfect its right to cure said default or defaults through litigation or through foreclosure, then CITY shall have the option of the following courses of action in order that such default or defaults may be expeditiously corrected:

- (1) CITY may correct or cause to be corrected said default or defaults and charge the costs therefore (including costs incurred by CITY in enforcing this provision) to the account of the LESSEE, which charge shall be due and

payable on the date that the rent is next due after presentation by CITY of a statement of all or part of said costs; or,

- (2) CITY may correct or cause to be corrected said default or defaults and may pay the costs thereof (including costs incurred by CITY in enforcing this provision) from the proceeds of any insurance fund held by CITY and LESSEE or by CITY and mortgagee or beneficiary or CITY may use the funds of any faithful performance or cash bond on deposit with CITY, or CITY may call on the bonding agent to correct said default or defaults or to pay the costs of such correction performed by or at the direction of CITY; or,
- (3) CITY may terminate this Lease as to the rights of LESSEE herein by assuming liability for any trust deed or mortgage. LESSEE will assume and agrees to pay any and all penalties or bonuses required by the beneficiaries, trustees or mortgagees as a condition for early payoff of the related notes by CITY. CITY may, as an alternative, substitute for said terminated LESSEE a new lessee reasonably satisfactory to the mortgagee or beneficiary.

Should said default or defaults be noncurable by LESSEE, then any lender holding a beneficial interest in said leasehold whose qualifications have been approved by CITY for assignment of the leasehold interest shall have the absolute right to substitute itself to the estate of the LESSEE hereunder and to commence performance of this Lease and this Lease shall not terminate if such mortgagee or beneficiary shall give notice in writing of its election to so substitute itself and commence performance within said thirty-day period after service upon it of said written notice by CITY of the default. In the event of the election by mortgagee or beneficiary to so substitute itself to LESSEE'S estate hereunder, the CITY expressly consents to said substitution and authorizes said mortgagee or beneficiary to perform under this Lease with all the rights, privileges and obligations of the original

LESSEE hereunder, subject to cure of the default, if possible, by mortgagee or beneficiary and LESSEE expressly agrees to assign all its interest in and to its leasehold estate in that event.

C. Abandonment by LESSEE. Even though LESSEE may have breached the Lease and abandoned the property, this Lease shall continue in effect for so long as CITY does not terminate LESSEE'S right to possession, and CITY may enforce all its rights and remedies under said Lease, including, but not limited to, the right to recover the rent as it becomes due under the lease. For purposes of this section, the following do not constitute a termination of LESSEE'S right to possession;

- (1) Acts by CITY of maintenance, or preservation, or efforts to relet the property.
- (2) The appointment of a receiver upon initiative of CITY to protect the CITY'S interest under the Lease.

D. Damages. Damages which CITY may recover in the event of default under this Lease include the worth, at the time of award, of the amount by which the unpaid rent for the balance of the Term after the date of award, or for any shorter period of time specified in the Lease, exceeds the amount of such rental loss for the same period that the LESSEE proves could be reasonably avoided. The remedies provided by this section are not exclusive and shall be cumulative to all other rights and remedies possessed by CITY, and nothing contained herein shall be construed so as to defeat any other rights and remedies possessed by CITY, and nothing contained herein shall be construed so as to defeat any other rights or remedies to which CITY may be entitled.

ARTICLE XVII

HOLDING OVER

Any holding-over after the expiration of the Term for any cause shall be construed to be a tenancy from month to month, at any rental selected by CITY

which has been in effect during the Term, and shall otherwise be on the terms and conditions herein specified so far as applicable. Such holding over shall include any time employed by LESSEE in removing fixtures and improvements as hereinbefore provided.

ARTICLE XVIII

HOLD HARMLESS

CITY, its agents, officers and employees, shall not be, nor be held liable, for any claims, liabilities, penalties, fines, or for any damage to the goods, properties or effects of LESSEE or any of the LESSEE'S representatives, agents, employees, guests, licensees, invitees, patrons or clientele or of any other persons whatsoever, nor for personal injuries to, or for deaths of them, or any of them, whether caused by or resulting from any acts or omission of LESSEE in or about the Lease Premises, or any act or omission of any person or from any defect in any part of the Leased Premises or from any other cause or reason whatsoever. LESSEE further agrees to indemnify and save free and harmless CITY and its authorized agents, officers, and employees against any of the foregoing liabilities and any costs and expenses incurred by CITY on account of any claim or claims therefor. Provided, however, that this Hold Harmless Clause between LESSEE and CITY shall not apply to any injury, death, or damage caused solely by the CITY, its officers, employees, or authorized agents.

ARTICLE XIX

WASTE, DAMAGE OR DESTRUCTION OF PREMISES

LESSEE agrees to give notice to the CITY of any fire or other damage that may occur on the Leased Premises within ten days of such fire or damage. LESSEE agrees not to commit or suffer to be committed any waste or injury or any public

or private nuisance, to keep the Premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash and rubbish in a manner satisfactory to the CITY. If the Leased Premises shall be damaged by any cause which puts the Premises into a condition which is not decent, safe, healthy and sanitary, LESSEE agrees to make or cause to be made full repair of said damage and to restore the Premises to the condition which existed prior to said damage, or LESSEE agrees to clear and remove from the Leased Premises all debris resulting from said damage and rebuild the Premises in accordance with plans and specifications previously submitted to the CITY and approved in writing in order to replace in kind and scope the operation which existed prior to such damage.

LESSEE agrees that preliminary steps toward performing repairs, restoration or replacement of the Premises shall be commenced by LESSEE within thirty days and the required repairs, restoration or replacement shall be completed within a reasonable time thereafter. CITY may determine an equitable deduction in the minimum annual rent requirement for such period or periods that said Premises are untenable by reason of such damage.

ARTICLE XX

OWNERSHIP OF IMPROVEMENTS

All buildings and improvements of a permanent nature, excepting trade fixtures, installed by LESSEE in accordance with the provisions hereof shall become the property of the CITY at CITY'S option, upon expiration or sooner termination of this Agreement. Trade fixtures installed by LESSEE shall be and remain the property of LESSEE. LESSEE shall have the right to remove said trade fixtures within a reasonable time after the termination of this Agreement at LESSEE'S own expense, provided that any damage to the remaining improvement shall be repaired and the Premises left in good order and condition. In the event LESSEE does not so remove said trade fixtures, CITY may remove, or sell, or destroy the same at

the expense of LESSEE, and LESSEE shall pay to CITY the reasonable cost of any such removal, sale or destruction together with the reasonable cost of repair of damages to CITY'S property resulting from such removal, sale or destruction. At the option of the CITY, any property, real or personal, not reverting to CITY, not so removed by LESSEE may be deemed abandoned, and may be removed.

ARTICLE XXI

IMPROVEMENTS, REPAIRS, ALTERATIONS

LESSEE shall not make any major exterior alterations or changes in the Leased Premises or any building situated thereon, or cause to be made, built or installed thereupon any improvement (other than improvement, alteration or change to the interior of a building, the exterior design of which has heretofore been approved in writing by the City Manager of the CITY), except in accordance with plans and specifications previously submitted to the City Manager of said CITY and approved, in writing, by him. LESSEE shall submit to the CITY a realistic estimate of the cost of any improvements to be installed by the LESSEE upon the Leased Premises prior to the commencement of construction. This estimate shall be subject to verification by the CITY upon completion of improvements.

LESSEE agrees to take good care of the Leased Premises, fixtures and appurtenances, and of all alterations, additions and improvements to any of them and make all repairs in and about the same that may be necessary to preserve them in good order and condition (which repairs shall be equal to the original work in respect to quality), and promptly pay the expense of such repairs.

CITY shall not be required to make any improvements, repairs or alterations not herein specifically required. LESSEE hereby waives all right to make repairs at the expense of CITY as provided in Section 1942 of the Civil Code of the State of California and all rights provided by Section 1941 of said Civil Code.

ARTICLE XXII

SIGNS

All signs installed on the Premises shall comply with CITY'S ordinances applicable to such signs. CITY and LESSEE shall agree upon the type, size and design of a directional sign or signs or a sign or signs identifying Sea World, Inc. to be installed on the Premises in accordance with the established sign policy for Mission Bay Park.

ARTICLE XXIII

INSURANCE

During the entire Term of this Lease, LESSEE agrees to procure and maintain public liability insurance which names CITY as an additional insured with an insurance company satisfactory to CITY licensed to do business in California to protect against loss from liability imposed by law for damages on account of bodily injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever, resulting directly or indirectly from any act or activities of CITY or LESSEE, its sub-lessees or any person acting for CITY, or LESSEE or under its control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from acts or activities of CITY, or LESSEE, or its sub-lessees, or any person acting for CITY or LESSEE, or under its control or direction. Such insurance shall also provide for and protect CITY against incurring any legal cost in defending claims for alleged loss. Such public liability and property damage insurance shall be maintained in full force and effect during the entire Term of this Lease in the amount of not less than One Million Dollars (\$1,000,000) COMBINED SINGLE LIMIT LIABILITY. LESSEE agrees to submit a policy of said insurance or evidence thereof to the CITY on or before the effective date of this Agreement indicating full coverage of the contractual liability imposed by

this Agreement and stipulating that the insurance company shall not terminate, cancel or limit said policy in any manner without at least thirty days prior written notice thereof to CITY. If the operation under this Agreement results in an increased or decreased risk in the opinion of the City Manager, then LESSEE agrees that the minimum limits hereinabove designated shall be changed accordingly, but within reasonable limits, upon request by the City Manager. LESSEE agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which the LESSEE may be held responsible for the payment of damages to persons or property resulting from LESSEE'S activities, the activities of its sub-lessees or the activities of any person or persons for which LESSEE is otherwise responsible.

LESSEE also agrees to procure and maintain during the entire Term of this Lease, a policy of fire, extended coverage and vandalism insurance on all permanent property of an insurable nature located upon the leased Premises. Said policy shall name the CITY as an additional insured and shall be written by an insurance company satisfactory to CITY licensed to transact business in the State of California and shall be in an amount or under an insurance program providing for an amount sufficient to cover at least 80% of the replacement costs of said property. LESSEE agrees to submit a certificate of said policy to the CITY on or before the effective date of this Lease. Said policy shall contain a condition that it is not to be terminated or cancelled without at least thirty (30) days prior written notice to CITY by the insurance company. LESSEE agrees to pay the premium for such insurance and shall require that any insurance proceeds resulting from a loss under said policy are payable jointly to CITY and LESSEE and said proceeds shall constitute a trust fund to be reinvested in rebuilding or repairing the damaged property or said proceeds may be disposed of as specified in ARTICLE XIX, WASTE,

DAMAGE OR DESTRUCTION OF PREMISES, hereof; provided, however, that within the period during which there is in existence a mortgage or deed of trust upon the leasehold, then and for that period all policies of fire insurance, extended coverage and vandalism shall be made payable jointly to the mortgagee or beneficiary, the named insured, and CITY, and shall be disposed of jointly by the parties for the following purposes:

A. As a trust fund to be retained by said mortgagee or beneficiary and applied in reduction of the debt secured by such mortgage or deed of trust with the excess remaining after full payment of said debt to be paid over to LESSEE and CITY to pay for reconstruction, repair, or replacement of the damaged or destroyed improvements in progress payments as the work is performed. The balance of said proceeds shall be paid to LESSEE.

Provided further, however, nothing herein shall prevent LESSEE, at its option and with the approval of said mortgagee or beneficiary, from filing a faithful performance bond in favor of said mortgagee or beneficiary and CITY in an amount equivalent to said insurance proceeds in lieu of surrendering said insurance proceeds to said mortgagee or beneficiary and CITY.

B. In the event that this Lease is terminated by mutual agreement and said improvements are not reconstructed, repaired or replaced, the insurance proceeds shall be jointly retained by CITY and said mortgagee or beneficiary to the extent necessary to first discharge the debt secured by said mortgage or deed of trust and condition. Said mortgagee or beneficiary shall hold the balance of said proceeds for CITY or LESSEE as their interests may appear.

LESSEE agrees to increase the limits of liability when, in the opinion of CITY, the value of the improvements covered is increased, subject to the availability of such insurance at the increased limits. LESSEE agrees, at his sole expense, to comply and secure compliance with all insurance requirements

necessary for the maintenance of reasonable fire and public liability insurance covering said Premises, building and appurtenances.

ARTICLE XXIV

NONCOMPETITION

The operation by LESSEE of the facilities of Sea World Park as referred to in ARTICLE III A. hereof, upon the Leased Premises constitutes a valuable asset to the CITY and generally the metropolitan area of San Diego in that Sea World, by reason of the successful promotion of its exhibits, is now recognized throughout the United States and the world as being an outstanding marine attraction resulting in an increase in tourism in San Diego to the benefit of the CITY. LESSEE and CITY recognize that the successful operation and continued growth of the marine facilities at Sea World is attributable to the unique experience and capabilities of the management of LESSEE. In recognition of the unique attraction created by LESSEE in the area known as Sea World and its attraction for tourists to the CITY, LESSEE agrees that LESSEE shall not establish, operate, manage and/or maintain, whether as a corporation, partnership, joint venture, or as individuals, any marine facility similar to that presently operated on the Leased Premises anywhere in that area of the State of California known as Southern California comprising all of the counties south of the Tehachapi Mountains and the entire State of Arizona or (in any part of the State of Baja California, Republic of Mexico, which is within a radius of 560 miles measured from San Diego as the center of the circle) hereinafter called "the noncompetition area", the parties recognizing that the noncompetition area is generally considered to be that market from which San Diego draws its visitors, a principal attraction of such visitors being the continued maintenance and operation of Sea World of San Diego.

ARTICLE XXVI

DAMAGED EQUIPMENT

LESSEE agrees to salvage within 24 hours, any of LESSEE'S equipment within Mission Bay declared by CITY to be a menace to navigation or a nuisance and to salvage or cause to be salvaged any sunken vessel or equipment upon the Leased Premises irrespective of ownership. CITY may require that any boats not kept in a clean and orderly condition be removed from the Leased Premises.

ARTICLE XXVII

TAXES

As further consideration for the execution of this Agreement LESSEE shall pay and discharge before delinquency all taxes and assessments which may be levied during said Term upon the Premises.

ARTICLE XXVIII

LEASE ENCUMBRANCE

The CITY does hereby consent and agree that the LESSEE may encumber this Lease, leasehold estate and the improvements thereon by deed of trust, mortgage, chattel mortgage or other security type instrument to assure the payment of a promissory note or notes of the LESSEE in accordance with the financial plan approved in writing by City Manager upon the express condition that the net proceeds of such loan or loans received by LESSEE be devoted exclusively to the purpose of developing the Premises and for the primary purpose of constructing the facilities in accordance with the said Master Plan for the Premises; however, a reasonable portion of the loan proceeds may be disbursed for, or applied to payment of incidental costs of such construction, including but not limited to, any one or more or all of the following: Off-site improvements for service of the Premises; on-site improvements, escrow charges; premiums for hazard insurance or other insurance or bonds required by CITY; title insurance premiums and reasonable loan costs, such

as discounts, interest and commissions; also architectural, engineering, and attorney's fees or such other normal expenses. Any subsequent encumbrances on the real property must first be approved in writing by City Manager.

In the event it is desired to assign the beneficial interest of any deed of trust, mortgage or other type security instrument, such assignment must first be approved by CITY. Any assignee of a beneficial interest shall have the same rights under this Lease as the assignor, CITY agrees not to unreasonably withhold consent to assignments of the beneficial interest. The CITY further consents and agrees that in the event said deed of trust, mortgage or other security type instrument should at any time be in default and be foreclosed, the CITY will accept the mortgagee or beneficiary thereof previously approved by it as its new tenant under this Lease with all the rights and privileges of the original LESSEE, and that in the event that said mortgagee or beneficiary desires to assign this Lease to its nominee, and said nominee is a reputable, qualified and financially responsible operator in the opinion of the CITY, the CITY hereby agrees that upon the filing of an application for the consent to such assignment, the CITY will give its consent thereto, and agrees not to unreasonably withhold such consent.

Anything in this Lease to the contrary notwithstanding, CITY shall not exercise any remedy available to it for default hereof by LESSEE, unless and until CITY, as a condition precedent to such exercise, shall have given notice to said beneficiary or mortgagee, by registered or certified mail, postage prepaid, addressed as said beneficiary or mortgagee shall from time to time instruct CITY (or, in the absence of such instruction, addressed as shown on said deed of trust or mortgage), which notice shall specify the nature and extent of said claimed default. Thereafter, said beneficiary or mortgagee shall have the right and power to cure said default in the manner hereinafter provided and thereby cause this Lease to remain in full force and effect.

A. If said default be in the payment of rental, taxes, insurance premiums, amount claimed under mechanic's lien on the Leased Premises or any other sum of money required to be paid by LESSEE, said beneficiary or mortgagee may pay the same to CITY or other proper payee within 60 days after the mailing aforesaid; if so paid, said default shall be cured and this Lease shall remain in full force and effect. If, after any such payment to CITY, LESSEE pays the same to CITY, or in the event CITY waives default, CITY shall promptly refund said payment to said beneficiary or mortgagee.

B. If said default be other than specified in subparagraph (A) above, CITY shall not exercise any such remedy if:

- (1) Within 60 days after the mailing aforesaid, said beneficiary or mortgagee commences foreclosure (by judicial action or trustee's sale) of its mortgage or deed of trust; and
- (2) Such foreclosure be prosecuted with reasonable diligence; and
- (3) Prior thereto, said beneficiary or mortgagee shall first have obtained, in writing, the approval of CITY of all prospective purchasers participating at said foreclosure sale other than beneficiary or mortgagee as to their reputation, qualifications, and financial responsibility, which approval CITY agrees not unreasonably to withhold; and
- (4) Within a reasonable time after foreclosure sale, the purchaser thereat cures such default, if said default is curable from both a feasible and practical standpoint, or if said default is not curable from a feasible and practical standpoint, or if default is impossible to cure, said default shall be incontrovertibly deemed cured upon such foreclosure sale.

ARTICLE XXIX

UTILITIES

City agrees to provide the following utilities services: water, sewer, power and communications service and road to the property line of the Leased Premises to be occupied by the LESSEE and in such a manner as to enable the LESSEE to connect with and utilize said services. Any special or unusual utility services will be provided by LESSEE. LESSEE shall order, obtain and pay for all utilities and service and installation charges in connection therewith. All water, sewer, power and communication lines installed by the LESSEE shall be installed underground at LESSEE'S expense according to specifications of said CITY. CITY shall have the right to connect to water, sewer, telephone, gas or other utility lines as are now or hereafter installed upon the Leased Premises, and shall have the right of access to make and maintain such connections. CITY agrees to pay the cost incidental to such connections and to provide such separate metering devices as may be necessary in order that CITY may pay for the services used by it. LESSEE shall install and maintain fire hydrants on the Leased Premises as recommended and approved by CITY, it being understood and agreed that CITY shall perform for the Leased Premises usual fire and police protection.

ARTICLE XXX

SCHEDULE OF OPERATIONS

LESSEE agrees to operate the Premises and associated facilities continuously throughout the entire Term of this Agreement after such Premises are first opened to the public in order to serve the public interest and in accordance with sound business practices. Closing of portions of the Premises for limited periods for remodeling, or alterations during times of least interference with the public's use of the Premises will be granted by the CITY upon request in writing with reasonable notice by the LESSEE. All facilities upon the Premises shall be open

to the public during a regular schedule of days and hours which shall be subject to approval of the City Manager. Provided, however, LESSEE may close the Premises certain days of the week during the off-season upon prior approval of City Manager.

ARTICLE XXXI

CITY APPROVAL AND CONSENT

The approval or consent of the CITY, wherever required in this Agreement, shall mean the approval or consent of the City Manager unless otherwise specified, without need for further resolution by the City Council.

ARTICLE XXXII

GENERAL DEVELOPMENT PLAN

The development of Parcels "A" and "C" of the Premises shall be in accordance with the Development Plan (sometimes herein referred to as the Master Plan and as the Precise Plan of development) for the Premises approved by the City Manager, which plan is filed in the Office of the City Clerk and identified as Document No. 762202. The development of Parcel "B" of the Premises shall be in compliance with the study entitled Mission Bay Park Master Plan for Land and Water Use, 1976. Changes to said plans shall be made only after written approval thereof by the City Manager.

ARTICLE XXXIII

TIME IS OF ESSENCE

Time is of the essence of each and all of the terms and provisions of this Lease and this Lease shall inure to the benefit of and be binding upon the parties hereto and any successor of LESSEE as fully and to the same extent as though specifically mentioned in each instance, and all covenants, stipulations and agreements in this Lease shall extend to and bind any assigns or sub-lessees of LESSEE.

ARTICLE XXXIV

EMINENT DOMAIN - CONDEMNATION

In the event the Premises or any part thereof shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of CITY and LESSEE in the award or consideration for such transfer and the effect of the taking or transfer upon this Lease Agreement shall be as follows:

- A. In the event of such taking or transfer of only a part of the Premises, leaving the remainder of the Premises in such location and in such form, shape and size as to be used effectively and practicably in the opinion of CITY, for the conduct thereon of the operations permitted hereunder, this Lease shall terminate and end as to the portion of the Premises so taken or transferred as of the date title to such portion vests in the condemning authority, but shall continue in full force and effect as to the portion of the Premises not so taken or transferred and from and after such date the minimum rental required to be paid by LESSEE to CITY in and by ARTICLE IV, Subparagraph B. of this Lease shall be reduced in the proportion to which the area so taken or transferred bears to the total area of the Premises, provided, however, CITY shall have the right to substitute like property and maintain the rental schedule without diminution.
- B. In the event of the taking or transfer of only a part of the Premises, leaving the remainder of the Premises in such location, or in such form, shape or reduced size as to render the same not effectively and practicably usable in the opinion of CITY, for the conduct thereon of the operations permitted hereunder, this Lease and all right, title and interest thereunder shall cease on the date title to the Premises or the portion thereof so taken or transferred vests in the condemning authority.

- C. In the event the entire Leased Premises are taken or so transferred, this Lease and all of the right, title and interest thereunder shall cease on the date title to the Premises so taken or transferred vests in the condemning authority.
- D. In the event of any taking or transfer under Sections A, B or C hereof, LESSEE shall not be entitled to any award of compensation except for the taking of buildings, fixtures, equipment and improvements owned by LESSEE or by reason of the relocation of the same.

ARTICLE XXXV

ORAL REPRESENTATIONS

It is specifically understood and agreed hereby that this Lease contains the complete expression of the whole agreement between the parties hereto, and that there are no promises, representations, agreements, warranties, or inducements, either expressed orally or implied by the said parties, except as are fully set forth herein and, further, that this Lease cannot be enlarged, modified or changed in any respect except by written agreement duly executed by and between the said parties.

ARTICLE XXXVI

RESERVATION FOR CITY USE

CITY hereby reserves all rights, title and interest in any and all gas, oil, minerals and water, upon or beneath the Premises. Reservation of aforementioned rights, title, and interest does not confer upon the CITY any right to enter upon the surface of the Premises to exercise right of extraction of aforementioned rights without the written consent of beneficiary or mortgagee. CITY shall have the right to enter the Premises for the purpose of making repairs to or developing the municipal services of the CITY, CITY hereby reserves the right to grant and use such easements or establish and use such rights of way over, under, along and

across the Premises for utilities. The Premises shall also be subject to the rights of the United States Government as they now or may hereafter appear to exert dominion over the water area of Mission Bay, such as dredging and other governmental purposes. Provided, however, CITY shall not unreasonably interfere with LESSEE'S use of the Premises and will reimburse LESSEE for physical damages done to the permanent improvements located on the Premises resulting from CITY'S exercising the rights retained in this paragraph.

ARTICLE XXXVII

NONDISCRIMINATION

LESSEE agrees not to discriminate in any manner against any person or persons on account of race, marital status, sex, religious creed, color, ancestry, national origin, physical handicap or medical condition in LESSEE'S use of the Premises, including, but not limited to, the providing of goods, services, facilities, privileges advantages and accommodations, and the obtaining and holding of employment.

ARTICLE XXXVIII

EDUCATIONAL PROGRAM

LESSEE shall provide during the entire Term of this Lease an educational program which shall be suitable for and available to all elementary school children with supervision to be provided by the schools. The program may be developed and administered by LESSEE'S staff. The fee for each student for participation in the program shall in no event exceed LESSEE'S documented cost of providing the educational program. Furthermore, the fee shall not exceed, except as hereinbelow provided, an amount of \$1.25 per student. The \$1.25 maximum may be adjusted upward or downward annually on May 1 by an amount equal to the percentage increase or decrease in the CPI during the preceding calendar year. LESSEE shall prepare and submit annually to the City Manager on or before March 1 an audit report

showing the number of students participating in the educational program during the preceding calendar year, together with the total cost of the program to LESSEE and a statement of total income received from program admission fees. It is the understanding and intent of CITY and LESSEE that in no event during the entire Term of this Lease shall the cost per student for the educational program exceed the lesser of (1) LESSEE'S actual cost per student or (2) the \$1.25 figure specified above as adjusted.

ARTICLE XXXIX

INSTITUTIONAL ADVERTISING

Institutional advertising, as authorized herein, shall mean corporate sponsorship of certain exhibits and attractions on the Premises whereby the sponsors may promote, or cause to be promoted or advertised, their products and/or services on said Premises. LESSEE agrees to control said institutional advertising to whatever extent necessary to maintain compatibility thereof with the primary purpose of a Marine Life Exhibit on the Premises and with CITY standards for the general development and uses of Mission Bay Park. CITY agrees to accept such institutional advertising as exists on the Premises as of the effective date of this Amendment to Lease Agreement; thereafter, however, all new contracts for institutional advertising on the Premises shall require the prior written approval of the City Manager.

ARTICLE XL

AFFIRMATIVE ACTION

LESSEE shall take affirmative action to improve employment opportunities of minorities and women by implementing the Affirmative Action Program for Lessees", a copy of which is on file in the Office of the City Clerk as Document No. 746205 and by this reference incorporated herein. Minorities are defined as Mexican-American, Black, Filipino, American Indian and Asian/Oriental. The goal of this

program shall be the attainment of the employment of minorities and women in all areas of employment in a total percentage of employment approximately equal to the total level of minority and women employment as established by CITY for its Affirmative Action Program each year.

IN WITNESS WHEREOF, this Lease Agreement is executed by CITY, acting by and through the City Manager, and by LESSEE, acting by and through its lawfully authorized officers.

Date DEC 14 1977

THE CITY OF SAN DIEGO
By [Signature]
ASSISTANT TO THE City Manager

Date November 15, 1977

LESSEE
By [Signature] President
By [Signature] Secretary

APPROVED as to form and legality this 3 day of January, 1978

JOHN W. WITT, City Attorney
By [Signature] Deputy

11:10:77

219894

COPY

Lease Agreement
(To Document Number 762304)

1/2/79

THIS LEASE AMENDMENT, executed in duplicate this 29th day of January 1979 at San Diego, California by and between the City of San Diego, a municipal corporation in the County of San Diego, State of California ("City") and Sea World, Inc. a Delaware corporation, 1720 South Shores Road, San Diego, California 92109 ("LESSEE"): LESSEE presently leases from City certain property in Mission Bay Park, which is more particularly described in that Lease Amendment dated December 14, 1977 (the "Lease") which is on file in the office of the City Clerk as Document No. 762304. LESSEE now desires to lease additional property in Mission Bay Park on the same terms and conditions of the Lease as are applicable to Parcel "A" of the Lease. The additional property is identified in Exhibit 1 as Parcel "A", Property 2, encompasses approximately 24.1 acres and is more particularly described in Exhibit 1 and delineated in Exhibit 2 which exhibits are attached hereto and by this reference incorporated herein and made a part of this Lease Amendment.

City and LESSEE further desire to amend their existing lease to clarify the status of revenue received by Hubbs-Sea World Research Institute, a non-profit foundation. The Hubbs-Sea World Research Institute is described and its activities defined in Exhibit 3 to this Lease Amendment.

Therefore, the Lease is amended to read as follows:

1. Article I of the Lease is amended to read in its entirety as follows, and Exhibits 1 and 2 to the Lease are also hereby amended to provide in their entirety the same as Exhibits 1 and 2 to this Lease Amendment.

DOCUMENT NO. 765767
FILED MAR 6 1979
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

"ARTICLE I"

DEMISE

THE CITY hereby leases to LESSEE and LESSEE hereby leases and hires from CITY those parcels of real property and water area, together with appurtenances thereto situated in the COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, which are set forth in Exhibit "1" consisting of 13 pages attached hereto and made a part hereof. Said parcels are herein collectively referred to as the Premises and are individually referred to as Parcel "A" which consists of Parcel "A" Property 1 and Parcel "A" Property 2 (described on pages 1 through 6 inclusive of Exhibit "1"); Parcel "B" (described on pages 7 through 10 inclusive of Exhibit "1"); and Parcel C (described on pages 11 through 13 inclusive of Exhibit "1"). Each said Parcel is delineated on the plat consisting of sheets 1 through 4 inclusive attached hereto and marked Exhibit "2".

2. Article IV, Paragraph A.2, of the Lease is amended to read in its entirety as follows:

"The minimum annual rental for the Premises shall be the sum of Three Hundred Thirty Thousand Dollars (\$330,000). Provided that for the second five years of this Lease Agreement, commencing with the sixth year of this Lease Agreement, and for each subsequent five-year period during the term of this Lease Agreement, the annual minimum rent, at CITY'S option, may be adjusted to a figure of not more than sixty-six and two-thirds percent (66-2/3%) of the average

actual rent paid during the previous five-year period, but in no event shall said annual minimum rent be less than \$330,000."

3. Article IV of the Lease is amended by adding thereto Paragraph D providing as follows:

"D. Hubbs-Sea World Research Institute, a non-profit foundation, may occupy a portion of Parcel "B" not to exceed 80,000 square feet in ground area during the entire term of this lease without payment of any rent so long as the following terms and conditions are met:

1. Hubbs-Sea World Research Institute; herein "Hubbs," shall operate solely and exclusively as a California non-profit foundation and shall be involved solely and exclusively in oceanographic research and development activities for the public good and as an auxiliary service for LESSEE'S aquatic exhibits.

2. No rental charge shall be made to LESSEE for any space, service or activity conducted by Hubbs, nor shall LESSEE receive any income from said Hubbs.

3. So long as Hubbs conducts its operations in accordance with the above conditions, no rent shall be payable for the premises occupied by Hubbs. However, in the event Hubbs does not comply with any or all of the above conditions, Hubbs shall pay a rental in the amount of seven percent of all revenue received by Hubbs from any source in connection with conducting its activities on the leased premises.

4. Article XXXII is amended to read in its entirety as follows:

ARTICLE XXXII

GENERAL DEVELOPMENT PLAN

"The development of Parcels "A" and "C" of the Premises shall be in accordance with the Development Plan (sometimes herein referred to as the Master Plan and as the Precise Plan of development) for the Premises approved by the City Manager, which plan is filed in the Office of the City Clerk and identified as Document No. 762202. The development of Parcel "B" of the Premises shall be in compliance with the adopted Mission Bay Park Master Plan for Land and Water Use, 1976. Changes to the Development Plan shall be made only after written approval thereof by the City Manager.

Parcel "A" Property 2 shall be developed in two phases. Phase 1 shall be developed according to the Development Plan for Parcel "A" Property 2 on file in the office of the City Clerk.

Construction of Phase 1 shall commence on or before April 1, 1979 and shall proceed diligently to completion subject to the issuance of various authorizations and permits necessary for such development and delays beyond LESSEE'S control.

Phase 2 development will be the subject of several reviews including the review and approval of the State of California Coastal Commission, the specific elements of Phase 2 have not, therefore, been determined at this time. On or prior to January 1, 1980, a Phase 2 Development Plan will be submitted to the City Manager for the City Manager's approval, which approval will not be unreasonably withheld. In the event the

Phase 2 Development Plan as initially submitted is not approved by the City Manager, such Plan will be modified and resubmitted until the City Manager's approval is obtained.

Construction of Phase 2 shall commence within two years after obtaining the City Manager's approval and shall proceed diligently and without undue delay to completion, but subject to delay resulting from causes beyond LESSEE'S control.

5. The effective date of this Lease Amendment shall be the date of execution by the City as hereinafter provided. The increase in minimum rent shall be prorated from the effective date for the remainder of the current lease year.

IN WITNESS WHEREOF, this Lease Amendment is executed by CITY, acting by and through the City Manager, and by LESSEE, acting by and through its lawfully authorized officers.

Date 29 Jan 1979

THE CITY OF SAN DIEGO

BY [Signature]

LESSEE

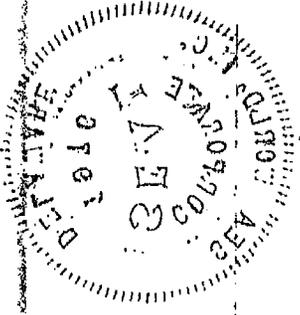
Date

BY [Signature]
BY [Signature]

Approved as to form and legality this 12 day of February 1979.

JOHN W. WITT, City Attorney

BY [Signature]
[Signature]



DESCRIPTION OF
(SEA WORLD LEASE)

PARCEL A., PROPERTY 1 83.985 ACRES

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY), AND A PORTION OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 OF RESUBDIVISION OF BLOCKS 7, 8, AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH $89^{\circ}55'56''$ WEST, (RECORD NORTH $89^{\circ}59'00''$ WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH $00^{\circ}04'04''$ EAST, 2.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL WITH AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE ALONG SAID PARALLEL LINE NORTH $89^{\circ}55'56''$ EAST, 249.70 FEET; THENCE NORTH $05^{\circ}30'02''$ WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC SURVEY TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE $X = 1,712,415.17$ AND $Y = 213,819.22$) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE $32^{\circ}45'02''$ NORTH AND LONGITUDE $117^{\circ}11'07.200''$ WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 5,000.00 FEET AND WEST 13,500.00 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY PARK COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 5,000.00 AND WEST 13,500.00; THENCE NORTH 858.00 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "A", SAID POINT BEING ON THE ARC OF AN 800.00-FOOT-RADIUS CURVE CONCAVE NORTHWESTERLY, A RADIAL LINE OF SAID CURVE BEARS SOUTH $27^{\circ}25'39''$ EAST TO SAID POINT; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $9^{\circ}43'53''$ A DISTANCE OF 135.88 FEET TO A POINT OF REVERSE CURVATURE IN THE ARC OF AN 1,198.09 FOOT-RADIUS-CURVE CONCAVE SOUTHEASTERLY, A RADIAL LINE OF SAID CURVE

BEARS NORTH $37^{\circ}09'32''$ WEST TO SAID POINT; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $29^{\circ}36'42''$, A DISTANCE OF 619.20 FEET TO A POINT OF COMPOUND CURVATURE WITH A 514.76-FOOT-RADIUS-CURVE CONCAVE SOUTHERLY, A RADIAL LINE OF SAID CURVE BEARS NORTH $7^{\circ}32'50''$ WEST TO SAID POINT; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $25^{\circ}57'10''$ A DISTANCE OF 233.17 FEET; THENCE TANGENT TO SAID CURVE SOUTH $71^{\circ}35'40''$ EAST 766.29 FEET TO A POINT HEREINAFTER REFERRED TO AS POINT "B"; THENCE CONTINUING SOUTH $71^{\circ}35'40''$ EAST 207.08 FEET TO MISSION BAY PARK COORDINATES NORTH 5,834.18 AND WEST 11,665.24; THENCE SOUTH $18^{\circ}24'20''$ WEST 923.69 FEET; THENCE SOUTH 300.74 FEET TO MISSION BAY PARK COORDINATES NORTH 4,657.00 AND WEST 11,956.89, BEING A POINT THAT IS 30.00 FEET NORTH OF ENGINEER'S STATION 10+54.95 ON THE CENTERLINE OF SEA WORLD WAY AS SHOWN ON CITY OF SAN DIEGO ENGINEERS DRAWING NO:14,985-2-D; THENCE EAST PARALLEL WITH SAID CENTERLINE 150.01 FEET TO THE BEGINNING OF A TANGENT 180.00-FOOT-RADIUS-CURVE CONCAVE SOUTHWESTERLY; THENCE EASTERLY, SOUTHEASTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE AND CONCENTRIC WITH SAID CENTERLINE OF SEA WORLD WAY THROUGH A CENTRAL ANGLE OF $90^{\circ}00'00''$ A DISTANCE OF 282.74 FEET; THENCE TANGENT TO SAID CURVE SOUTH 613.54 FEET TO A POINT ON A LINE THAT IS 60.50 FEET AT RIGHT ANGLES NORTHEASTERLY FROM ENGINEER'S STATION 33+04.72 ON THE CENTERLINE OF SEA WORLD DRIVE AS SHOWN ON CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14,985-1-D; THENCE NORTH $78^{\circ}55'43''$ WEST PARALLEL WITH SAID CENTERLINE OF SEA WORLD DRIVE 304.72 FEET TO THE BEGINNING OF A TANGENT 828.855 FOOT-RADIUS-CURVE CONCAVE NORTHEASTERLY, SAID CURVE BEING CONCENTRIC WITH AND 10.00 FEET NORTHEASTERLY RADIALLY FROM THE FACE OF THE NORTHEASTERLY BERM ON THE ACCESS ROAD SHOWN ON CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14577-22-D; THENCE NORTHWESTERLY ALONG SAID LINE THROUGH A CENTRAL ANGLE OF $21^{\circ}06'00''$ A DISTANCE OF 305.24 FEET; THENCE NORTHWESTERLY, WESTERLY AND NORTHERLY CONTINUING ALONG A LINE THAT IS PARALLEL AND/OR CONCENTRIC WITH AND 10.00 FEET AT RIGHT ANGLES OR RADIALLY, RESPECTIVELY, FROM THE FACE OF SAID NORTHEASTERLY BERM WHICH BERM IS ALSO SHOWN ON SAID ENGINEER'S DRAWINGS NOS. 14577-21, 23, 24, 32, 33, 34 AND 36-D THE FOLLOWING COURSES AND DISTANCES: NORTH $57^{\circ}49'43''$ WEST 53.69 FEET TO THE BEGINNING OF A TANGENT 1,032.00-FOOT-RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE NORTHWESTERLY AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $36^{\circ}52'29''$ A DISTANCE OF 664.18 FEET; THENCE TANGENT TO SAID CURVE SOUTH $85^{\circ}17'48''$ WEST 515.45 FEET TO THE BEGINNING OF A TANGENT 568.00-FOOT-RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE WESTERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $65^{\circ}57'16''$ A DISTANCE OF 653.84 FEET TO A POINT OF COMPOUND CURVATURE IN THE ARC OF A 268.00-FOOT-RADIUS-CURVE CONCAVE EASTERLY, A RADIAL LINE OF SAID CURVE BEARS SOUTH $61^{\circ}15'04''$ WEST TO SAID POINT; THENCE NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $73^{\circ}56'28''$ A DISTANCE OF 345.86 FEET TO A POINT OF REVERSE CURVATURE IN THE ARC OF A 332.00-FOOT-RADIUS CURVE CONCAVE NORTHWESTERLY, A RADIAL LINE OF SAID CURVE BEARS SOUTH $44^{\circ}48'28''$ EAST TO SAID POINT; THENCE NORTHEASTERLY AND NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A

CENTRAL ANGLE OF $46^{\circ}43'28''$ A DISTANCE OF 270.74 FEET TO A POINT OF REVERSE CURVATURE IN THE ARC OF A 20.00-FOOT-RADIUS CURVE CONCAVE SOUTHEASTERLY, A RADIAL LINE OF SAID CURVE BEARS SOUTH $88^{\circ}28'04''$ WEST TO SAID POINT; THENCE LEAVING SAID PARALLEL AND/OR CONCENTRIC LINE NORTHEASTERLY AND EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $91^{\circ}29'11''$ A DISTANCE OF 31.93 FEET; THENCE RADIAL TO SAID CURVE NORTH $0^{\circ}02'45''$ WEST 12.99 FEET; THENCE EAST 81.94 FEET; THENCE SOUTH $75^{\circ}37'07''$ EAST 80.52 FEET; THENCE SOUTH $69^{\circ}45'18''$ EAST 130.04 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL A - WATER 2,221 ACRES

BEGINNING AT POINT "A" AS SET OUT AND ESTABLISHED IN THE HEREIN-
ABOVE DESCRIBED PARCEL "A", SAID POINT BEING IN THE ARC OF AN
800.00-FOOT-RADIUS CURVE CONCAVE NORTHWESTERLY, A RADIAL LINE
OF SAID CURVE BEARS SOUTH 27°25'39" EAST TO SAID POINT; THENCE
NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL
ANGLE OF 9°43'53" A DISTANCE OF 135.86 FEET TO A POINT OF
REVERSE CURVATURE IN THE ARC OF AN 1,198.09-FOOT-RADIUS CURVE
CONCAVE SOUTHEASTERLY; THENCE NORTHEASTERLY ALONG THE ARC OF
SAID CURVE THROUGH A CENTRAL ANGLE OF 25°40'51" A DISTANCE OF
537.00 FEET; THENCE NORTH 147.18 FEET TO A POINT ON THE ARC
OF A 1,342.65-FOOT-RADIUS CURVE THAT IS CONCENTRIC WITH AND
144.56 FEET NORTHWESTERLY RADially FROM THE HEREINBEFORE
MENTIONED 1,198.09-FOOT-RADIUS CURVE, A RADIAL LINE OF SAID
1,342.65-FOOT-RADIUS CURVE BEARS NORTH 10°13'41" WEST; THENCE
SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL
ANGLE OF 26°55'51" A DISTANCE OF 631.09 FEET; THENCE TANGENT
TO SAID CURVE SOUTH 52°50'28" WEST 34.39 FEET TO A POINT THAT
BEARS NORTH 166.93 FEET FROM SAID POINT "A"; THENCE SOUTH
166.93 FEET TO SAID POINT "A" AND THE POINT OF BEGINNING.

PARCEL A - WATER 0.082 ACRES

BEGINNING AT POINT "B" AS SET OUT AND ESTABLISHED IN THE
HEREINABOVE DESCRIBED PARCEL "A"; THENCE SOUTH $71^{\circ}35'40''$
EAST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL "A" A
DISTANCE OF 50.00 FEET; THENCE LEAVING SAID NORTHEASTERLY
LINE NORTH $18^{\circ}24'20''$ EAST 71.00 FEET; THENCE NORTH $71^{\circ}35'40''$
WEST 50.00 FEET; THENCE SOUTH $18^{\circ}24'20''$ WEST 71.00 FEET TO
SAID POINT "B" AND THE POINT OF BEGINNING.

DESCRIPTION OF
SEA WORLD, INC
24.142 ACRES LEASE AREA

PARCEL "A", PROPERTY 2

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY), AND A PORTION OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 OF RESUBDIVISION OF BLOCKS 7, 8, AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH $89^{\circ}55'56''$ WEST, (RECORD NORTH $89^{\circ}59'00''$ WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH $0^{\circ}04'04''$ EAST, 2.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL WITH AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE ALONG SAID PARALLEL LINE NORTH $89^{\circ}55'56''$ EAST, 249.70 FEET; THENCE NORTH $05^{\circ}30'02''$ WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC SURVEY TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE $X = 1,712,415.17$ AND $Y = 213,819.22$) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE $32^{\circ}45'02''$ NORTH AND LONGITUDE $117^{\circ}11'07.200''$ WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 4,657.00 FEET AND WEST 11,956.89 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY PARK COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 4,657.00 AND WEST 11,956.89, SAID TRUE POINT OF BEGINNING BEING A POINT THAT IS 30.00 FEET NORTH OF ENGINEER'S STATION 10 + 54.95 ON THE CENTERLINE OF SEA WORLD WAY AS SHOWN ON CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14,985-2-D; THENCE NORTH 300.74 FEET; THENCE NORTH $18^{\circ}24'20''$ EAST 873.69 FEET TO MISSION BAY PARK COORDINATES NORTH 5,786.74 AND WEST 11,681.03; THENCE SOUTH $71^{\circ}35'40''$ EAST 598.11 FEET; THENCE SOUTH $5^{\circ}59'55''$ WEST 1807.81 FEET TO A POINT ON A LINE THAT IS 60.50 FEET AT RIGHT ANGLES NORTHEASTERLY FROM ENGINEER'S STATION 36 + 35.31 ON THE CENTERLINE OF SEA WORLD DRIVE AS SHOWN ON CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14,985-1-D, SAID POINT BEING AT MISSION BAY PARK COORDINATES NORTH 3,799.97 AND WEST 11,302.44; THENCE NORTH $78^{\circ}55'43''$ WEST PARALLEL WITH SAID CENTERLINE OF SEA WORLD DRIVE 330.59 FEET TO MISSION BAY PARK COORDINATES NORTH 3,863.46 AND WEST 11,626.88, BEING A POINT OF INTERSECTION WITH A LINE THAT IS PARALLEL WITH AND 30.00 FEET EAST AT RIGHT ANGLES FROM THE HEREINBEFORE MENTIONED CENTERLINE OF SEA WORLD WAY; THENCE NORTH ALONG SAID PARALLEL LINE 613.54 FEET TO THE BEGINNING OF A TANGENT 180.00-FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, WHICH CURVE IS ALSO TANGENT TO A LINE THAT BEARS EAST FROM THE TRUE POINT OF BEGINNING; THENCE NORTHERLY, NORTHWESTERLY AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $90^{\circ}00'00''$ A DISTANCE OF 282.74 FEET TO SAID POINT OF TANGENCY; THENCE WEST 150.01 FEET TO THE TRUE POINT OF BEGINNING.

NOVEMBER 14, 1977
JOB NO. 76-1111

SEA WORLD, INC. LEASE
FORMERLY
PEREZ COVE LEASE
LEASE DESCRIPTION

PARCEL B:

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY), AND A PORTION OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 OF RESUBDIVISION OF BLOCKS 7, 8, AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH $89^{\circ}55'56''$ WEST, (RECORD NORTH $89^{\circ}59'00''$ WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH $00^{\circ}04'04''$ EAST, 2.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL WITH AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE ALONG SAID PARALLEL LINE NORTH $89^{\circ}55'56''$ EAST, 249.70 FEET; THENCE NORTH $05^{\circ}30'02''$ WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC SURVEY TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE $X = 1,712,415.17$ AND $Y = 213,819.22$) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE $32^{\circ}45'02''$ NORTH AND LONGITUDE $117^{\circ}11'07.200''$ WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 5,858.00 FEET AND WEST 13,500.00 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY PARK COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 5,858.00 AND WEST 13,500.00; THENCE SOUTH 858.00 FEET; THENCE NORTH $69^{\circ}45'18''$ WEST 130.04 FEET; THENCE NORTH $75^{\circ}37'07''$ WEST 80.52 FEET; THENCE WEST 81.94 FEET; THENCE SOUTH $0^{\circ}02'45''$ EAST 12.99 FEET TO THE EASTERLY TERMINUS OF A 20.00-FOOT-RADIUS CURVE CONCAVE SOUTHEASTERLY, A RADIAL LINE OF SAID CURVE BEARS NORTH $0^{\circ}02'45''$ WEST TO SAID TERMINUS; THENCE WESTERLY, SOUTHWESTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $91^{\circ}29'11''$ A DISTANCE OF 31.93 FEET TO A POINT ON THE ARC OF A 332.00-FOOT-RADIUS CURVE CONCAVE WESTERLY, A RADIAL LINE OF SAID 332.00-FOOT-RADIUS CURVE BEARS NORTH $88^{\circ}28'04''$ EAST TO SAID POINT; THENCE NORTHERLY

AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $69^{\circ}21'58''$ A DISTANCE OF 401.94 FEET; THENCE TANGENT TO SAID CURVE NORTH $70^{\circ}53'54''$ WEST 121.23 FEET TO THE BEGINNING OF A TANGENT 270.00-FOOT-RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $13^{\circ}02'07''$ A DISTANCE OF 61.43 FEET TO INTERSECTION WITH A LINE THAT BEARS SOUTH $26^{\circ}24'59''$ WEST 438.27 FEET FROM MISSION BAY COORDINATES NORTH 5,795.00 AND WEST 14,000.00; THENCE NORTH $26^{\circ}24'59''$ EAST ALONG SAID LINE 438.27 FEET TO SAID MISSION BAY COORDINATES BEING A POINT ON THE ARC OF A 240.00-FOOT-RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL LINE OF SAID CURVE BEARS SOUTH $27^{\circ}10'45''$ WEST TO SAID POINT; SAID POINT ALSO BEING HEREIN-AFTER REFERRED TO AS POINT "A"; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $24^{\circ}56'26''$ A DISTANCE OF 104.47 FEET TO A POINT OF COMPOUND CURVATURE WITH A 800.00-FOOT-RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE EASTERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $29^{\circ}39'58''$ A DISTANCE OF 414.22 FEET TO THE TRUE POINT OF BEGINNING.

NOVEMBER 14, 1977
JOB NO. 76-1111

SEA WORLD, INC.

WATER LEASE DESCRIPTION

PARCEL B WATER 4.131 acres

BEGINNING AT POINT "A" AS SET OUT AND ESTABLISHED IN THE HEREINABOVE DESCRIBED PARCEL "B", BEING ALSO DESCRIBED AS MISSION BAY COORDINATES NORTH 5,795.00 AND WEST 14,000.00; THENCE NORTH $26^{\circ}24'59''$ EAST ALONG THE NORTHEASTERLY PROLONGATION OF THE NORTHWESTERLY LINE OF SAID PARCEL "B" 516.98 FEET TO MISSION BAY COORDINATES NORTH 6,258.00 AND WEST 13,770.00 BEING A POINT HEREINAFTER REFERRED TO AS POINT "B"; THENCE EAST 270.00 FEET TO MISSION BAY COORDINATES NORTH 6,258.00 AND WEST 13,500.00 BEING ON THE NORTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID PARCEL "B"; THENCE SOUTH ALONG SAID NORTHERLY PROLONGED EASTERLY LINE 400.00 FEET TO THE NORTHEASTERLY CORNER OF SAID PARCEL "B", BEING A POINT ON THE ARC OF A 800.00-FOOT-RADIUS CURVE CONCAVE NORTHWESTERLY TO WHICH A RADIAL LINE BEARS SOUTH $27^{\circ}25'39''$ EAST; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID PARCEL "B" AND THE ARC OF SAID 800.00-FOOT-RADIUS CURVE THROUGH A CENTRAL ANGLE OF $29^{\circ}39'58''$ A DISTANCE OF 414.22 FEET TO A POINT OF COMPOUND CURVATURE WITH A 240.00-FOOT-RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE CONTINUING WESTERLY ALONG THE ARC OF SAID 240.00-FOOT-RADIUS CURVE THROUGH A CENTRAL ANGLE OF $24^{\circ}56'26''$ A DISTANCE OF 104.47 FEET TO THE POINT OF BEGINNING.

NOVEMBER 14, 1977
JOB NO. 76-1111

SEA WORLD, INC.

WATER LEASE DESCRIPTION

PARCEL B WATER 0.726 acres

BEGINNING AT POINT "B" AS SET OUT AND ESTABLISHED IN THE HEREINABOVE DESCRIBED PARCEL 1, BEING ALSO DESCRIBED AS MISSION BAY COORDINATES NORTH 6,258.00 AND WEST 13,770.00; THENCE NORTH 12.00 FEET; THENCE NORTH $63^{\circ}35'01''$ WEST 73.50 FEET; THENCE SOUTH $26^{\circ}24'59''$ WEST PARALLEL WITH THE NORTHWESTERLY LINE OF SAID PARCEL 1 396.25 FEET TO A POINT ON THE ARC OF A 222.08-FOOT-RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL LINE OF SAID CURVE BEARS SOUTH $40^{\circ}17'03''$ WEST TO SAID POINT; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $13^{\circ}52'04''$ A DISTANCE OF 53.75 FEET; THENCE TANGENT TO SAID CURVE SOUTH $63^{\circ}35'01''$ EAST 25.61 FEET TO A POINT ON SAID NORTHWESTERLY LINE OF SAID PARCEL 1 THAT IS 125.00 FEET NORTHEASTERLY FROM THE SOUTHWESTERLY CORNER THEREOF; THENCE NORTH $26^{\circ}24'59''$ EAST ALONG SAID NORTHWESTERLY LINE 391.98 FEET TO THE POINT OF BEGINNING.

ATLANTIS RESTAURANT LEASE

PARCEL C: LAND 6.709 ACRES

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY), AND A PORTION OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 OF RE-SUBDIVISION OF BLOCKS 7, 8 AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH $89^{\circ}55'56''$ WEST, (RECORD NORTH $89^{\circ}59'00''$ WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH $00^{\circ}04'04''$ EAST, 2.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL WITH AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE ALONG SAID PARALLEL LINE NORTH $89^{\circ}55'56''$ EAST, 249.70 FEET; THENCE NORTH $05^{\circ}30'02''$ WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC SURVEY TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE $X = 1,712,415.17$ AND $Y = 213,819.22$) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE $32^{\circ}45'02''$ NORTH AND LONGITUDE $117^{\circ}11'07.200''$ WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 5,795.00 FEET AND WEST 14,000.00 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 5,795.00 AND WEST 14,000.00; THENCE SOUTH $26^{\circ}24'59''$ WEST 438.27 FEET TO A POINT ON THE ARC OF A 270.00-FOOT-RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL LINE OF SAID CURVE BEARS SOUTH $32^{\circ}08'13''$ WEST TO SAID POINT; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $13^{\circ}05'58''$ A DISTANCE OF 61.73 FEET TO A POINT ON THE WESTERLY LINE OF THAT PORTION OF LAND SHOWN ON THE CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 10966-1-B OF THE PROPOSED LEASE OF WEST PEREZ COVE MISSION BAY PARK; THENCE NORTHWESTERLY, SOUTHEASTERLY AND SOUTHERLY ALONG THE BOUNDARY OF SAID LAND THE FOLLOWING COURSES AND DISTANCES; NORTH $13^{\circ}45'54''$ WEST 575.54 FEET;

NORTH 175.00 FEET; NORTH $23^{\circ}11'55''$ WEST 130.00 FEET; NORTH $39^{\circ}19'34''$ WEST 90.00 FEET; NORTH $14^{\circ}33'01''$ WEST 166.22 FEET; NORTH $9^{\circ}04'02''$ WEST 267.46 FEET TO MISSION BAY COORDINATES NORTH 6,789.12 AND WEST 14,572.15; THENCE SOUTH $69^{\circ}30'00''$ EAST 172.53 FEET TO THE BEGINNING OF A TANGENT 300.00-FOOT-RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $69^{\circ}30'00''$ A DISTANCE OF 363.90 FEET; THENCE TANGENT TO SAID CURVE SOUTH 330.46 FEET TO THE BEGINNING OF A TANGENT 347.08 FOOT-RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $63^{\circ}35'01''$ A DISTANCE OF 385.17 FEET; THENCE TANGENT TO SAID CURVE SOUTH $63^{\circ}35'01''$ EAST 25.61 FEET TO THE TRUE POINT OF BEGINNING.

NOVEMBER 14, 1977
JOB NO. 76-1111

ATLANTIS RESTAURANT LEASE, CONTINUED

PARCEL C

WATER: 2.638 ACRES.

BEGINNING AT THE TRUE POINT OF BEGINNING OF THE LAND PARCEL FIRST HEREINABOVE DESCRIBED BEING MISSION BAY COORDINATES NORTH 5,795.00 AND WEST 14,000.00; THENCE ALONG THE NORTHEASTERLY AND EASTERLY BOUNDARY LINE OF SAID LAND PARCEL THE FOLLOWING DESCRIBED COURSES AND DISTANCES; NORTH $63^{\circ}35'01''$ WEST 25.61 FEET TO THE BEGINNING OF A TANGENT 347.08-FOOT-RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $63^{\circ}35'01''$ A DISTANCE OF 385.17 FEET; THENCE TANGENT TO SAID CURVE NORTH 330.46 FEET TO THE BEGINNING OF A TANGENT 300.00-FOOT-RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $69^{\circ}30'00''$ A DISTANCE OF 363.90 FEET TO A POINT OF TANGENCY WITH THE NORTHEASTERLY LINE OF SAID LAND PARCEL; THENCE LEAVING SAID NORTHEASTERLY BOUNDARY LINE OF LAND PARCEL SOUTH $69^{\circ}30'00''$ EAST ALONG THE SOUTHEASTERLY PROLONGATION OF SAID NORTHEASTERLY LINE 341.57 FEET TO INTERSECTION WITH A LINE THAT IS PARALLEL WITH AND 125.00 FEET EAST AT RIGHT ANGLES FROM THAT COURSE IN SAID EASTERLY BOUNDARY OF SAID LAND PARCEL DESCRIBED AS "SOUTH 330.46 FEET"; THENCE SOUTH ALONG SAID PARALLEL LINE 491.84 FEET TO THE BEGINNING OF A TANGENT 222.08-FOOT-RADIUS CURVE CONCAVE NORTHEASTERLY, WHICH CURVE IS ALSO CONCENTRIC WITH THE 347.08-FOOT-RADIUS CURVE DESCRIBED IN THE NORTHEASTERLY BOUNDARY OF SAID LAND PARCEL; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID 222.08-FOOT-RADIUS CURVE THROUGH A CENTRAL ANGLE OF $63^{\circ}35'01''$ A DISTANCE OF 246.45 FEET; THENCE TANGENT TO SAID CURVE SOUTH $63^{\circ}35'01''$ EAST 25.61 FEET TO INTERSECTION WITH THE NORTHEASTERLY PROLONGATION OF THE SOUTHEASTERLY LINE OF SAID LAND PARCEL BEARING NORTH $26^{\circ}24'59''$ EAST FROM THE TRUE POINT OF BEGINNING; THENCE SOUTH $26^{\circ}24'59''$ WEST 125.00 FEET TO THE TRUE POINT OF BEGINNING.

HUBBS-SEA WORLD RESEARCH INSTITUTE

(A summary of the descriptive material contained in "Hubbs-Sea World Research Institute" brochure distributed by HSWRI)

The Institute is a California non-profit corporation engaged in scientific research in the marine environment. The Institute was founded in 1963; is qualified as a non-profit operating foundation pursuant to Internal Revenue Code Section 501 (c) (3).

PHILOSOPHY AND OBJECTIVES

The sweeping changes wrought by an energy revolution and technology explosion accompanied by social upheaval have touched upon and influenced all elements of the universe and all forms of life.

Mankind's choices for survival today have slimmed to narrow margins. One inescapable demand is constant and ever present: We must understand and learn to manage more effectively than ever before the environmental influences that sustain human life. One of the highest priorities must be given the aquatic-marine environment and the development of protective management of its resources.

In this philosophical framework lie the objectives of Hubbs-Sea World Research Institute.

FACILITIES

The Institute's headquarter complex consists of administrative offices, a technical library and utility offices, specimen holding and observation tanks and a wet lab with filtered running sea water used in conjunction with the modern examination and treatment facilities and complete pathology laboratory of Sea World, Inc.

The Institute staff, supplemented by Sea World park, offers a broad range of specialized aquatic-marine research.

The capabilities of Hubbs-Sea World Research Institute are designed:

- To facilitate, support and initiate aquatic-marine research by the scientific community.
- To extract, process and disseminate information and data from research efforts supporting the advance of knowledge of the environment and its resources.

In pursuit of its objectives, the Institute maintains associations with accredited Research Fellows, associates and graduate students, promoting use of Institute facilities.

PROGRAMS AND PROJECTS

Existing programs conducted by the Institute fall into the following areas of specialization: Ichthyology; Aquaculture; Aquatic Animal Husbandry, Physiology and Behavior; Aquatic Environmental and Population Studies; and Aquatic Science Education.

Ichthyology - Much of the Institute's early work involved ichthyological research in conjunction with the California Department of Fish and Game, the National Marine Fisheries Service and the government of Mexico. Approximately 30,000 anchovies and 4,000 albacore, bluefin, skipjack, marlin and sailfish were captured, tagged and released through more than 75 expeditions.

The Institute, using its own 93-foot research vessel, has made live fish collections for Scripps Institution of Oceanography and the Steinhart Aquarium. One expedition to the Galapagos Islands documented subjects that inspired Darwin to develop his theory of evolution on film.

Current ichthyological research includes a joint project with Woods Hole Oceanographic Institution, California's Department of Fish and Game and Mexican Fishery scientists to tag broadbill swordfish (*Xiphias gladius*) in Mexican waters adjacent to Cabo San Lucas. This first major tagging program of swordfish in the Eastern Pacific addresses the need for population data in support of

more effective management of the resource by the United States as well as Mexico.

Aquaculture - The Institute's 6,000 sq.-foot research aquarium is currently in use in investigating feasibilities of producing protein that will supplement existing food sources for humans as global populations grow.

Phase One of the long-term project will initiate studies of spawning and rearing tropical fish, the ocean ranching of salmonids, and development of techniques for culturing brine shrimp which will serve as a food source for the experimental species.

Joint use of the Institute's research aquarium and marine biology facilities is being provided in support of aquaculture and marine biological research projects of San Diego State University's Center for Marine Studies; and Scripps Institute of Oceanography. Extension facilities of the Center are located within the Institute complex.

Aquatic Animal Husbandry - The successful maintenance of marine specimens in laboratories, even in areas far removed from the sea, has been enhanced significantly by research on the creation of artificial salt water environments by the Institute.

It was in such a simulated environment in 1976 that two wolf eels (*Anarrhichthys ocellatus*) were successfully hatched and reared, the first reproduction of this species ever recorded in an artificial environment. The maintenance of pelagic sharks in an artificial environment is now under study.

The National Science Foundation, through the Institute, is sponsoring a long-term project involving the establishment of an Antarctic penguin breeding colony.

In preparation for the United Nations Food and Agriculture Organization's Consultation on Marine Mammals, a survey was conducted in 1976 by the Institute determining the number of marine mammals maintained in North American collections.

Statistics relating to the longevity of the animals and husbandry data were provided as a part of the survey, the first project of its kind ever conducted.

Physiology - Physiological research activity by the Institute in 1971 led to the successful capture of a 17-foot female California gray whale (*Eschrichtius robustus*). Gigi, as she was named, became the first mysticete (baleen whale) to be studied for a prolonged period. She was returned to the natural environment after a year's observation.

Results of this work were integrated into an international workshop on the California gray whale co-sponsored by the National Marine Fisheries Service, the Naval Undersea Center (now the Naval Ocean Systems Center) and Sea World, Inc. Results of the workshop were documented in the Marine Fisheries Review publication in April 1974.

A significant part of the Institute's long-term efforts is devoted to the beached animal rescue program begun by Sea World, Inc. more than a decade ago. The program covers Atlantic and Pacific coastlines as well as the Gulf of Mexico and has resulted in the rescue of hundreds of animals of more than 20 species.

Organs and tissues have been preserved and distributed, providing valuable data on physiology, pathology and medical treatment of marine animals. These have been made available to research centers throughout the world.

Under supervision of Dr. L. H. Cornell, Director of Research, Sea World, Inc., research advances in the husbandry of many unique and endangered species, such as the sea otter (*Enhydra lutris*) and walrus (*Odobenus rosmarus*) have been achieved.

Extensive research on the diving physiology of the California gray whale (*Eschrichtius robustus*), harbor seal (*Phoca vitulina*), Weddell seal (*Leponychotes weddelli*) and California sea lion (*Zalophus californianus*) have been conducted under the auspices of the Institute by Drs. Robert Elsner and Gerald Kooyman. Definitions of such unique physiological adaptations as bradycardia (dive reflex) and cardiovascular physiology during a dive have been obtained through this research.

Aquatic Animal Behavior - Institute Research Fellows are investigating a variety of innovative reinforcement schedules for the most effective shaping of animal behavior.

A National Science Foundation grant is being applied to acoustical and behavioral research on common dolphins (*Delphinus delphis*) in cooperation with San Diego State University Research Foundation and the Naval Ocean Systems Center. The project is being carried out through use of Institute facilities and support services.

The first research of its kind to be conducted on this species, the project will generate data of potential importance to the reduction of porpoise mortality associated with tuna purse seine operations.

Acoustic and visual capabilities of the bottle-nosed dolphin (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*) and killer whale (*Orcinus orca*) have been under long-term investigation by the Institute.

Behavior patterns of the killer whale (*Orcinus orca*), bottle-nosed dolphin (*Tursiops truncatus*) and common dolphin (*Delphinus delphis*) are being studied by Institute Research associates.

Institute Research Zoologists are studying neonate and maternal behavior of the bottle-nosed dolphin (*Tursiops truncatus*). Two successful births occurred at Sea World facilities in San Diego in 1976.

A long-term study of color-patterns in cetaceans is being conducted jointly by Hubbs-Sea World Research Institute's Dr. William E. Evans and Dr. Alexey V. Yablokov, Director of the Institute of Developmental Biology in Moscow. Analysis of the variations in natural markings will provide a tool for field identification of populations, sub-populations and individuals that will supplement the morphological and biochemical laboratory techniques in current use.

Additional data supplied by U.S. and Soviet commercial fisherman, the U.S. National Marine Fisheries' Tuna-Porpoise Observation program and scientific expeditions from both countries will provide global information on the movements of the species under investigation. These include sperm, pilot and killer whales (Physeter, Globicephala and Orcinus species) and Dall's, white-sided, white-bellied, spotted and spinner porpoises (Phocoenoides, Lagenorhynchus, Delphinus and Stenella species).

Under sponsorship of the Marine Mammal Commission the Institute has developed equipment and techniques for cryogenic marking of marine mammals to permit identification of individuals in their natural habitat.

The technique will enable collection of population statistics essential to the design and evaluation of conservation efforts.

Aquatic Science Education - The Institute has maintained, since its inception, a policy of encouraging qualified university and college students to avail themselves of its facilities and staff for purposes of scientific guidance and counseling, and reference materials.

Coupled to this basic policy has been the development of a scholarship program in which staff members of the Institute are awarded study grants and sabbaticals.

The Institute's student scholarship program currently includes an annual Carl L. Hubbs Fellowship award presented to qualified students enrolled at Scripps Institution of Oceanography.

The philosophy and policies guiding these programs respond to broadened needs for opportunities to conduct investigative research.

The Institute's Aquatic Science Education program offers information services including a speakers' bureau, participation in and sponsorship of national and international conferences and workshops and solicitation and publication of scientific papers.

COPY

Property - Ranch # 303

LEASE AMENDMENT

THIS LEASE AMENDMENT, executed in duplicate as of this 12th day of December, 1983, at San Diego, California, by and between THE CITY OF SAN DIEGO, a municipal corporation in the County of San Diego, State of California ("CITY") and SEA WORLD, INC., a Delaware corporation, 1720 South Shores Road, San Diego, California 92109 ("LESSEE"), is made with reference to the following facts:

A. CITY leases to LESSEE and LESSEE leases from CITY certain property in Mission Bay Park ("Premises"), described in lease amendments dated December 14, 1977, and January 29, 1979, and filed in the office of the City Clerk of CITY as Document Nos. 762304 and 765767, respectively. (The foregoing lease amendments are collectively referred to in this Lease Amendment as the "Lease.")

B. The parties hereto desire to amend the Lease as hereinafter provided.

THEREFORE, in consideration of the mutual covenants contained herein, the Lease is hereby amended to provide, and LESSEE and CITY hereby agree, as follows:

1. Article I is hereby amended by adding to the Premises Parcel "A" Property 3 and Parcel "B" WATER 7.216 ACRES as described on Exhibit "1" and delineated on Exhibit "2" attached hereto. For convenience of reference the parties hereby agree that Article I of the Lease shall hereby be amended to read as follows, and Exhibits "1" and "2" to the Lease shall also be hereby amended to provide the same as Exhibits "1" and "2" to this Lease Amendment:

"DEMISE

CITY hereby leases to LESSEE and LESSEE hereby leases and hires from CITY those parcels of real property and water area, together with appurtenances thereto, situated in the County of San Diego, State of California, which are set forth in Exhibit "1" consisting of 15 pages attached hereto and made a part hereof. Said parcels are herein collectively referred to as the "Premises" and are individually referred to as Parcel "A," which consists of certain

DOCUMENT NO. RR-259814

-1-

FILED DEC 12 1983

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

water parcels and certain land parcels referred to as Parcel "A" Property 1, Parcel "A" Property 2, and Parcel "A" Property 3 (described on pages 1 through 7 inclusive of Exhibit "1"); Parcel "B," which consists of certain land and water parcels (described on pages 8 through 12 inclusive of Exhibit "1") and Parcel "C," which consists of certain land and water parcels (described on pages 13 through 15 inclusive of Exhibit "1"). Each of said parcels is also delineated on the plat consisting of one (1) sheet attached hereto marked Exhibit "2" and made a part hereof."

2. Article II is hereby amended to read as follows:

"TERM

The term, hereafter referred to as the "Term," of this lease shall be the period beginning January 2, 1984, and ending December 31, 2033. In no event shall the Term exceed the period allowed by law, and the Term shall be deemed to be the lesser of the period referred to herein or the maximum period allowed by law."

3. Subparagraph A.1.r of Article IV is hereby amended to read as follows:

"r. The following income received by LESSEE shall be excluded from the computation of gross income for purposes of applying the foregoing percentages: (i) any income from the sale of licenses or permits for a governmental agency; (ii) any income from activities of LESSEE, its affiliates and subsidiaries, conducted off of the Premises; (iii) any income from the sale of merchandise to other dealers, at actual cost, with no mark-ups, as a method of changing inventories and resulting in no profit to LESSEE; galley sales of food and beverages made from boats operating from the Premises outside of Mission Bay; and (iv) allowances made by LESSEE for traded-in merchandise; provided that LESSEE keeps adequate records for all of the foregoing

from which CITY can accurately determine what allowances were made."

4. Subparagraph A.2 of Article IV is hereby amended to read as follows:

"2. The minimum rent for the Premises shall be the sum of \$1,000,000 for each accounting year commencing with the accounting year beginning January 2, 1984; provided, that for the period of three accounting years commencing at the end of the three accounting years commencing January 2, 1984, and for each subsequent period of three accounting years during the term of this Lease, the minimum rent shall be adjusted to an amount equal to eighty percent (80%) of the "average accounting year rent" (determined as provided below) actually paid for the three previous accounting years, but no such adjustment shall result in a decrease in the minimum rent in effect immediately prior to the adjustment date. For purposes of adjusting the minimum rent as provided above, the "average accounting year rent" shall be the average of the rent for the three accounting years immediately preceding an adjustment date unless the highest rent of said three years differs from the middle rent of said three years by more than ten percent (10%) of the middle rent, in which case the "average accounting year rent" shall be the average of the middle rent and the lowest rent of said three years."

5. Paragraph A of Article IV is hereby amended by adding Subparagraph 3 thereto, to read as follows:

"3. In addition to any other rent provided for in this Lease, LESSEE shall, during the term of this Lease, also pay to CITY rent for the use of the Premises in the following amounts: (i) \$50,000 per year, payable in advance, for a period of five (5) years, with the first such payment being due on January 2, 1984, and thereafter on each anniversary thereof, with the last such payment being due on January 2, 1988; plus

(ii) \$75,000 per year, payable in advance, for a period of ten (10) years, with the first such payment being due on January 2, 1984, and thereafter on each anniversary thereof, with the last such payment being due on January 2, 1993; provided, that the payments payable on January 2, 1984, as provided in subparagraphs (i) and (ii) above, shall not be due until ten (10) days after the amendment adding these provisions to the Lease becomes effective. The rental payable pursuant to subparagraph (ii) above on January 2, 1985, and each anniversary thereof through January 2, 1993, shall be subject to adjustment in accordance with the following: "Index," as used herein, means the Consumer Price Index for All Urban Consumers for Los Angeles/Long Beach/Anaheim CA/All Items (1967=100) published monthly by the United States Bureau of Labor Statistics. If the Index is no longer published, the determination of the adjustment as hereinafter provided shall be made by reference to conversion tables, if any, included in any new index published by the United States Government in replacement of the Index; and if no such conversion tables exist, then the parties shall agree upon another source of authoritative information to determine changes in purchasing power, and if they are unable to agree, then such source of information shall be determined by arbitration conducted in accordance with the rules of The American Arbitration Association. "Adjustment Date," as used herein, means January 2, 1985, and each anniversary thereof through January 2, 1993; and "Base Date" means the January 2 immediately preceding each applicable Adjustment Date. The rental payable on each Adjustment Date shall be the amount that bears the same relationship to the amount of rental payable on the immediately preceding Base Date as the average monthly Index for the months of July, August, and September immediately preceding the Adjustment Date bears to the average monthly Index for the months of July, August, and September immediately preceding the Base Date for such

Adjustment Date; provided that said adjusted rental shall not exceed 110% of the rental payable on the immediately preceding Base Date. [For example, assuming the average month's Index for July-September 1983 is 300, and that for July-September 1984 is 340, then the rental payable pursuant to Subparagraph (ii) above on January 2, 1985, shall be \$82,500 ($340/300=113.33\%$, which exceeds 110%; thus, 110% of $\$75,000=\$82,500$).] CITY agrees to use the rental payments provided for in subparagraph (ii) above solely for the purpose of constructing, operating, and/or maintaining public park and recreation facilities adjacent to the easterly boundary of the Premises in the general area known as the 'South Shores' of Mission Bay."

6. Paragraph A of Article IV is hereby amended by adding Subparagraph 4 thereto, to read as follows:

"4. If this Lease terminates prior to January 2, 1994, on a date other than January 1, then LESSEE shall receive a credit in an amount equal to the aggregate of any unearned advance-paid rent pursuant to Subparagraph 3 above, prorated on the basis of a 360-day year, against any final percentage or minimum rent due upon such termination; and if such credit exceeds any such final percentage or minimum rent payment, then CITY shall promptly pay LESSEE the amount of such excess."

7. Paragraph A of Article IV is hereby amended by adding Subparagraph 5 thereto, to read as follows:

"5 (a) At the end of the tenth (10th) full accounting year of the Term, and at the end of every tenth (10th) accounting year thereafter (the "adjustment dates"), the percentage rates used to compute the percentage rent for the succeeding period of ten (10) accounting years may be adjusted to reflect fair market rental rates then generally in effect. At least four (4) months prior to each such adjustment date, the parties shall negotiate in good faith to

determine whether one or more or none of the rates then in effect should be adjusted and, if so, the extent of any such adjustment or adjustments. In the event that such determination is not made by mutual consent of the parties prior to sixty (60) days before each adjustment date, either party may refer the matter to arbitration pursuant to Subparagraph (b) below, by giving the other party a written demand therefor prior to fifty (50) days before the applicable adjustment date. Notwithstanding the foregoing, no adjustment or adjustments, if any, of the percentage rate applicable to gross income derived from the sale of general admission tickets, as provided in Subparagraph A.1.c of Article IV of this Lease, shall cause said rate ever to exceed four percent (4%) during the Term, and, further, no one adjustment of said rate may exceed one (1) percentage point; provided, that said four percent (4%) limitation shall not apply to gross income, if any, received by LESSEE from the sale of general admission tickets that is attributable to the furnishing of goods or services for which other particular percentage rental rates are specified in this Lease and for which a separate charge is normally made. The imposition of the foregoing limitations does not suggest or imply that the rate applicable to charges for general admission tickets should ever be adjusted at all or in any particular amount, and the arbitrators shall be instructed not to consider the existence of such limitations in any arbitration.

(b) (1) In the event the parties cannot agree upon the percentage rates, at the time of any permitted adjustment as provided for in Subparagraph (a) above, and a written demand for arbitration is timely given as provided above, the issue whether one or more or none of the percentage rates then in effect should be adjusted, and, if so, the extent thereof, for the succeeding period of ten (10) accounting years shall be determined by arbitration in accordance with the following provisions.

(2) If the parties cannot agree on a mutually acceptable appraiser prior to forty (40) days before the applicable adjustment date, each party, within ten (10) days thereafter, shall appoint an arbitrator and give written notice of such appointment to the other party. The two arbitrators shall immediately choose a third arbitrator to work with them. If the two arbitrators fail to select a third arbitrator within ten (10) days following the date of their appointment, on written application by either party the third arbitrator shall be promptly appointed by the then presiding judge of the Superior Court of the State of California, County of San Diego, acting in his individual capacity. The party making the application shall give the other party written notice of its application.

(3) Unless the parties otherwise agree, all of the arbitrators shall be members in good standing of the American Institute of Real Estate Appraisers with an M.A.I. designation and shall have at least five (5) years experience in appraising commercial and other properties. Each party shall bear the expenses of its own appointed arbitrator and shall bear other expenses pursuant to Section 1284.2 of the Code of Civil Procedures of California. Hearings shall be held in the City of San Diego, California. If there are three arbitrators, the entire award and each element thereof shall be the decision of not less than two of the arbitrators. In the event two arbitrators cannot agree, then the arbitrators shall be discharged and new arbitrators selected; and this process shall be repeated until a decision of not less than two arbitrators is obtained. The percentage rates to be determined shall be those which would be appropriate if the Premises were vacant and made available on the open market for new leasing purposes, pursuant to a lease substantially similar to this Lease, at the commencement of the period under arbitration. For the purpose of this arbitration procedure, the

arbitrators shall assume that the CITY has a fee simple absolute estate. In determining what percentage rates would be appropriate the arbitrators shall consider the Premises as if they were available to be leased only for the actual uses and purposes then expressly authorized by CITY. In determining the percentage rates for said uses and purposes, the arbitrators shall use and analyze only that rental data that is found in the open marketplace, such as is demanded and received by other Landlords for the same or similar uses. In all cases the arbitrators shall be instructed that the rent determination shall be based upon recognized real estate appraisal principles and methods. The award determined by the arbitrators shall be effective and retroactive to the first day of the period under arbitration, and any amounts found to be owing shall be paid promptly together with interest thereon from the date it should have been paid until it is paid, at the greater of ten percent (10%) per annum or the prime rate of the Bank of America from time to time in effect. The award shall be in writing in the form of a report that is in accordance with the powers of the arbitrators herein, supported by facts and analysis and in accordance with law. The arbitrators shall make copies of their report available to any ethical practice committee of any recognized professional real estate organization. The arbitration shall be conducted under and subject to the California Arbitration Statute."

8. Paragraph C of Article IV is hereby amended to read as follows:

"C. For purposes of this Paragraph C, the term of this Lease shall be divided into "accounting years" and each accounting year into "accounting periods." The first accounting year shall commence on January 2, 1984; and each subsequent accounting year shall commence on the day immediately following the end of the immediately preceding accounting year. Each accounting

year shall contain 52 weeks (Monday through Sunday), except that the accounting year commencing December 28, 1987 ("1988 Accounting Year") and each seventh accounting year thereafter shall contain 53 weeks. Each accounting year shall be divided into 12 accounting periods. Each accounting period shall contain four weeks, except that the third, fifth, eighth and tenth accounting periods of each accounting year, and the twelfth accounting period in the 1988 Accounting Year and each seventh accounting year thereafter, shall contain five weeks. On or before the last day of each accounting period LESSEE shall render to CITY, in a form prescribed by CITY, a detailed report of gross income for that portion of the accounting year which ends with and includes the last day of the immediately preceding accounting period. Each report shall be signed by LESSEE or its responsible agent under penalty of perjury, attesting to the accuracy thereof, shall be legally binding upon LESSEE, and shall include the following: (1) the total gross income for said portion of the accounting year, itemized as to each of the business categories for which a separate percentage rental rate is established; (2) the related itemized amounts of percentage rent computed as herein provided and the total thereof; and (3) the total rent previously paid by LESSEE for the accounting year within which the immediately preceding accounting period falls. Concurrently with the rendering of each statement LESSEE shall pay to CITY, in payment of the percentage or minimum rent required by Paragraph A of this Article IV, the greater of the following two amounts:

1. The total percentage rent computed for that portion of the accounting year ending with and including the last day of the immediately preceding accounting period (Item (2) above), less total rent previously paid for the accounting year (Item (3) above); or

2. One-twelfth (1/12th) of the minimum rent, multiplied by the number of accounting periods from the beginning of the accounting year to and including the immediately preceding accounting period, less total rent previously paid for the accounting year (Item (3) above). Notwithstanding the foregoing the final accounting year and accounting period shall end on the last day of the term of this Lease, as the same may be extended, and the accounting and reporting therefor shall be furnished to City within thirty (30) days thereafter."

9. Article IV is hereby amended by adding thereto Paragraph E, to read as follows:

"E. In connection with giving written approval of a use of the Premises other than those permitted or previously approved by CITY as provided in Article III of this Lease, and for which a particular rental is not provided in this Article IV, the City Manager may agree with LESSEE upon a rental for such use, and such agreement shall be deemed a part of and incorporated by reference in this Article IV; provided, that any use of the Premises not permitted by this Lease or not so approved by the City Manager shall be subject to the provisions of Subparagraph F of this Article IV below."

10. Article IV is hereby amended by adding thereto Paragraph F, to read as follows:

"F. LESSEE shall pay to CITY, upon demand, twenty (20%) percent of the gross receipts derived from any service or use made by LESSEE of the Premises that is not permitted by this Lease. Such payment shall be due on the date other percentage rents are due as provided in this Lease and shall be subject to the provisions of this Lease for delinquent rent. The existence of this twenty (20%) percent charge and the payment of this charge or any part of it does not constitute an authorization for a particular service or use, and does not waive any of.

CITY's rights to terminate a service or use or to default LESSEE for participating in or allowing any unauthorized use of the Premises."

11. Article IV is hereby amended by adding thereto Paragraph G, to read as follows:

"G. If LESSEE fails to pay the rent as provided in this Lease when due, LESSEE shall pay in addition to the unpaid rents an amount equal to five (5%) percent of the delinquent rent. If the rent is still unpaid at the end of fifteen (15) days following the date it is due, then LESSEE shall pay an additional amount equal to five (5%) percent (making a total of ten (10%) percent) which is hereby mutually agreed by the parties to be appropriate to compensate CITY for loss resulting from rent delinquency including lost interest, opportunities, legal costs and the cost of servicing the delinquent account. In the event that the CITY audit, if applicable, discloses that the rent for the audited period has been underpaid in excess of five (5%) percent of the total required rent, then LESSEE shall pay CITY for the cost of the audit plus interest at the greater of ten (10%) percent per annum or the prime rate of the Bank of America from time to time in effect on the amount by which said rent was underpaid, from the date said amount should have been paid until it is paid, in addition to the unpaid rents as shown to be due CITY, as compensation to CITY for administrative costs and loss of interest as referred to above. LESSEE agrees to pay such amount and further agrees that the specific late charges represent a fair and reasonable estimate of the costs that CITY will incur from LESSEE's late payment. Acceptance of late charges and any portion of the late payment by the CITY shall in no event constitute a waiver by CITY of LESSEE's default with respect to late payment, nor shall it prevent CITY from exercising any of the other rights and remedies granted in this Lease. The City.

Manager of CITY may, for good cause shown, waive any delinquent rent charge upon written application of LESSEE."

12. Article IV is hereby amended by adding thereto Paragraph H, to read as follows:

"H. Payments of rent shall be made by check payable to the City Treasurer and mailed or delivered to the office of the City Treasurer, City of San Diego, P. O. Box 2289, San Diego, California 92112-4165. The place and time of payment may be changed at any time by CITY upon thirty (30) days prior written notice to LESSEE. Mailed rent payments shall be deemed paid upon the date such payment is postmarked by the postal authorities. LESSEE assumes all risk of loss and late payment charges if payments are made by mail, or if postmarks are illegible, in which case the payment shall be deemed paid upon actual receipt by the City Treasurer."

13. Article XXXII is hereby amended by adding thereto the following provisions:

"A. Within two (2) years following the effective date of the amendment adding the following provisions to this Lease, LESSEE shall submit a comprehensive conceptual plan for the development and/or redevelopment of the entire Premises to the City Manager for his approval. It is understood that this approval shall be in addition to any other proceedings, approvals or permits required by law, including without limitation the California Environmental Quality Act and the Charter and ordinances of the City of San Diego. LESSEE shall not use Parcel "A" Property 3 or Parcel "B" WATER 7.216 Acres until said conceptual plan is approved and said other required approvals and permits are obtained. In the event such plan as initially submitted is not approved by the City Manager, then such plan shall be modified and resubmitted until the City Manager's approval is obtained. The City Manager shall act promptly on LESSEE's submittals, and shall set forth with particularity his reasons for any

disapprovals. Said plan may be amended from time to time by ~~LESSEE~~ with the prior written approval of the City Manager. (References herein to the approved development plan shall mean said plan as so amended.) Upon receipt of all required approvals of said plan, the same shall be assigned a City Document Number, shall be denominated the "Master Plan" for the Premises, and shall be substituted for the "Master Plan" referred to in Paragraph A of Article III of this Lease.

B. Subject to delays resulting from causes beyond LESSEE's reasonable control, LESSEE shall implement the First Phase (as defined below) of said approved plan as soon as practicable after LESSEE obtains the City Manager's approval and all other required permits and approvals for the First Phase of the approved plan (provided that commencement of construction of the First Phase of said plan shall not be required before three (3) years following the City Manager's approval thereof), and shall proceed diligently and without undue delay to completion thereof. "First Phase" shall mean the development and construction of a project or projects included within the approved development plan involving an aggregate investment (including direct and indirect construction costs and costs for architects, engineers, consultants fees and permitting and related expenses) of at least \$2,500,000, and shall include (but not necessarily be limited to) improvements to Parcel "A" Property 3 and Parcel "B" WATER 7.216 ACRES.

C. Should LESSEE be required by any public entity, including CITY (such as, for example, the California Coastal Commission) to make any expenditures or payments in lieu of expenditures (other than the rental expressly provided for in this Lease) for permanent capital improvements on, to, or in Mission Bay Park which would normally be the responsibility of CITY ("Mitigation Expenditures") as a condition to obtaining permission to develop, construct, install, or operate improvements, facilities, or equipment in, to, or on the Premises in

excess of expenditures directly required to develop, construct, install, or operate said improvements, facilities, or equipment (such as, for example, the contribution of funds for an off-site improvement in alleged mitigation of alleged adverse environmental impacts of said development and/or activities), then LESSEE shall be given a credit in the amount of fifty percent (50%) of such Mitigation Expenditures against the rental payable under this Lease, as follows: (i) the amount of such credit shall not exceed the total rental payable pursuant to subparagraph IV.A.3 of this Lease; and (ii) said credit shall be allowed only to the extent of rental payments under subparagraph IV.A.3 previously made and as any such payments subsequently become due.

D. Should LESSEE fail to commence construction of the First Phase of the improvements in said approved development plan as provided above, subject to delays beyond LESSEE's reasonable control, then Parcel "A" Property 3 and Parcel "B" WATER 7.216 ACRES shall revert to CITY, at CITY's option, free and clear of this Lease or any other interest of LESSEE, unless LESSEE commences construction within thirty (30) days following receipt of written notice from CITY of its intention to cause such reversion, given on or after the date LESSEE shall have commenced construction, subject to delays beyond its reasonable control. If requested by CITY, and if CITY's notice of election is valid and LESSEE fails to commence construction within said thirty (30) day period, LESSEE shall execute, acknowledge, and deliver to CITY a quitclaim deed whereby LESSEE shall quitclaim all of its right, title, and interest in said parcel to CITY. Such reversion of Parcel "A" Property 3 and Parcel "B" WATER 7.216 ACRES shall be CITY's sole remedy for LESSEE's failure to timely commence construction of the First Phase of the improvements referred to in the approved development plan. In the event Parcel "A" Property 3 and/or Parcel "B" WATER 7.216

ACRES revert to CITY as provided above, then LESSEE's obligation for the rent payable as provided in Paragraph A.3 of Article IV of this Lease shall cease and terminate as of the date of such reversion; such rent shall be prorated to the date of such termination on the basis of a 360 day year, and LESSEE shall receive a credit in an amount equal to any unearned advance-paid rent pursuant to said Paragraph A.3 against the next payment or payments of percentage or minimum rent due hereunder.

E. Should LESSEE timely commence construction of the First Phase of the improvements referred to in said approved development plan but fail to diligently complete such improvements (subject to causes beyond LESSEE's reasonable control), then LESSEE shall pay to CITY an amount equal to ten percent (10%) of the then applicable minimum rent, prorated for fractions of years, during the periods of such unexcused delays, in addition to any other rent payable hereunder."

14. Article XL is hereby amended to read as follows:

"LESSEE agrees to abide by CITY's Equal Opportunity Policy in accordance with the terms and conditions set forth in Council Policy 300-10, a copy of which is attached to this Lease and by this reference incorporated herein."

15. The Lease is hereby amended by adding Article XLI thereto, to read as follows:

"ARTICLE XLI

GENERAL

A. If any term, covenant or provision of this Lease is found invalid, void or unenforceable by a court of competent jurisdiction, then the remaining provisions will remain in full force and effect.

B. In the event of any litigation regarding this Lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court costs and attorneys' fees.

C. Words in any gender used in this Lease shall include any other gender, and words in the singular number shall include the plural, when the sense requires.

D. LESSEE shall be responsible for the enforcement, both within and in connection with the Premises, of the following liveaboard regulation:

'No person shall remain overnight on board any watercraft or houseboat in Mission Bay Park unless the watercraft or houseboat has a self-contained toilet on board that does not discharge into the waters of the bay. No owner of any watercraft or houseboat shall allow it to be occupied overnight in Mission Bay Park for a period of more than ninety (90) days, whether successive or cumulative, during any one (1) calendar year. A watercraft or houseboat is presumed to be occupied overnight when there are one or more persons on board after midnight. The lessees of Mission Bay Park land are primarily responsible for the enforcement of this subsection on the water abutting their leased lands.'

The above liveaboard regulation is presently set forth in the City Municipal Code Section 63.25.71, and is subject to amendment or modification by the City Counsel. LESSEE also agrees to comply or secure compliance with any such amendment or modification. LESSEE's enforcement obligations shall consist of the following: (i) taking reasonable steps to monitor the activities at its marina; (ii) reporting violators to the appropriate officials of CITY, and (iii) providing in its slip rental agreements that owners of watercraft and

houseboats shall abide by the foregoing regulation, and enforcing said provision."

16. It is understood that LESSEE contemplates the future development of a hotel and related facilities (which would probably incorporate the Atlantis Restaurant) on the Premises, and that such development would require an amendment to the Lease and possibly a sublease to a separate entity. Should LESSEE elect to develop the hotel, the parties agree to negotiate in good faith the terms and conditions of such amendment and, if required, such sublease; provided, that the percentage rentals attributable to the various hotel uses shall be substantially similar to those contained in the newest CITY leases for hotels which are then open or at least under construction, and that the other terms of the Lease, as amended by this Lease Amendment, shall not be renegotiated except as necessary to accommodate such hotel development; provided further, that the parties understand that the final decision whether to approve such amendment and/or sublease shall be vested in the sole discretion of the City Council of CITY.

17. Except as provided above, the Lease shall remain in full force and effect.

18. The effective date of this Lease Amendment shall be January 2, 1984.

IN WITNESS WHEREOF, this Lease Amendment is executed by CITY, acting by and through the City Manager under and pursuant to Resolution No. R-259814 of the City Council authorizing such execution, and by LESSEE, acting by and through its duly authorized officers, as of the date first above written.

I HEREBY APPROVE the form and legality of the foregoing Agreement this 12 day of ~~December~~ February, 1984.
John W. Witt
City Attorney

By [Signature]
Deputy

THE CITY OF SAN DIEGO

By: [Signature]
ASSISTANT TO THE CITY MANAGER

SEA WORLD, INC.

By: [Signature]
By: _____

LEASE AMENDMENT

(Sea World)

THIS LEASE AMENDMENT, executed in duplicate as of this day of JUN 24 1985, 1985, at San Diego, California, by and between ~~THE CITY OF~~ CITY OF SAN DIEGO, a municipal corporation in the County of San Diego, State of California ("CITY"), and SEA WORLD, INC., a Delaware corporation, 1720 South Shores Road, San Diego, California 92109 ("LESSEE"), is made with reference to the following facts:

A. CITY leases to LESSEE and LESSEE leases from CITY certain property in Mission Bay Park ("Premises"), described in lease amendments dated December 14, 1977, January 29, 1979, and December 12, 1983, and filed in the office of the City Clerk of CITY as Document Nos. 762304, 765767, and RR-259814, respectively. (The foregoing lease amendments are collectively referred to in this Lease Amendment as the "Lease.")

B. The parties hereto desire to amend the Lease as hereinafter provided.

THEREFORE, in consideration of the mutual covenants contained herein, the Lease is hereby amended to provide, and LESSEE and CITY hereby agree, as follows:

1. Article I is hereby amended by (i) changing the identification of the various parcels of the Premises so that all land areas shall be a part of and identified as Parcel "A" and all water areas shall be a part of and identified as Parcel "B," (ii) adding to the Premises a parcel identified as Parcel "A" Property 3, which parcel has previously been used by LESSEE with the permission of CITY, and (iii) providing for the possible adjustment of the easterly boundary of new Parcel "A" Property 2. For convenience of reference, the parties hereby agree that ARTICLE I - DEMISE of the Lease shall be amended to read as follows, and Exhibits "1" and "2" to the Lease shall be amended to provide the same as Exhibits "1" and "2" to this Lease Agreement:

"I

DEMISE

CITY hereby leases to LESSEE, and LESSEE hereby leases from CITY, that certain

DOCUMENT NO. RR-263507

FILED JUN 24 1985

OFFICE OF THE CITY CLERK

real property, consisting of land and water area and all appurtenances thereto, situated in the City of San Diego, County of San Diego, State of California, which is described on Exhibit '1,' consisting of seven (7) pages, attached hereto and made a part hereof, and delineated on the plat, consisting of one (1) sheet, attached hereto, marked Exhibit '2' and made a part hereof. Said real property is herein collectively referred to as the "Premises" and is individually referred to as (i) Parcel 'A,' consisting of 149.473 acres (more or less) of land area (including Parcel 'A' Property 1, Parcel 'A' Property 2, and Parcel 'A' Property 3) described on pages 1 through 5 inclusive of Exhibit '1', and (ii) Parcel 'B' consisting of 17.014 acres (more or less) of water area (including Parcel 'B' Property 1 and Parcel 'B' Property 2) described on pages 6 through 7 inclusive of Exhibit '1.' When CITY is prepared to adopt the final map establishing the exact westerly boundary of that portion of the Mission Bay Park area known as the 'South Shores Area Master Plan,' LESSEE agrees that the legal description of the easterly boundary line of Parcel 'A' Property 2, as described and delineated on Exhibits '1' and '2' attached to this Lease, shall be automatically adjusted to accommodate the westerly boundary line of said 'South Shores Area Master Plan;' provided, that (i) such adjustment shall be subject to LESSEE's approval, which LESSEE shall not unreasonably withhold so long as it does not adversely affect its proposed uses of the Premises as generally shown and described in the Development Plan (referred to in Paragraph 'A' of Article III); (ii) the resulting Parcel 'A' Property 2 shall contain at least 25.002 acres; and (iii) the parties shall prepare, date, and initial new legal descriptions and delineations of Parcel 'A' Property 2 reflecting such adjustment and attach the same to this Lease in lieu of the existing legal description and delineation thereof."

attached
hereto
as of
6/1/93.
Lrb

2. ARTICLE III - USE OF THE PREMISES is hereby amended to read as follows:

"III

USE OF THE PREMISES

A. The Premises shall be used for the purpose of constructing, operating, and maintaining thereon the activities and uses as generally shown and described in LESSEE's Development Plan referred to in ARTICLE XXXII below, as the same may be mutually revised in writing from time to time by CITY and LESSEE as provided in ARTICLE XXXII, and for such other incidental uses as are specifically approved in writing by the City Manager of CITY, and for no other purposes. Notwithstanding the foregoing, the approved uses existing as of the date the Development Plan was approved by the City Council of CITY shall continue to be permitted to the extent they are not changed by the implementation of the Development Plan or otherwise by agreement in writing by and between CITY and LESSEE.

B. All offices, service facilities, laboratories, and related facilities shall be utilized in the furtherance of the park and recreation activities authorized in and by this Lease.

C. LESSEE's rights to use Parcel 'A' Property 3 of the Premises shall extend only to those portions thereof that are not being, or not to be, used by CITY for the construction, installation, and maintenance of a bridge, related storage, and for roadway and supporting structures therefor.

D. In connection with the maintenance and operation and selling of rides on watercraft from or upon the Premises, LESSEE shall have, and CITY hereby grants and extends to LESSEE, the right and privilege to operate watercraft in the public waterways of Mission Bay. LESSEE shall also have the right to embark and disembark

passengers from and at the Premises and the right to construct and maintain into the Premises from the waterways fronting on the Premises a channel at the location and of the dimension indicated on the Development Plan.

The granting of this right and privilege in connection with the use and operation of watercraft on the waters of Mission Bay may be suspended by CITY at any time when, in the opinion of the City Manager, such use becomes detrimental or hazardous to the other uses of Mission Bay. In any event, CITY shall have the right, upon ten (10) days written notice, to require LESSEE to suspend the use and operation of watercraft for limited predetermined periods when, in the opinion of the City Manager, such use and operation would unduly interfere with the use of Mission Bay for major public events.

Such suspension shall be without liability to CITY for damages of any kind suffered by LESSEE as a result of such suspension. The rights and privileges hereby granted shall be subject to the availability of operating area at approved speeds, and under such other municipal, state, and federal rules and regulations as are applicable to the operation of watercraft.

E. LESSEE shall have the right to operate an aerial sky ride over the waters of Mission Bay Park between the points Mission Bay Coordinates North 6,121.00 feet and West 12,864.36 feet, and North 6,460.00 feet and West 14,229.00 feet of the San Diego City Engineer's Mission Bay Coordinates System. Further, LESSEE shall have the right to construct and maintain two supporting towers for the sky ride in a 20-foot square area, the center of which is located at the following points:

(a) Mission Bay Coordinates North 6,206.59 feet and West 13,205.92 feet.

(b) Mission Bay Coordinates North
6,368.30 feet and West 13,919.36 feet.

F. LESSEE shall use the Premises only for the purpose of conducting thereon the businesses for which they are demised, and shall diligently conduct such businesses to produce a reasonable and substantial gross income."

3. Subparagraph "a" of Paragraph A.1 of ARTICLE IV - RENT is hereby amended to read as follows:

"a. TWO AND ONE-HALF PERCENT (2-1/2%) of the first \$600,000.00 of gross income derived from the dispensing of food and non-alcoholic beverages upon the Premises, including gross income derived from the operation of any restaurant, snack bar, cocktail lounge, bar, delicatessen, and from the sale of groceries during each year."

4. Subparagraph "r" of Paragraph A.1 of ARTICLE IV - RENT is hereby deleted.

5. Paragraph B of ARTICLE IV - RENT is hereby amended to read as follows:

"B. For purposes of computing percentage rent pursuant to this ARTICLE IV, 'gross income' shall mean all income resulting from occupancy of the Premises, including gross income of sublessees or concessionaires or their agents or any other party as a result of occupancy of the Premises (including the amount of any manufacturer's or importer's excise tax included in the prices of property sold, even though the manufacturer or importer is also the retailer thereof and it is immaterial whether the amount of such excise tax is separately stated); provided, however, that gross income shall exclude the following:

1. Rent paid to LESSEE from sublessees, concessionaires or other

occupants of the Premises in those situations where CITY receives a percentage of gross revenues from the operations of such sublessees, concessionaires, or other occupants of the Premises (provided, CITY shall not receive less rent under a sublease or concession operation than it would if that operation were conducted by LESSEE);

2. Federal, state or municipal taxes collected from the consumer (regardless of whether the amount thereof is stated to the consumer as a separate charge) and paid over periodically by LESSEE to a governmental agency accompanied by a tax return or statements required by law. Possessory interest taxes and other taxes not collected from the consumer may not be deducted from the gross income;

3. Uncollected credit and installment balances determined and shown on LESSEE's books to be bad debts, which are properly documented and detailed in the various rent categories;

4. Any income from the sale of licenses or permits for a governmental agency;

5. Any income from the sale of merchandise to other dealers, at actual cost, with no mark-ups, as a method of changing inventories and resulting in no profit to LESSEE;

6. Galley sales of food and beverages made from boats operating from the Premises when such sales occur outside of Mission Bay;

7. Allowances made by LESSEE for traded-in merchandise, provided that LESSEE keeps adequate records for all of the foregoing from which CITY can accurately determine what allowances were made; and

8. Any income from the sale or other disposition of used furniture, furnishings, fixtures and equipment used in connection

with the operation of a business on the Premises and not held for sale in the ordinary course of business.

6. Paragraph "D" of ARTICLE IV - RENT is hereby amended to read as follows:

"D. Hubbs Marine Research Institute ("Hubbs"), a non-profit foundation, may occupy a portion of the Premises not to exceed 80,000 square feet in ground area as generally shown on the Development Plan, during the entire term of this Lease without payment of any rent so long as the following terms and conditions are met:

1. Hubbs shall operate solely and exclusively as a California non-profit foundation and shall be involved solely and exclusively in oceanographic research and development activities for the public good, including the benefit of Mission Bay Park and CITY's tidelands.

2. No rental charge shall be made to LESSEE for any space, service, or activity conducted by Hubbs, nor shall LESSEE receive any income from HUBBS.

3. So long as Hubbs conducts its operations in accordance with the above conditions, no rent shall be payable for the premises occupied by Hubbs. However, in the event Hubbs does not comply with any or all of the above conditions, Hubbs shall pay a rental in the amount of seven percent (7%) of all revenue received by Hubbs from any source in connection with conducting its activities on the Premises."

7. ARTICLE V - MAINTENANCE OF RECORDS is hereby amended to read as follows:

"Whenever the rent hereunder is dependent on percentage calculations of gross income accruing to LESSEE or its sublessees, concessionaries, or any other

party, LESSEE shall keep, or cause to be kept, true, accurate and complete records and double entry books from which the CITY can at all times determine the nature and amounts of income subject to rental percentage from the operation of the Premises. Such records shall show all transactions relative to the conduct of the operation, and such transactions shall be supported by documents of original entry such as sales slips, cash register tapes, purchase invoices and tickets issued. In the event of admission charges, LESSEE shall either (i) issue serially-numbered tickets for each paid admission and shall keep adequate records of said serial numbers issued and of those unused or (ii) record admission charges by means of a cash register system which automatically issues a customer's receipt. All sales or rentals of merchandise and services rendered shall be recorded by means of a cash register system which automatically issues a customer's receipt or certifies the amount recorded on a sales slip. All said cash register systems shall have a locked-in total which is constantly accumulating, which total cannot be reset, and at the option of the CITY, a constantly locked-in accumulating printed transaction counter which cannot be reset, and/or printed detailed audit tape located within the register. Complete beginning and ending cash register readings shall be made a matter of daily record. Said books of account and records shall be kept or made available at one location within the limits of the City of San Diego. CITY have the right at any time and all reasonable times to examine and audit said records for the purpose of determining the accuracy thereof, and of the statements of moneys accrued and sales made on said Premises submitted by LESSEE pursuant to Paragraph C of ARTICLE IV of this Lease."

8. The following provision shall be added to
ARTICLE XXI - IMPROVEMENTS, REPAIRS, ALTERATIONS of the Lease:

"It is agreed that as of the effective date of the Lease Amendment adding this provision to the Lease, or when the shoreline repair work is completed pursuant to the terms of that certain agreement between the CITY and LESSEE, dated October 1, 1984, whichever date first occurs, for the entire remaining Term of this Lease LESSEE shall be responsible for all shoreline maintenance on all portions of the Premises, including those riprap areas immediately adjacent to the Premises from the top of the riprap to the toe of the riprap whether or not such riprap is within the boundary line of the Premises, to the reasonable satisfaction of CITY's City Manager, at LESSEE's sole expense."

9. ARTICLE XXXII - GENERAL DEVELOPMENT PLAN is hereby amended to read as follows:

"XXXII

GENERAL DEVELOPMENT PLAN

A. From and after the effective date of the Lease Amendment amending this Article XXXII as provided below, the further development of the Premises shall be generally in accordance with the Development Plan for the Premises approved by the City Council and on file in the office of the City Clerk as Document No. RR-263507, as the same may from time to time be amended in writing by and between CITY and LESSEE ("Development Plan"), and, to the extent applicable, CITY's Plan entitled Mission Bay Park Master Plan for Land and Water Use, 1978. It is understood that the Development Plan is a conceptual plan only, and that the depictions of the approved uses and improvements are illustrative only and are not binding as to the exact configuration and location of the uses and improvements authorized.

B. LESSEE shall implement the First Phase (as defined below) of the Development

Plan as soon as practicable after LESSEE obtains the City Manager's approval and all other required permits and approvals for the First Phase of the Development Plan (provided that commencement of construction of the First Phase of said plan shall not be required prior to July 1, 1988), and shall proceed diligently and without undue delay to completion thereof. "First Phase" shall mean the development and construction of any project or projects included within the Development Plan involving an aggregate investment (including direct and indirect construction costs and costs for architects, engineers, consultants fees and permitting and related expenses) of at least \$2,500,000, and shall include (but not necessarily be limited to) improvements to Parcel 'A' Property 2.

C. Should LESSEE be required by any public entity, including CITY (such as, for example, the California Coastal Commission) to make any expenditures or payments in lieu of expenditures (other than the rental expressly provided for in this Lease) for permanent capital improvements on, to, or in Mission Bay Park which would normally be the responsibility of CITY ("Mitigation Expenditures") as a condition to obtaining permission to develop, construct, install, or operate improvements, facilities, or equipment in, to, or on the Premises in excess of expenditures directly required to develop, construct, install, or operate said improvements, facilities, or equipment (such as, for example, the contribution of funds for an off-site improvement in alleged mitigation of alleged adverse environmental impacts of said development and/or activities), then LESSEE shall be given a credit in the amount of fifty percent (50%) of such Mitigation Expenditures against the rental payable under this Lease, as follows: (i) the amount of such credit shall not exceed the total rental payable pursuant to subparagraph IV.A.3 of this Lease; and (ii) said credit shall be allowed only to the extent of rental payments under

subparagraph IV.A.3 previously made and as any such payments subsequently become due.

D. Should LESSEE fail to commence construction of the First Phase as provided above, subject to delays beyond LESSEE's reasonable control, then Parcel 'A' Property 2 and a portion of Parcel 'B' Property 1 identified as Parcel 'B' WATER 7.216 ACRES in the Lease Amendment dated December 12, 1983, on file in the office of the City Clerk as Document No. RR-259814 ("Water Parcel") shall revert to CITY, at CITY's option, free and clear of this Lease or any other interest of LESSEE, unless LESSEE commences construction within thirty (30) days following receipt of written notice from CITY of its intention to cause such reversion, given on or after the date LESSEE should have commenced construction, subject to delays beyond its reasonable control. If requested by CITY, and if CITY's notice of election is valid and LESSEE fails to commence construction within said thirty (30) day period, LESSEE shall execute, acknowledge, and deliver to CITY a quitclaim deed whereby LESSEE shall quitclaim all of its right, title and interest in Parcel 'A' Property 2 and the Water Parcel to CITY. Such reversion of Parcel 'A' Property 2 and the Water Parcel shall be CITY's sole remedy for LESSEE's failure to timely commence construction of the First Phase of the improvements referred to in the Development Plan. In the event Parcel 'A' Property 2 and the Water Parcel revert to CITY as provided above, then LESSEE's obligation for the rent payable as provided in Paragraph A.3 of Article IV of this Lease shall cease and terminate as of the date of such reversion; such rent shall be prorated to the date of such termination on the basis of a 360-day year, and LESSEE shall receive a credit in an amount equal to any unearned advance-paid rent pursuant to said Paragraph A.3 against the next payment or payments of percentage or minimum rent due hereunder.

E. Should LESSEE timely commence construction of the First Phase of the improvements referred to in the Development Plan but fail to diligently complete such improvements (subject to causes beyond LESSEE's reasonable control), then LESSEE shall pay to CITY an amount equal to ten percent (10%) of the then applicable minimum rent, prorated for fractions of years, during the periods of such unexcused delays, in addition to any other rent payable hereunder.

F. In addition to any other procedure specifically mandated by law or this Lease, the following procedures for implementing the Development Plan shall be in effect, until changed by written agreement between LESSEE and CITY: Each year prior to October 31, LESSEE shall submit an implementation plan to the Planning Director via the City Manager of CITY, showing all improvements proposed by LESSEE for the ensuing accounting year. The proposed improvements shall include, but not be limited to, the following: any proposed new buildings, building improvements or additions, modifications, changes, and additions, redesigns or removal of parking lots, roadways, bicycle ways, pedestrian paths, landscaped areas and entry way areas. The Planning Director's approval shall be required prior to the City Manager's approval. The Planning Director shall identify projects with particular concern for more detailed environmental and planning review. Building permits for these identified projects shall not be issued until the Planning Director has determined that the proposed project is in conformance with all adopted Mission Bay Park Master Plan Documents and Environmental Impact Reports. The Deputy Director of the Environmental Quality Division shall review such projects to ensure that any mitigation required by the Development Plan is implemented. LESSEE shall have the option of submitting additional proposals or modifications to previously submitted

projects at any time. No such improvements, or the construction thereof, shall require City Council approval so long as the foregoing process is followed; provided that the basic concepts of the Development Plan may not be changed without the prior approval of the City Council of CITY. A document evidencing any approved changes shall be signed by the parties and filed in the office of the City Clerk of CITY."

10. Paragraph F shall be added to ARTICLE XLI - GENERAL to read as follows:

"F. If either party, except as otherwise herein specifically provided, shall be delayed or hindered in or prevented from performing any act required hereunder, by reason of strikes, lock-outs, labor problems, inability to procure materials, failure of power or other utilities, restrictive governmental laws or regulations, riots, insurrection, war or other reason of a like nature, not the fault of the party so delayed, then performance of such act shall be excused for a period equivalent to the period of such delay, unless such delay shall cause the other party to be in default in its obligations to a party not a party to this lease."

11. Paragraph G shall be added to ARTICLE XLI - GENERAL to read as follows:

"G. The control and administration of CITY's interest in this Lease are under the jurisdiction of the City Manager. The approval or consent of CITY, wherever required by the terms of this Lease, shall mean the approval or consent of the City Manager, unless otherwise specified, without the need for any consent or resolution by the City Council of CITY. The City Manager may, however, in his discretion refer any such matter involving approval or consent to the City Council."

12. Except as provided above, the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, this Lease Amendment is executed by CITY, acting by and through the City Manager under and pursuant to Resolution No. R-263507 of the City Council authorizing such execution, and by LESSEE, acting by and through its duly authorized officers, as of the date first above written.

I HEREBY APPROVE the form and legality of the foregoing Agreement this 26 day of July, 1985.

John W. Witt, City Attorney

By: [Signature]
Deputy

THE CITY OF SAN DIEGO

By: [Signature]
ASSISTANT TO THE CITY MANAGER

SEA WORLD, INC.

By: [Signature]
PRESIDENT

By: _____

R-263507

DESCRIPTION OF
SEA WORLD LEASE

PARCEL A - LAND - PROPERTY 1 123.577 ACRES

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY), AND PORTION OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 OF RESUBDIVISION OF BLOCKS 7, 8 AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH 89°55'56" WEST, (RECORD NORTH 89°59'00" WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH 00°04'04" EAST, 2.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL WITH AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10, THENCE ALONG SAID PARALLEL LINE NORTH 89°55'56" EAST, 249.70 FEET; THENCE NORTH 05°30'02" WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC SURVEY TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE X = 1,712,415.17 AND Y = 213,819.22) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE 32°45'02" NORTH AND LONGITUDE 117°11'07.200" WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 6,789.12 FEET AND WEST 14,572.15 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 6,789.12 AND WEST 14,572.15; THENCE SOUTH 69°30'00" EAST 172.53 FEET TO THE BEGINNING OF A TANGENT 300.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE SOUTHEASTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 69°30'00" A DISTANCE OF 363.90 FEET; THENCE SOUTH 330.46 FEET TO THE BEGINNING OF A TANGENT 347.08 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE SOUTHERLY AND SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 63°35'01" A DISTANCE OF 385.17 FEET; THENCE SOUTH 63°35'01" EAST 25.61 FEET TO THE POINT OF BEGINNING OF A 240.00 FOOT RADIUS CURVE CONCAVE NORTHERLY, THE RADIAL LINE OF SAID CURVE BEARS SOUTH 27°10'45" WEST TO SAID POINT OF BEGINNING; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 24°56'26" A DISTANCE OF 104.47 FEET TO A POINT OF COMPOUND CURVATURE WITH AN 800.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, THENCE EASTERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 39°23'51" A DISTANCE OF 550.09 FEET TO A POINT OF REVERSE CURVATURE WITH A 1,198.09 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, A RADIAL LINE OF SAID CURVE BEARS NORTH 37°09'32" WEST TO SAID POINT; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 29°36'42" A DISTANCE OF 619.20 FEET TO A POINT OF COMPOUND CURVATURE WITH A 514.76 FOOT RADIUS CURVE CONCAVE SOUTHERLY, A RADIAL LINE OF SAID CURVE BEARS NORTH 7°32'50" WEST TO SAID POINT; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 25°57'10" A DISTANCE OF

EXHIBIT 1

233.17 FEET; THENCE SOUTH $71^{\circ}35'40''$ EAST 973.37 FEET; THENCE SOUTH $18^{\circ}24'20''$ WEST 50.00 FEET; THENCE SOUTH $71^{\circ}35'40''$ EAST 598.11 FEET TO MISSION BAY PARK COORDINATES NORTH 5,597.88 AND WEST 11,113.51; THENCE SOUTH $5^{\circ}59'55''$ WEST 1,807.81 FEET TO A POINT ON A LINE THAT IS 60.50 FEET AT RIGHT ANGLES NORTHEASTERLY FROM ENGINEER'S STATION 36 + 35.31 ON THE CENTERLINE OF SEA WORLD DRIVE AS SHOWN ON THE CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14985-1-D; THENCE NORTH $78^{\circ}55'43''$ WEST, PARALLEL WITH SAID CENTERLINE OF SEA WORLD DRIVE 635.31 FEET TO THE BEGINNING OF A TANGENT 828.855 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, SAID CURVE BEING CONCENTRIC WITH AND 10.00 FEET NORTHEASTERLY RADIALLY FROM THE FACE OF THE NORTHEASTERLY BERM ON THE ACCESS ROAD SHOWN ON THE CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14577-22-D; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $21^{\circ}06'00''$ A DISTANCE OF 305.24 FEET; THENCE NORTHWESTERLY, WESTERLY AND NORTHERLY CONTINUING ALONG A LINE THAT IS PARALLEL AND/OR CONCENTRIC WITH AND 10.00 FEET AT RIGHT ANGLES OR RADIALLY; RESPECTIVELY, FROM THE FACE OF SAID NORTHEASTERLY BERM, WHICH BERM IS ALSO SHOWN ON SAID ENGINEER'S DRAWINGS NO. 14577-21, 23, 24, 32, 33, 34 AND 36-D THE FOLLOWING COURSES AND DISTANCES: NORTH $57^{\circ}49'43''$ WEST 53.69 FEET TO THE BEGINNING OF A TANGENT 1,032.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE NORTHWESTERLY AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $36^{\circ}52'29''$ A DISTANCE OF 664.18 FEET; THENCE TANGENT TO SAID CURVE SOUTH $85^{\circ}17'48''$ WEST 515.45 FEET TO THE BEGINNING OF A TANGENT 568.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE WESTERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $65^{\circ}57'16''$ A DISTANCE OF 653.84 FEET TO A POINT OF COMPOUND CURVATURE IN THE ARC OF A 268.00 FOOT RADIUS CURVE CONCAVE EASTERLY, A RADIAL LINE OF SAID CURVE BEARS SOUTH $61^{\circ}15'04''$ WEST TO SAID POINT; THENCE NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $73^{\circ}56'28''$ A DISTANCE OF 345.86 FEET TO A POINT OF REVERSE CURVATURE IN THE ARC OF A 332.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, A RADIAL LINE OF SAID CURVE BEARS SOUTH $44^{\circ}48'28''$ EAST TO SAID POINT; THENCE NORTHEASTERLY, NORTHERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $116^{\circ}05'26''$ A DISTANCE OF 672.68 FEET; THENCE DISREGARDING THE FACE OF BERM BUT TANGENT TO SAID CURVE NORTH $70^{\circ}53'54''$ WEST 121.23 FEET TO THE BEGINNING OF A TANGENT 270.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $26^{\circ}08'05''$ A DISTANCE OF 123.16 FEET TO A POINT ON THE WESTERLY LINE OF THAT PORTION OF LAND SHOWN ON THE CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 10966-1-B OF THE PROPOSED LEASE OF WEST PEREZ COVE MISSION BAY PARK; THENCE NORTHWESTERLY ALONG THE BOUNDARY OF SAID LAND THE FOLLOWING COURSES AND DISTANCES: NORTH $13^{\circ}45'54''$ WEST 575.54 FEET; THENCE NORTH 175.00 FEET; THENCE NORTH $23^{\circ}11'55''$ WEST 130.00 FEET; THENCE NORTH $39^{\circ}19'34''$ WEST 90.00 FEET; THENCE NORTH $14^{\circ}33'01''$ WEST 166.22 FEET; THENCE NORTH $9^{\circ}04'02''$ WEST 267.46 FEET TO THE TRUE POINT OF BEGINNING.

EXHIBIT 1

Page 2 of 7

PARCEL "A" LAND PROPERTY 2: 25± ACRES

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY) AND A PORTION OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 RESUBDIVISION OF BLOCKS 7, 8, AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH 89°55'56" WEST, (RECORD NORTH 89°59'00" WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH 00°04'04" EAST, 2,000 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE ALONG SAID PARALLEL LINE NORTH 89°55'56" EAST, 249.70 FEET; THENCE NORTH -05°30'02" WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC SURVEY TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE X=1,712,415.17 AND Y=213,819.22) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE 32°45'02" NORTH AND LONGITUDE 117°11'07.200" WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 3,799.97 FEET AND WEST 11,302.44 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY PARK COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 3,799.97 AND WEST 11,302.44, SAID TRUE POINT OF BEGINNING BEING A POINT ON A LINE THAT IS PARALLEL WITH AND 60.50 FEET AT RIGHT ANGLES NORTHEASTERLY FROM THE CENTERLINE OF SEA WORLD DRIVE AS SHOWN ON CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14,985-1-D, SAID POINT BEING OPPOSITE AT RIGHT ANGLES FROM ENGINEER'S STATION 36+35.31 ON SAID CENTERLINE; THENCE NORTH 5°59'55" EAST 1807.82 FEET; THENCE SOUTH 55°43'04" EAST 660.41 FEET; THENCE SOUTH 0°17'19" EAST 1475.24 FEET TO A POINT ON A 1939.50 FOOT RADIUS CURVE, CONCAVE NORTHERLY, SAID POINT BEING 60.50 FEET NORTHERLY FROM ENGINEER'S STATION 44+01.77 ON THE HEREINABOVE MENTIONED CENTERLINE OF SEA WORLD DRIVE, A RADIAL LINE TO SAID POINT BEING SOUTH 6°51'07" EAST; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17°55'24" AN ARC LENGTH OF 606.71 FEET; THENCE TANGENT TO SAID CURVE NORTH 78°55'43" WEST 140.82 FEET TO THE TRUE POINT OF BEGINNING.

REVISION APPROVED 6/1/93:

THE CITY OF SAN DIEGO

By: Mary Joann Young

SEA WORLD, INC.

By: C. Michael C.

PARCEL A, LAND PROPERTY 2; 25.002 ACRES

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY), AND A PORTION OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 RESUBDIVISION OF BLOCKS 7, 8, AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH $89^{\circ}55'56''$ WEST, (RECORD NORTH $89^{\circ}59'00''$ WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH $00^{\circ}04'04''$ EAST, 2.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE ALONG SAID PARALLEL LINE NORTH $89^{\circ}55'56''$ EAST, 249.70 FEET; THENCE NORTH $05^{\circ}30'02''$ WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC SURVEY TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE $X = 1,712,415.17$ AND $Y = 213,819.22$) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE $32^{\circ}45'02''$ NORTH AND LONGITUDE $117^{\circ}11'07.200''$ WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 3,799.97 FEET AND WEST 11,302.44 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY PARK COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 3,799.97 AND WEST 11,302.44, SAID TRUE POINT OF BEGINNING BEING A POINT ON A LINE THAT IS PARALLEL WITH AND 60.50 FEET AT RIGHT ANGLES NORTHEASTERLY FROM THE CENTERLINE OF SEA WORLD DRIVE AS SHOWN ON CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14,985-1-D, SAID POINT BEING OPPOSITE AT RIGHT ANGLES FROM ENGINEER'S STATION 36 + 35.31 ON SAID CENTERLINE; THENCE NORTH $5^{\circ}59'55''$ EAST 1,807.81 FEET TO MISSION BAY PARK COORDINATES NORTH 5,597.88 AND WEST 11,113.51; THENCE SOUTH $67^{\circ}17'14''$ EAST 900.00 FEET; THENCE SOUTH $22^{\circ}50'20''$ WEST 1,637.89 FEET TO A POINT THAT BEARS NORTH $3^{\circ}45'37''$ EAST 60.50 FEET FROM ENGINEER'S STATION 40 + 31.33 ON THE HEREINBEFORE MENTIONED CENTERLINE OF SEA WORLD DRIVE, SAID POINT BEING ON THE ARC OF A 1,939.50 FOOT RADIUS CURVE CONCAVE NORTHERLY; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $7^{\circ}18'40''$ A DISTANCE OF 247.48 FEET; THENCE TANGENT TO SAID CURVE NORTH $78^{\circ}55'43''$ WEST PARALLEL WITH SAID CENTERLINE OF SEA WORLD DRIVE 140.82 FEET TO THE TRUE POINT OF BEGINNING.

See
Page 2
Hereof

Exhibit 1

Page 3 of 7

PARCEL A, LAND PROPERTY 3; 0.894 ACRES

THOSE PORTIONS OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY), AND PORTIONS OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 OF RESUBDIVISION OF BLOCKS 7, 8 AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH $89^{\circ}55'56''$ WEST, (RECORD NORTH $89^{\circ}59'00''$ WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH $00^{\circ}04'04''$ EAST, 2.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL WITH AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10, THENCE ALONG SAID PARALLEL LINE NORTH $89^{\circ}55'56''$ EAST, 249.70 FEET; THENCE NORTH $05^{\circ}30'02''$ WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC SURVEY TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE X = 1,712,415.17 AND Y = 213,819.22) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE $32^{\circ}45'02''$ NORTH AND LONGITUDE $117^{\circ}11'07.200''$ WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 6,789.12 FEET AND WEST 14,572.15 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 6,789.12 AND WEST 14,572.15, SAID TRUE POINT OF BEGINNING ALSO BEING THE NORTHERLY TERMINUS OF THE WESTERLY LINE OF THAT PORTION OF LAND SHOWN ON THE CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 10966-1-B OF THE PROPOSED LEASE OF WEST PEREZ COVE MISSION BAY PARK; THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE THE FOLLOWING COURSES AND DISTANCES; SOUTH $9^{\circ}04'02''$ EAST, 267.46 FEET; SOUTH $14^{\circ}33'01''$ EAST, 166.22 FEET; SOUTH $39^{\circ}19'34''$ EAST, 90.00 FEET; SOUTH $23^{\circ}11'55''$ EAST 92.52 FEET; THENCE LEAVING SAID WESTERLY LINE NORTH $61^{\circ}35'50''$ WEST, 124.71 FEET TO INTERSECTION WITH A LINE THAT BEARS SOUTH $30^{\circ}37'22''$ EAST FROM A POINT OF TANGENCY WITH A 100.00 FOOT RADIUS CURVE CONCAVE EASTERLY AND BEING THE SOUTHERLY TERMINUS OF THE WESTERLY LINE OF AN AREA DESIGNATED "PARKING LOT" ON THE CITY OF SAN DIEGO ENGINEERING DRAWINGS NOS. 21296-46-D, 21296-47-D AND 21296-97-D; THENCE NORTH $30^{\circ}37'22''$ WEST ALONG SAID LINE 80.35 FEET TO SAID POINT OF TANGENCY WITH A 100.00 FOOT RADIUS CURVE; THENCE NORTHERLY, WESTERLY AND NORTHEASTERLY ALONG SAID WESTERLY LINE OF THE AREA DESIGNATED "PARKING LOT" THE FOLLOWING COURSES AND DISTANCES: NORTHERLY ALONG THE ARC OF SAID TANGENT 100.00 FOOT RADIUS CURVE THROUGH A CENTRAL ANGLE OF $20^{\circ}24'39''$ A DISTANCE OF 35.62 FEET; THENCE NORTH $10^{\circ}12'42''$ WEST 37.69 FEET TO THE BEGINNING OF A TANGENT 2,963.50 FOOT RADIUS CURVE CONCAVE EASTERLY; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $3^{\circ}00'00''$ A DISTANCE OF 155.17 FEET; THENCE NORTH $7^{\circ}12'42''$ WEST, 36.67 FEET TO THE BEGINNING OF A TANGENT 8,036.50 FOOT RADIUS

Exhibit 1

Page 4 of 7

CURVE CONCAVE WESTERLY; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $0^{\circ}14'28''$ A DISTANCE OF 33.82 FEET TO A POINT OF COMPOUND CURVATURE WITH A 5.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE NORTHWESTERLY AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $92^{\circ}45'32''$ A DISTANCE OF 8.09 FEET; THENCE SOUTH $79^{\circ}47'18''$ WEST, 27.86 FEET; THENCE NORTH $14^{\circ}53'58''$ WEST, 120.00 FEET; THENCE NORTH $75^{\circ}06'02''$ EAST, 20.00 FEET; THENCE NORTH $47^{\circ}26'50''$ EAST, 12.66 FEET; THENCE NORTH $21^{\circ}13'51''$ EAST ALONG SAID WESTERLY LINE OF THE AREA DESIGNATED "PARKING LOT" AND THE PROLONGATION THEREOF 47.88 FEET TO INTERSECTION WITH A LINE THAT BEARS NORTH $69^{\circ}30'00''$ WEST FROM THE TRUE POINT OF BEGINNING; THENCE SOUTH $69^{\circ}30'00''$ EAST, 45.71 FEET TO THE TRUE POINT OF BEGINNING.

Exhibit 1

DESCRIPTION OF
SEA WORLD LEASE

PARCEL B - WATER - PROPERTY 1 16.932 ACRES

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY), AND PORTION OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 OF RESUBDIVISION OF BLOCKS 7, 8 AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH $89^{\circ}55'56''$ WEST, (RECORD NORTH $89^{\circ}59'00''$ WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH $00^{\circ}04'04''$ EAST, 2.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL WITH AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10, THENCE ALONG SAID PARALLEL LINE NORTH $89^{\circ}55'56''$ EAST, 249.70 FEET; THENCE NORTH $05^{\circ}30'02''$ WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC SURVEY TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE $X = 1,712,415.17$ AND $Y = 213,819.22$) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE $32^{\circ}45'02''$ NORTH AND LONGITUDE $117^{\circ}11'07.200''$ WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 6,789.12 FEET AND WEST 14,572.15 FEET TO A POINT KNOWN AS MISSION BAY COORDINATES NORTH 6,789.12 AND WEST 14,572.15; THENCE SOUTH $69^{\circ}30'00''$ EAST 172.53 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY; THENCE CONTINUING SOUTH $69^{\circ}30'00''$ EAST 341.57 FEET TO A POINT; THENCE SOUTH $75^{\circ}18'41''$ EAST 1,230.82 FEET; THENCE SOUTH 147.18 FEET TO A POINT ON THE ARC OF A 1,198.09 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, TO WHICH POINT A RADIAL LINE OF SAID CURVE BEARS NORTH $11^{\circ}28'40''$ WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $25^{\circ}40'52''$ A DISTANCE OF 537.01 FEET TO A POINT OF REVERSE CURVATURE WITH AN 800.00 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY; THENCE SOUTHWESTERLY AND WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $39^{\circ}23'51''$ A DISTANCE OF 550.09 FEET TO A POINT OF COMPOUND CURVATURE WITH A 240.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $24^{\circ}56'26''$ A DISTANCE OF 104.47 FEET; THENCE NORTH $63^{\circ}35'01''$ WEST 25.61 FEET TO THE BEGINNING OF A TANGENT 347.08 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY AND NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $63^{\circ}35'01''$ A DISTANCE OF 385.17 FEET; THENCE NORTH 330.46 FEET TO THE BEGINNING OF A TANGENT 300.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY WHICH CURVE IS ALSO TANGENT TO THE HEREIN BEFORE MENTIONED COURSE BEARING SOUTH $69^{\circ}30'00''$ EAST FROM THE TRUE POINT OF BEGINNING; THENCE NORTHERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $69^{\circ}30'00''$ A DISTANCE OF 363.90 FEET TO THE TRUE POINT OF BEGINNING.

EXHIBIT 1

PARCEL B - WATER PROPERTY 2; 0.082 ACRES

BEGINNING AT POINT "B" AS SET OUT AND ESTABLISHED IN THE HEREINABOVE DESCRIBED PARCEL "A"; THENCE SOUTH $71^{\circ}35'40''$ EAST ALONG THE NORTHEASTERLY LINE OF SAID PARCEL "A" A DISTANCE OF 50.00 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE NORTH $18^{\circ}24'20''$ EAST 71.00 FEET; THENCE NORTH $71^{\circ}35'40''$ WEST 50.00 FEET; THENCE SOUTH $18^{\circ}24'20''$ WEST 71.00 FEET TO SAID POINT "B" AND THE POINT OF BEGINNING.

Exhibit 1

#10171A
JUNE 24, 1985

LEGAL DESCRIPTION: PARCEL "B"

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY), AND A PORTION OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 RESUBDIVISION OF BLOCKS 7, 8, AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH 89°55'56" WEST, (RECORD NORTH 89°59'00" WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH 00°04'04" EAST, 2.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE ALONG SAID PARALLEL LINE NORTH 89°55'56" EAST, 249.70 FEET; THENCE NORTH 05°30'02" WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC SURVEY TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE X=1,712,415.17 AND Y=213,819.22) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE 32°45'02" NORTH AND LONGITUDE 117°11'07.200" WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 3,799.97 FEET AND WEST 11,302.44 FEET TO A POINT ON A LINE THAT IS PARALLEL WITH AND

DOCUMENT NO. 769275-2
FILED DEC 10 1985
OFFICE OF THE CITY CLERK

60.50 FEET AT RIGHT ANGLES NORTHEASTERLY FROM THE CENTERLINE OF SEA WORLD DRIVE AS SHOWN ON CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14,985-1-D, SAID POINT BEING OPPOSITE AT RIGHT ANGLES FROM ENGINEER'S STATION 36+35.31 ON SAID CENTERLINE, THENCE SOUTH 78°55'43" EAST PARALLEL WITH SAID CENTERLINE OF SEA WORLD DRIVE 140.82 FEET TO THE BEGINNING OF A TANGENT 1939.50 FOOT RADIUS CURVE CONCAVE NORTHERLY, THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°48'34", AN ARC LENGTH OF 636.71 FEET; THENCE TANGENT TO SAID CURVE NORTH 82°15'43" EAST 70.00 FEET TO A POINT BEING 60.50 FEET NORTHERLY AND OPPOSITE AT RIGHT ANGLES FROM ENGINEER'S STATION 45+02.70 ON THE HEREINBEFORE MENTIONED CENTERLINE OF SEA WORLD DRIVE; THENCE NORTH 7°44'17" WEST 1000.00 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY PARK COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 4754.812 AND WEST 10,595.934; THENCE NORTH 7°44'17" WEST 531.96 FEET; THENCE SOUTH 83°03'30" EAST 440.00 FEET; THENCE SOUTH 29°53'30" EAST 250.00 FEET; THENCE NORTH 83°03'30" WEST 240.00 FEET; THENCE SOUTH 3°36'25" WEST 254.71 FEET; THENCE SOUTH 82°15'43" WEST 237.64 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS 4.00 ACRES (MORE OR LESS)

#10171A
JUNE 24, 1985

LEGAL DESCRIPTION: PARCEL "A"

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY), AND A PORTION OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS A WHOLE AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 RESUBDIVISION OF BLOCKS 7, 8, AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH $89^{\circ}55'56''$ WEST, (RECORD NORTH $89^{\circ}59'00''$ WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH $00^{\circ}04'04''$ EAST, 2.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE ALONG SAID PARALLEL LINE NORTH $89^{\circ}55'56''$ EAST, 249.70 FEET; THENCE NORTH $05^{\circ}30'02''$ WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC SURVEY TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE $X=1,712,415.17$ AND $Y=213,819.22$) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE $32^{\circ}45'02''$ NORTH AND LONGITUDE $117^{\circ}11'07.200''$ WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY

ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 3,799.97 FEET AND WEST 11,302.44 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY PARK COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 3,799.97 AND WEST 11,302.44, SAID TRUE POINT OF BEGINNING BEING A POINT ON A LINE THAT IS PARALLEL WITH AND 60.50 FEET AT RIGHT ANGLES NORTHEASTERLY FROM THE CENTERLINE OF SEA WORLD DRIVE AS SHOWN ON CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14,985-1-D, SAID POINT BEING OPPOSITE AT RIGHT ANGLES FROM ENGINEER'S STATION 36+35.31 ON SAID CENTERLINE; THENCE NORTH 5°59'55" EAST 1807.82 FEET; THENCE SOUTH 54°40'57" EAST 546.54 FEET; THENCE SOUTH 7°44'17" EAST 1531.96 FEET TO A POINT BEING 60.50 FEET NORTHERLY AND OPPOSITE AT RIGHT ANGLES FROM ENGINEER'S STATION 45+02.70 ON THE HEREINBEFORE MENTIONED CENTERLINE OF SEA WORLD DRIVE; THENCE PARALLEL WITH SAID CENTERLINE OF SEA WORLD DRIVE, SOUTH 82°15'43" WEST 70.00 FEET TO THE BEGINNING OF A TANGENT 1939.50 FOOT RADIUS CURVE CONCAVE NORTHERLY; THENCE WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 18°48'34" AN ARC LENGTH OF 636.71 FEET; THENCE TANGENT TO SAID CURVE NORTH 78°55'43" WEST 140.82 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINS 25.00 ACRES (MORE OR LESS)

Index

LEASE AMENDMENT

THIS LEASE AMENDMENT, executed in duplicate as of SEP 22 1986, 1986, at San Diego, California, by and between THE CITY OF SAN DIEGO, a municipal corporation, in the County of San Diego, State of California (the "City"), and SEA WORLD, INC. a Delaware corporation, 1720 South Shores Road, San Diego, California 92109 (the "Lessee"), is made with reference to the following facts:

A. City leases to Lessee and Lessee leases from City certain real property in Mission Bay Park (the "Premises") described in lease amendments dated December 14, 1977, January 29, 1979, December 12, 1983, and June 24, 1985, and filed in the Office of the City Clerk of San Diego as Document Nos. 762304, 765767, and RR-259814, and RR-263507, respectively (hereinafter the foregoing lease amendments are collectively referred to in this Lease Amendment as the "Lease").

B. The parties hereto desire to amend the Lease as hereinafter provided.

THEREFORE, in consideration of the mutual covenants contained herein, the Lease is hereby amended to provide, and Lessee and City hereby agree, as follows:

DOCUMENT NO. RR 266641
FILED SEP 22 1986
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

1. Article XXXII GENERAL DEVELOPMENT PLAN is hereby amended by adding thereto Paragraph G, to read as follows:

"G. Should a local coastal program (hereinafter the "Local Coastal Program") ever be adopted for the Mission Bay Park (the "Park") segment of the City Local Coastal Program, and should the Local Coastal Program provide for the collection of a traffic impact mitigation fee from commercial lessees within the Park in order to fund all or a portion of the cost of a beach shuttle or other substantially similar public access improvements, Lessee agrees to contribute its fair and equitable share, as calculated pursuant to the Local Coastal Program, to such a traffic impact mitigation program; provided that the amount payable by Lessee shall be reasonable and shall not exceed the amount Lessee would have paid had the entire amount to be funded by traffic impact mitigation fees been reasonably, equitably, and fairly apportioned among all of the commercial lessees in the Park. This Paragraph G shall not be altered or amended without the prior written approval of the California Coastal Commission or an amendment to California Coastal Permit No. 6-86-2."

2. Except as provided above, the Lease shall remain in full force and effect.

IN WITNESS WHEREOF, this Lease Amendment is executed by City, acting by and through the City Manager under and pursuant to Resolution No. R-_____ of the City Council

authorizing such execution, and by Lessee, acting by and through its duly authorized officers, as of the date first above written.

I HEREBY APPROVE the form and legality of the foregoing Agreement this 8 day of October, 1986.

JOHN W. WITT, City Attorney

By: [Signature]
Deputy

THE CITY OF SAN DIEGO

By: [Signature]

Title: ASSISTANT TO THE CITY MANAGER

SEA WORLD, INC.

By: [Signature]

Title: Administrator V.P.

639

LEASE AMENDMENT

This Lease Amendment ("Amendment"), executed in duplicate as of JUN 29 1998, at San Diego, California, by and between THE CITY OF SAN DIEGO, a municipal corporation in the County of San Diego, State of California ("CITY"), as lessor, and SEA WORLD, INC., a Delaware corporation, 1720 South Shores Road, San Diego, California 92109 ("LESSEE"), as lessee, is made with reference to the following facts:

A. CITY leases to LESSEE and LESSEE leases from CITY certain real property in Mission Bay Park (the "Premises") described in lease amendments dated December 14, 1977, January 29, 1979, December 12, 1983, June 24, 1985, and September 22, 1986, and filed in the office of the City Clerk of San Diego as Document Nos. 762304, 765767, RR-259814, RR-263507, and RR-266641, respectively (hereinafter the foregoing lease amendments are collectively referred to in this Amendment as the "Lease").

B. The parties hereto desire to amend the Lease as hereinafter provided.

THEREFORE, in consideration of the mutual covenants contained herein, the Lease is hereby amended to provide, and LESSEE and CITY hereby agree, as follows:

1. Article I, DEMISE, is hereby amended by a) deleting the last sentence of the section; and b) adding to the Premises 16.5 land acres, hereinafter Parcel "A" Property 4 and the physically-traveled portion of Perez Cove Way between Sea World Drive and Ingraham Street, hereinafter Parcel "A" Property 5, described on Exhibit 3 and delineated on Exhibit 4, attached hereto.

2. Article II, TERM, is hereby amended to read as follows:

"The term of this agreement shall be fifty (50) years, commencing on the first day of July, 1998. In no event shall the term exceed the period allowed by law, and the term shall be deemed to be the lesser of the period referred to herein or the maximum period allowed by law."

3. The preface to Paragraph A, Article IV, RENT, is hereby amended to read as follows:

"The rent which LESSEE hereby agrees to pay to CITY shall be as follows:"

4. The first paragraph of Paragraph A, Article IV, RENT, is hereby amended to read as follows:

"LESSEE shall pay to CITY a sum of money per annum equal to the total of the sums computed on the basis of the various percentages of LESSEE's gross income from the Premises as hereinafter set forth in this Article IV, or the minimum yearly rent as hereinafter set forth in this Article IV, whichever of the two sums is the greater, together with the "Surcharge" (as hereinafter defined in this Article IV)."

DOCUMENT NO. 00-18538-1

FILED JUN 29 1998

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

5. Subparagraph A.2 of Article IV, RENT, is hereby amended as follows:

"The minimum rent for the Premises shall be the sum of Four Million Five Hundred Thousand Dollars (\$4,500,000.00) for each accounting year. The minimum rent shall be prorated for a partial accounting year, commencing with the accounting year beginning with the commencement of the term of this Lease; provided that for the period of three full accounting years commencing at the end of the three full accounting years following commencement of the term of this Lease and for each subsequent period of three full accounting years during the term of this Lease, the minimum rent shall be adjusted to an amount equal to eighty percent (80%) of the "average accounting year rent" (determined as provided below) actually paid for the three previous full accounting years, but no such adjustment shall result in a decrease in the minimum rent in effect immediately prior to the adjustment date. For purposes of adjusting the minimum rent as provided above, the "average accounting year rent" shall be the average of the rent for the three full accounting years immediately preceding an adjustment date unless the highest rent of said three years differs from the middle rent of said three years by more than ten percent (10%) of the middle rent, in which case the "average accounting year rent" shall be the average of the middle rent and the lowest rent of said three years. In addition to the foregoing, the minimum rent may be adjusted from time to time during the term of this Lease pursuant to Article XLII, ADDITIONAL RENTAL ADJUSTMENT UPON CHANGE IN ENTITLEMENTS, below."

6. A new Subparagraph A.1.r of Article IV, RENT, is hereby added as follows:

"In addition to any other rent provided in this Lease, LESSEE shall also pay on an annual basis an amount equal to three percent (3%) of the greater of the two sums calculated in accordance with Paragraph C of this Article IV (the 'Surcharge')."

7. Subparagraph A.5(a) of Article IV, RENT, is hereby amended to read as follows:

"5(a) As of January 1, 2004 and thereafter as of the beginning of each tenth accounting year thereafter (the "adjustment dates"), the percentage rates used to compute the percentage rent for the succeeding period until the next adjustment date may be adjusted to reflect fair market rental rates then generally in effect; provided that there shall be no adjustment as of the final adjustment date unless there are at least five (5) years remaining of the term of this Lease. At least eighteen (18) months prior to each such adjustment date, the parties shall negotiate in good faith to determine whether one or more or none of the rates then in effect should be adjusted and, if so, the extent of any such adjustment or adjustments. In the event that such determination is not made by mutual consent of the parties prior to fifteen (15) months before each adjustment date, either party may refer the matter to arbitration pursuant to Subsection (b) below, by giving the other party a written demand therefor prior to twelve (12) months before the applicable adjustment date. Notwithstanding the foregoing, no adjustment or adjustments, if any, of the percentage rate applicable to gross income derived from the sale of general admission tickets, as provided in Subsection A.1.c of Article IV of this Lease, shall cause said rate ever to exceed four percent (4%) during the term, and, further,

no one adjustment of said rate may exceed one (1) percentage point; provided, that said four percent (4%) limitation shall not apply to gross income, if any, received by LESSEE from the sale of general admission tickets that is attributable to the furnishing of goods or services for which other particular percentage rental rates are specified in this Lease and for which a separate charge is normally made. The imposition of the foregoing limitations does not suggest or imply that the rate applicable to charges for general admission tickets should ever be adjusted at all or in any particular amount, and the arbitrators shall be instructed not to consider the existence of such limitations in any arbitration.. In addition to the foregoing, the percentage rates used to compute the percentage rent may be adjusted from time to time during the term of this Lease pursuant to Article XLII, ADDITIONAL RENTAL ADJUSTMENT UPON CHANGE IN ENTITLEMENTS, below."

8. Subparagraph A.5(b)(2) of Article IV; RENT, is hereby amended to read as follows:

"If the parties cannot agree on a mutually acceptable arbitrator prior to ten (10) months before the applicable adjustment date, each party, within ten (10) days thereafter, shall appoint an arbitrator and give written notice of such appointment to the other party. The two arbitrators shall immediately choose a third arbitrator to work with them. If the two arbitrators fail to select a third arbitrator within ten (10) days following the date of their appointment, on written application by either party the third arbitrator shall be promptly appointed by the then presiding judge of the Superior Court of the State of California, County of San Diego, acting in his individual capacity. The party making the application shall give the other party written notice of its application."

9. Paragraph C of Article IV, RENT, is hereby amended to read as follows:

"For purposes of this Paragraph C, the term of this Lease shall be divided into "accounting years" and each accounting year into "accounting periods." Each accounting year will be commensurate with each calendar year during the term of this Lease and each accounting period shall be commensurate with each month during each calendar year; provided, however, that if the first day of the term is a date other than January 1, then the first accounting year shall commence with the commencement of the term of this Lease, as provided in Article II above, and extend through December 31 of that year, and the last accounting year shall extend from the last January 1 through the end of the term.

"On or before the last day of each accounting period LESSEE shall render to CITY, in a form prescribed by CITY, a detailed report of gross income for that portion of the accounting year which ends with and includes the last day of the immediately preceding accounting period. Each report shall be signed by LESSEE or its responsible agent under penalty of perjury, attesting to the accuracy thereof, shall be legally binding upon LESSEE, and shall include the following: (1) the total gross income for said portion of the accounting year, itemized as to each of the business categories for which a separate percentage rental rate is established; (2) the related itemized amounts of percentage rent computed as herein provided and the total thereof; and (3) the total rent

previously paid by LESSEE for the accounting year within which the immediately preceding accounting period falls. Concurrently with the rendering of each report LESSEE shall pay to CITY, in payment of the percentage or minimum rent required by Section A of this Article IV, the greater of the following two amounts:

- "1. The total percentage rent computed for that portion of the accounting year ending with and including the last day of the immediately preceding accounting period (Item (2) above), less total rent previously paid for the accounting year (Item (3) above); or
- "2. One-twelfth (1/12) of the minimum rent, multiplied by the number of accounting periods from the beginning of the accounting year to and including the immediately preceding accounting period, less total rent previously paid for the accounting year (Item (3) above). Notwithstanding the foregoing the final accounting year and accounting period shall end on the last day of the term of this Lease, as the same may be extended, and the accounting and reporting therefor shall be furnished to CITY within thirty (30) days thereafter.

"In addition, the Surcharge referred to in subsection A.1.r above shall be payable concurrently with the rendering of each report referred to above in an amount equal to three percent (3%) of the payment required to be made for the accounting period covered by such report provided that the amount of the Surcharge shall be adjusted at the end of each accounting year as necessary to ensure that the Surcharge shall be no more or no less than three percent (3%) of the total rental due for such accounting year without taking the Surcharge into account. In calculating the amounts due each accounting period as provided in subsections 1 and 2 of this subsection C, the 'total rent previously paid for the accounting year' shall not include any payments of the Surcharge. Notwithstanding the foregoing, there shall be an adjustment at the end of each accounting year, if and to the extent necessary to ensure that LESSEE shall pay no more and no less than the minimum rent or the percentage rent, computed on an annual basis, whichever is greater."

10. Article XXIII, INSURANCE, is hereby amended to increase the amount of public liability and property damage insurance required, from an amount not less than One Million Dollars (\$1,000,000) COMBINED SINGLE LIMIT LIABILITY to an amount not less than Five Million Dollars (\$5,000,000) COMBINED SINGLE LIMIT LIABILITY.

11. Article XXV, ENVIRONMENTAL MATTERS, is hereby added as follows:

"ARTICLE XXV

ENVIRONMENTAL MATTERS

A. Applicable Premises. The provisions of this Article XXV shall apply only to Parcel "A" Property 4, and shall not apply to any other portion of the Premises. The rights and obligations of CITY and LESSEE, respectively, with respect to Hazardous Substances (defined below) on, in and with respect to such other portions of the Premises shall instead be governed by applicable law. The term "Hazardous Substances" means

those substances designated as such by the Environmental Protection Agency at 40 C.F.R. 302 or listed under California Labor Code Section 6382(b), as such regulations and lists may be amended from time to time. Hazardous Substances include, but are not limited to, such substances and materials in the ground of Parcel "A" Property 4 due to the use of the property as a municipal solid waste site prior to the commencement of this Lease.

B. Prohibited Releases. For the purposes of this Article XXV, "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of Hazardous Substances, but excludes incidental occurrences consistent with the normal use of motor vehicles, or consumer, household or office products. Except as authorized by applicable law, permit or regulation, LESSEE will not Release any Hazardous Substance used or produced by its operations in, on, under or from Parcel "A" Property 4.

C. Notification Requirements. If LESSEE knows or has reasonable cause to believe that LESSEE has caused a Release of any Hazardous Substance on or beneath Parcel "A" Property 4, in violation of this Article, LESSEE shall give written notice to the City Manager within 24 hours. Provided, however, if LESSEE knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and safety, LESSEE shall notify the City Manager immediately upon receipt of this knowledge or belief and shall take all actions necessary to alleviate such danger. LESSEE will notify the City Manager immediately of LESSEE's receipt of any notice of violation or claim received or the initiation of any environmental action, public or private, relative to any Hazardous Substances on, at or adjacent to Parcel "A" Property 4.

If CITY knows or has reasonable cause to believe that a Hazardous Substance previously Released as a result of the CITY's prior municipal solid waste site use is continuing to Release, or otherwise constitutes an imminent and substantial danger to public health and safety, CITY shall notify the LESSEE upon receipt of this knowledge or belief and shall take all actions necessary to alleviate such danger. CITY will notify LESSEE within five (5) working days of receipt of any notice of violation or claim received or the initiation of any environmental legal proceeding, public or private, relative to any Hazardous Substance, on, at or adjacent to Parcel "A" Property 4.

D. Compliance with Postclosure Land Use Conditions. LESSEE recognizes that all improvements above previously closed landfills constitute Postclosure Land Use, and therefore these improvements must comply with all of the conditions contained in the California Code of Regulations, Title 27, Section 21190, Postclosure Land Use. LESSEE's improvements shall be designed and maintained to protect public health and safety, and prevent public contact with waste, landfill gas and leachate.

LESSEE's improvements shall be constructed to retain the integrity of the final cover, the component of the containment system such as drainage and erosion control systems, and the functions of the monitoring system. The foundation system shall

be designed to accommodate the anticipated total and differential settlements. Buried utility conduits shall be designed with flexible couplings and must be double lined to handle differential settlement. Utility conduits leading into the site shall be designed to include automatic pressure-sensitive shutoff valves and restrained pipe joints. All trees, shrubs, plants and similar items shall be contained within precast concrete pots, and watered by means of a double sleeved, below ground, automatically controlled irrigation system. Irrigation Water inspection boxes must be included in the plan to allow for visual leak detection. The construction detail for installing water and irrigation lines must be submitted to the Local Enforcement Agency for review and approval.

Prior to implementation of the project, LESSEE shall provide to the Local Enforcement Agency, the following items for review and approval:

- Community Health & Safety Plan.
- Grading Plan and drainage calculations for the parking lot.
- Irrigation Plan, which must include, among other items, the location of irrigation lines, controller valves, plants and other pertinent information as related to landscape irrigation.
- Monitoring Plan.
- Maintenance Program.
- Construction schedule.

LESSEE shall develop and implement an aggressive maintenance plan, including inspection of the site to observe if the site suffers from settlement, leaks from water system and flexible utilities, ponding and cracks.

E. CITY Indemnity. CITY hereby agrees to indemnify, defend and hold harmless LESSEE from and against any and all claims, actions, damages, liability and expense (including reasonable attorney's fees and costs and damages for injury to natural resources or the public, and costs of any health assessment or health effect studies) in connection with the investigation, response to and/or remediation of the existence or Release of any Hazardous Substance existing on and in Parcel "A" Property 4 as of the commencement of the term of this Lease, except to the extent the Release is caused by the disturbance of such substances by LESSEE's operations, including, without limitation, the construction of excavations, footings and piles. Any of the foregoing notwithstanding, a Release of any Hazardous Substance existing on and in Parcel "A" Property 4 as of the commencement of the term of this Lease shall not be deemed to be caused by the disturbance of such substances by LESSEE's operations as a result of LESSEE's use of Parcel "A" Property 4, as long as Lessee has continuously complied and is in current compliance with all material rules, regulations and conditions set forth in that certain Postclosure Land Use Plan for Mission Bay South Shores Phase 3, Landfill Facility No. 37-AA-0026, Revised October 1995, as may be amended from time to time as a result of a change in use or state or federal regulatory actions (the "Closure Rules"). Furthermore, LESSEE shall not be responsible for any Release or continuing Release

occurring before the commencement of LESSEE's occupancy of Parcel "A", Property 4, that continues to emanate, spread or migrate after that date except to the extent such Release or continuing Release is solely attributable to the activities of LESSEE in violation of the Closure Rules. LESSEE shall be deemed to have continuously complied with the Closure Rules if any failure to comply has been cured to the reasonable satisfaction of the applicable authorities.

F. LESSEE Indemnity. LESSEE hereby agrees to indemnify, defend and hold harmless CITY from and against any and all claims, actions, damages, liability and expense (include reasonable attorney's fees and costs and damages for injury to natural resources or the public, and costs of any health assessment or health effect studies) in connection with the investigation, response to and/or remediation of the existence or Release of any Hazardous Substance in or from the municipal waste site located in, on and at Parcel "A" Property 4, to the extent such costs are incurred due to a Release and to the extent that such Release is caused by LESSEE's operations, including the disturbance by LESSEE of any Hazardous Substances existing on and in Parcel "A" Property 4 as of the commencement of the term of this Lease. Any of the foregoing notwithstanding, a Release of any Hazardous Substance existing on and in Parcel "A" Property 4 as of the commencement of the term of this Lease shall not be deemed to be caused by the disturbance of such substances by LESSEE's operations as a result of LESSEE's use of Parcel "A" Property 4 as long as Lessee has continuously complied and is in current compliance with all material portions of the Closure Rules. Furthermore, LESSEE shall not be responsible for any Release or continuing Release occurring before the commencement of LESSEE's improvements or occupancy of Parcel "A" Property 4, that continues to emanate, spread, or migrate after that date except to the extent such Release or continuing Release is solely attributable to the activities of LESSEE in violation of the Closure Rules. LESSEE shall be deemed to have continuously complied with the Closure Rules if any failure to comply has been cured to the reasonable satisfaction of the applicable authorities.

G. Maintenance. LESSEE recognizes that there will be increased maintenance as a result of the location of LESSEE's improvements over the municipal waste site. LESSEE agrees it shall be solely responsible for any increased maintenance on Parcel "A" Property 4, which occurs as a result of LESSEE's improvements to and/or occupancy of Parcel "A" Property 4. LESSEE shall permit access to CITY and other regulatory agency representatives to inspect any Release, monitor any substance, or perform any other actions related to maintaining regulatory compliance regarding buried municipal waste located in, on and at Parcel "A" Property 4, with 24-hour advance notice. CITY shall make all best efforts to ensure that CITY's use of LESSEE's parking facilities shall not interfere with LESSEE's operations. LESSEE shall respond to written requests from CITY's Environmental Services Department, to maintain landfill surfaces according to regulatory requirements. LESSEE will also be responsible for any health and safety plans for Parcel "A" Property 4 resulting from LESSEE's improvements to and/or occupancy of Parcel "A" Property 4.

H. CITY's and LESSEE's obligations under this Article XXV shall survive the expiration or earlier termination of this Lease."

12. Subparagraph A of Article XXXII, GENERAL DEVELOPMENT PLAN, is hereby amended to read as follows:

"From and after the commencement of the term of this Lease the further development of the Premises shall be generally in accordance with the Development Plan for the Premises approved by the City Council and on file in the office of the City Clerk as Document No. RR-263507, as the same may from time to time be amended in writing by and between CITY and LESSEE ("Development Plan"), and, to the extent applicable, CITY's MISSION BAY PARK MASTER PLAN UPDATE as the same is amended from time to time. It is understood that the Development Plan is a conceptual plan only, and that the depictions of the approved uses and improvements are illustrative only and are not binding as to the exact configuration and location of the uses and improvements authorized.

13. Subparagraph B of Article XXXII, GENERAL DEVELOPMENT PLAN, is hereby amended to read as follows:

"From and after the commencement of the term of this Lease, LESSEE shall implement the First Phase (as defined below) of the development plan attached hereto as Exhibit "5" (hereinafter referred to as the "New Plan") as soon as practicable after LESSEE obtains the City Manager's approval and all other required permits and approvals for the First Phase of the New Plan (provided that commencement of construction of the First Phase of said plan shall not be required prior to the expiration of two (2) years following the commencement of the term of this Lease), and shall proceed diligently and without undue delay to completion thereof. "First Phase" shall mean the development and construction of a parking area. Subsequent new development included in the New Plan shall be new animal exhibits, interactive experiences, and/or theme attractions, subject to prior approval by the City Manager. LESSEE shall submit plans to CITY for such new exhibits or attractions prior to January 1, 2001. From and after the commencement of the term of this Lease, LESSEE shall make an aggregate investment (including direct and indirect construction costs and costs for architects, engineers, consultants fees and permitting and related expenses) of at least \$5,000,000, including at least \$1,000,000 attributable to Parcel "A" Property 4."

14. [intentionally omitted.]

15. Subparagraph D of Article XXXII, GENERAL DEVELOPMENT PLAN, is hereby amended to read as follows:

"Should LESSEE fail to commence construction of the First Phase as provided above, subject to delays beyond LESSEE's reasonable control, then Parcel "A" Property 4 shall revert to CITY, at CITY's option, free and clear of this Lease or any other interest of LESSEE, unless LESSEE commences construction within thirty (30) days following

receipt of written notice from CITY of its intention to cause such reversion, given on or after the date LESSEE should have commenced construction, subject to delays beyond its reasonable control. If requested by CITY, and if CITY's notice of election is valid and LESSEE fails to commence construction within said thirty (30) day period, LESSEE shall execute, acknowledge, and deliver to CITY a quitclaim deed whereby LESSEE shall quitclaim all of its right, title and interest in Parcel "A" Property 4. Such reversion of Parcel "A" Property 4 shall be CITY's sole remedy for LESSEE's failure to timely commence construction of the First Phase of the improvements referred to in Exhibit "5," New Plan."

16. Article XXXVII, NONDISCRIMINATION, is hereby amended to read as follows:

"LESSEE agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in LESSEE's use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations and the obtaining and holding of employment."

17. Article XXXIX, INSTITUTIONAL ADVERTISING, is hereby amended to read as follows:

"Institutional advertising, as authorized herein, shall mean corporate sponsorship of certain exhibits and attractions of the Premises whereby the sponsors may promote, or cause to be promoted or advertised, their products and/or services on said Premises. LESSEE agrees to control said institutional advertising to whatever extent necessary to maintain compatibility thereof with the primary purpose of a Marine Life Exhibit on the Premises and with CITY standards for the general development and uses of Mission Bay Park. CITY agrees to accept such institutional advertising as exists on the Premises as of the effective date of this Amendment to Lease Agreement; thereafter, however, all new contracts for institutional advertising on the Premises shall require the prior written approval of the City Manager. The CITY shall not impose a fee for approval of institutional advertising contracts, which are renewal contracts containing the same conditions as the previous contract, except for the term of the contract."

18. Article XL, AFFIRMATIVE ACTION, is hereby deleted and the following is added in its place:

"ARTICLE XL

COMPLIANCE WITH CITY'S EQUAL
OPPORTUNITY CONTRACTING PROGRAM

a. Equal Opportunity Contracting. LESSEE acknowledges and agrees that it is aware of, and will comply with, City Council Ordinance No. 18173 (San Diego Municipal Code Sections 22.2701 through 22.2708, as amended), EQUAL

EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, a copy of which is on file in the Office of the City Clerk and by this reference is incorporated herein. LESSEE and all of its subcontractors are individually responsible to abide by its contents.

LESSEE will comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. LESSEE will not discriminate against any employee or applicant for employment on any basis prohibited by law.

LESSEE submitted and CITY acknowledges receipt of a current Work Force Report or a current Equal Employment Opportunity (EEO) Plan as required by Section 22.2705 of the San Diego Municipal Code, which sets forth the actions that LESSEE will take to achieve the CITY'S commitment to equal employment opportunities.

Further, LESSEE will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this lease agreement so that such provisions will be binding upon each subcontractor.

LESSEE agrees that compliance with EEO provisions flowing from the authority of both parties will be implemented, monitored, and reviewed by the CITY'S Equal Opportunity Contracting Program staff.

b. Local Business and Employment. LESSEE acknowledges that the City of San Diego seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. LESSEE will, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with this lease agreement from local residents and firms as opportunities occur. LESSEE agrees to hire qualified local residents and firms whenever feasible.

LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements may result in termination of this lease agreement and debarment from participating in CITY contracts for a period of not less than one (1) year."

19. The following provisions shall be added to Article XLI, GENERAL:

"H. So long as LESSEE operates a water ski and personal watercraft show in the lagoon, LESSEE agrees to conduct one boating safety class each year for the duration of this Lease. LESSEE will make a good faith effort to assemble 2,500 personal watercraft owners and operators, and working with CITY'S Lifeguard Services Division, present to the audience boating safety information. The boating safety class will include exhibition riding by professional personal watercraft operators and displays of personal watercrafts. A nominal fee may be charged to the attendees and will include admittance to Sea World park on the day of the event. LESSEE may limit the number of individual

ticket orders to four tickets. Twenty-five percent (25%) of the gross revenue from this event will be donated to the San Diego Lifeguard Service Boating Safety Education Fund.

I. CITY has requested that LESSEE contribute to the development of a nature center in Mission Bay Park after CITY develops a concept for the center. LESSEE has indicated to CITY, and CITY understands, that it cannot make any binding commitments for support of a nature center but agrees to cooperate with CITY and will consider providing in-kind support by, for example, its internal graphic design personnel and facilities, provided that the expenditures are not material.

J. LESSEE agrees to comply with the California Coastal Act, at its sole cost and expense, and, to the extent legally required, to apply to the California Coastal Commission or such other authorized state or local body for necessary coastal development permits authorizing the construction of any other improvements in the coastal zone.

K. LESSEE agrees to allow City to use LESSEE'S parking facilities, located on Parcel "A" Property 4, as needed by CITY for parking for patrons of the proposed Amphitheater, or for patrons of other CITY special events, during those times such parking facilities are not needed by LESSEE. City shall make all best efforts to ensure that CITY's use of LESSEE's parking facilities shall not interfere with LESSEE's operations. CITY shall notify LESSEE of CITY's desire to use LESSEE's parking facilities as far in advance as is practical, and LESSEE shall respond to such request in a timely manner. LESSEE agrees to install a gate in the fence on the easterly side of the Premises in order to facilitate said parking, at a location to be selected by LESSEE and approved by CITY, which approval shall not be unreasonably withheld.

CITY agrees to indemnify and hold LESSEE harmless from and against any claims asserted or liability established for damages or injuries to any person or property which arise out of CITY's use of the parking facilities; provided, however that CITY's duty to indemnify shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of LESSEE, its agents, officers or employees.

L. This Lease Amendment shall not become effective until it has been approved by resolution of the Board of Directors of LESSEE and of LESSEE's parent company."

20. Article XLII, ADDITIONAL RENTAL ADJUSTMENT UPON CHANGE OF ENTITLEMENTS, is hereby added as follows:

A. From time to time during the term of this Lease, the minimum rent shall be adjusted as set forth in this Article XLII upon the occurrence of a "Substantial Change in Entitlements," as defined below.

B. As used herein, a "Substantial Change in Entitlements" shall mean the occurrence of an event or events pursuant to which LESSEE shall thereafter be fully and completely vested under this Lease and pursuant to all applicable laws (such that all discretionary approvals have been obtained) to use the Premises in a manner different from that contemplated by this Lease immediately prior to such Substantial Change in Entitlements such that the value of LESSEE's leasehold interest is increased thereby. By way of an example and not as a limitation, a Substantial Change in Entitlements may include an increase in, or removal of, the statutory thirty foot (30') height restriction currently imposed upon the Premises, together with an amendment to the Mission Bay Park Master Plan and LESSEE's master plan to allow development of the Premises consistent therewith (including the receipt of all California Coastal Commission approvals necessary in connection therewith), LESSEE's obtaining (on a fully vested and irrevocable basis) all other city, state, federal and other governmental approvals, permits and entitlements (other than building permits) necessary in connection therewith in order to fully vest LESSEE with the right to develop the Premises in connection therewith, and LESSEE's obtaining such approvals of CITY as are required under this Lease to develop the Premises in connection therewith. Any of the foregoing notwithstanding, a Substantial Change in Entitlements shall not include LESSEE's obtaining CITY's consent to, and other necessary governmental approvals for, the further development of the Premises in a manner consistent with and contemplated by this Lease and the Development Plan and pursuant to uses already allowed under this Lease. Nor shall this Article XLII be applicable to a request by LESSEE for the addition of a new use for the Premises not currently allowed by this Lease (including but not limited to the development of a hotel on the Premises); the parties acknowledge that any such additional use not currently permitted pursuant to this Lease shall require the consent of CITY and the agreement of both parties as to the rent to be charged by CITY under this Lease in connection therewith.

C. Upon the occurrence of a Substantial Change in Entitlements, the minimum rent shall be adjusted equitably as a result of the increase in value, if any, resulting solely from the Substantial Change in Entitlements. Such adjustment in minimum rent shall not include any increase in fair market rental value arising for any other reason, including, but not limited to, improved economic conditions, a general increase in land values, inflation, improvements to the Premises made by LESSEE, or a decrease in competition for tourist or recreational spending. Such adjustment in minimum rent shall be made only with respect to the incremental increase in value, if any, resulting solely from the Substantial Change in Entitlements. Nothing herein shall be deemed to imply that an increase in value shall result from a Substantial Change in Entitlements.

D. Upon the occurrence of a Substantial Change in Entitlements, the parties shall negotiate in good faith to determine whether the minimum rent then in effect should be adjusted pursuant hereto, and, if so, the extent of any such adjustment. In the event that such determination is not made by mutual consent of the parties within one (1) year

of such Substantial Change in Entitlements, either party may refer the matter to arbitration in accordance with the following provisions:

1. If the parties cannot agree upon a mutually acceptable arbitrator within thirty (30) days after the written demand therefore, each party shall, within ten (10) days thereafter, appoint an arbitrator and give written notice of such appointment to the other party. The two (2) arbitrators shall immediately choose a third arbitrator to work with them. If the two (2) arbitrators fail to select a third arbitrator within ten (10) days following the date of their appointment, on written application by either party, the third arbitrator shall be promptly appointed by the then-presiding judge of the superior court of the State of California, County of San Diego, acting in his individual capacity. The party making the application shall give the other party written notice of its application.

2. Unless the parties otherwise agree, all of the arbitrators shall be members in good standing of the American Institute of Real Estate Appraisers with an M.A.I. designation and shall have at least five (5) years experience in appraising commercial and other properties. Each party shall bear the expenses of its own appointed appraiser and shall bear other expenses pursuant to section 1284.2 of the California Code of Civil Procedure. Hearings shall be held in the City of San Diego, California. If there are three (3) arbitrators, the decision as to the increase in minimum rent shall be the decision of not less than two (2) of the arbitrators. In the event two (2) arbitrators cannot agree, then the minimum rent shall be increased by the average of the two (2) increases in minimum rent proposed by the arbitrators which are closest in amount, and the third proposal shall be discarded. (In the event that one proposed increase determined by an arbitrator is equally higher and lower than the other two (2) proposed increases, such middle amount shall be used.) For purposes of this arbitration procedure, the arbitrators shall assume that CITY has a fee simple absolute estate. In determining the increase, if any, in minimum rent arising from the Substantial Change in Entitlements, the arbitrators shall consider only the actual uses and purposes expressly authorized by CITY under this Lease and allowed by applicable law immediately prior to and immediately after the Substantial Change in Entitlements. In determining the increase, if any, in the minimum rent arising from the Substantial Change in Entitlements, the arbitrators shall use and analyze only that rental data that is found in the open marketplace, such as is demanded and received by other landlords for the same or similar uses. In all cases, the arbitrators shall be instructed that the rent determination shall be based upon recognized real estate appraisal principals and methods. The award determined by the arbitrators shall be effective and retroactive to the first day following the Substantial Change in Entitlements, and any amounts found to be owing shall be paid within 30 days of the date of final determination by the arbitrators, and if not paid by said date shall thereafter accrue interest at the lesser of ten percent (10%) per annum or the "reference rate" of Bank of America NT & SA from time to time in effect. The award shall be in writing in the form of a report that is in accordance with the powers of the arbitrators herein, supported by facts and analysis and in accordance with the law. The arbitrators shall make copies of their report available to any ethical practice committee of any recognized

professional real estate organization. The arbitration shall be conducted under and subject to the California Arbitration Statute.

IN WITNESS WHEREOF, this Amendment is executed by CITY, acting by and through its City Manager under and pursuant to ^{CIRCUITRY} Resolution No. ~~20~~-18538 of the City Council authorizing such execution, and by LESSEE, acting by and through its duly authorized officer, as of the date first above written.

I hereby approve the form and legality of the foregoing Amendment this _____ day of _____, 199____.

CASEY G. GWINN, City Attorney

By: *Prescilla Dumas*
Deputy

THE CITY OF SAN DIEGO

By: *[Signature]*
Title: Acting Real Estate Assets Dir.

SEA WORLD, INC.

By: *William A. Davis 6/24/98*
Title: EX VP & GM

EXHIBIT 3

LEGAL DESCRIPTION: PARCEL "A"; PROPERTY 4 (EAST LEASE EXPANSION)

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY) AND A PORTION OF PUEBLO LOTS 252 AND 258 OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 RESUBDIVISION OF BLOCKS 7, 8, AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH $89^{\circ}55'56''$ WEST, (RECORD NORTH $89^{\circ}59'00''$ WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH $00^{\circ}04'04''$ EAST, 2,000.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE ALONG SAID PARALLEL LINE NORTH $89^{\circ}55'56''$ EAST, 249.70 FEET; THENCE NORTH $05^{\circ}30'02''$ WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE $X=1,712,415.17$ AND $Y=213,819.22$) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE $32^{\circ}45'02''$ NORTH AND LONGITUDE $117^{\circ}11'07.200''$ WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 3773.34 FEET AND WEST 10,533.21 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 3773.34 AND WEST 10,533.21, SAID TRUE POINT OF BEGINNING BEING A POINT ON A LINE THAT IS PARALLEL WITH AND 79.50 FEET AT RIGHT ANGLES NORTHERLY FROM THE CENTERLINE OF SEA WORLD DRIVE AS SHOWN ON CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14985-1-D, SAID POINT BEING OPPOSITE AT RIGHT ANGLES FROM ENGINEER'S STATION 44+32.70 ON SAID CENTERLINE; SAID POINT ALSO BEING THE BEGINNING OF A 1920.50 FOOT RADIUS CURVE CONCAVE NORTHERLY, A RADIAL TO WHICH BEARS SOUTH $07^{\circ}44'17''$ EAST; (1) THENCE WESTERLY ALONG THE ARC OF SAID CURVE AND PARALLEL TO SAID CENTERLINE THROUGH A CENTRAL ANGLE OF $00^{\circ}49'15''$ A DISTANCE OF 27.51

FEET TO THE MOST SOUTHEASTERLY CORNER OF THE SEA WORLD LEASE AREA AS DESCRIBED IN LEASE AMENDMENT PER CITY COUNCIL RESOLUTION NO. 263507, ADOPTED JUNE 24, 1985, AND ON DOCUMENT NO. 769275 ADOPTED DECEMBER 10, 1985, BOTH IN THE OFFICE OF THE CITY CLERK OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA; (2) THENCE ALONG THE EASTERLY BOUNDARY OF SAID LEASE AREA NORTH 00°17'19" WEST, 1,456.09 FEET ;(3) THENCE CONTINUING ALONG THE BOUNDARY OF SAID LEASE AREA NORTH 55°43'04" WEST, 660.41 FEET; (4) THENCE ALONG SAID BOUNDARY NORTH 71°35'40" WEST, 598.11 FEET; (5) THENCE ALONG SAID BOUNDARY NORTH 18°24'20" EAST, 50.00 FEET; (6) THENCE LEAVING SAID LEASE BOUNDARY SOUTH 71°35'40" EAST, 1,192.78 FEET TO THE BEGINNING OF A TANGENT 2,200.00 FOOT RADIUS CURVE CONCAVE NORTHERLY, A RADIAL TO WHICH BEARS SOUTH 18°24'20" WEST; (7) THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05°42'28" A DISTANCE OF 219.16 FEET; (8) THENCE SOUTH 12°41'52" WEST, 92.37 FEET TO THE BEGINNING OF A 60.00 FOOT RADIUS CURVE CONCAVE EASTERLY, A RADIAL TO WHICH BEARS NORTH 77°18'08" WEST; (9) THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 66°05'56" A DISTANCE OF 69.22 FEET TO THE BEGINNING OF A REVERSE 10.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, A RADIAL TO WHICH BEARS NORTH 36°35'56" EAST; (10) THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 56°54'04", A DISTANCE OF 9.93 FEET; (11) THENCE SOUTH 03°30'00" WEST, 323.08 FEET TO THE BEGINNING OF A TANGENT 900.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL TO WHICH BEARS NORTH 86°30'00" WEST; (12) THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 65°29'51", A DISTANCE OF 1,028.83 FEET ; (13) THENCE SOUTH 07°44'17" EAST, 200.00 FEET TO A POINT ON THE AFOREMENTIONED LINE THAT IS PARALLEL WITH AND 79.50 FEET AT RIGHT ANGLES NORTHERLY FROM THE CENTERLINE OF SEA WORLD DRIVE; (14) THENCE WESTERLY ALONG SAID PARALLEL LINE SOUTH 82°15'43" WEST, 706.66 FEET TO THE TRUE POINT OF BEGINNING.

(SAID PARCEL OF LAND CONTAINS 16.37 ACRES MORE OF LESS).

Clinton E. Hale 06-18-98
Clinton E. Hale, PLS 6787 Date
Hale Engineering
Registration Expires: 09-30-00



EXHIBIT 3

LEGAL DESCRIPTION: PARCEL "A"; PROPERTY 5 (PEREZ COVE WAY LEASE)

THAT PORTION OF THE TIDELANDS AND SUBMERGED OR FILLED LANDS OF MISSION BAY (FORMERLY FALSE BAY) AND A PORTION OF PUEBLO LOTS 246, 247, 248, 249, 250 and 252 OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36, ALL BEING IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 IN BLOCK 10 RESUBDIVISION OF BLOCKS 7, 8, AND 10 AND A PORTION OF BLOCK 9 AND LOT "A", INSPIRATION HEIGHTS, ACCORDING TO MAP THEREOF NO. 1700, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY DECEMBER 27, 1917; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 24, SOUTH 89°55'56" WEST, (RECORD NORTH 89°59'00" WEST), 25.00 FEET TO A POINT OF TANGENT CURVE IN THE BOUNDARY OF SAID LOT 24; THENCE SOUTH 00°04'04" EAST, 2000.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PARALLEL AND 2.00 FEET SOUTHERLY AT RIGHT ANGLES TO THE SOUTHERLY LINE OF SAID BLOCK 10; THENCE ALONG SAID PARALLEL LINE NORTH 89°55'56" EAST, 249.70 FEET; THENCE NORTH 05°30'02" WEST, 104.06 FEET TO THE UNITED STATES COAST AND GEODETIC TRIANGULATION STATION "OLD TOWN" (THE LAMBERT GRID COORDINATES, CALIFORNIA ZONE 6, FOR SAID STATION "OLD TOWN" ARE X=1,712,415.17 AND Y=213,819.22) AND SAID TRIANGULATION STATION IS LOCATED AT LATITUDE 32°45'02" NORTH AND LONGITUDE 117°11'07.200" WEST, BEING ALSO THE POINT OF ORIGIN FOR THE SAN DIEGO CITY ENGINEER'S MISSION BAY PARK COORDINATE SYSTEM; THENCE NORTH 3,921.99 FEET AND WEST 11,925.93 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PROPERTY, THE MISSION BAY COORDINATES OF SAID TRUE POINT OF BEGINNING BEING NORTH 3,921.99 AND WEST 11,925.93, SAID TRUE POINT OF BEGINNING BEING A POINT ON A LINE THAT IS PARALLEL WITH AND 60.50 FEET AT RIGHT ANGLES NORTHERLY FROM THE CENTERLINE OF SEA WORLD DRIVE AS SHOWN ON CITY OF SAN DIEGO ENGINEER'S DRAWING NO. 14985-1-D, SAID POINT BEING OPPOSITE AT RIGHT ANGLES FROM ENGINEER'S STATION 30+00.00 ON SAID CENTERLINE; (1) THENCE PARALLEL TO SAID CENTERLINE NORTH 78°55'43" WEST, 346.04 FEET; (2) THENCE NORTH 57°49'43" WEST, 29.24 FEET TO THE BEGINNING OF A TANGENT 963.00 FOOT RADIUS CURVE CONCAVE NORTHERLY, A RADIAL TO

WHICH BEARS NORTH 32°10'17" EAST; (3) THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 36°52'29" A DISTANCE OF 619.77 FEET; (4) THENCE SOUTH 85°17'48" WEST, 529.75 FEET TO THE BEGINNING OF A TANGENT 600.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL TO WHICH BEARS SOUTH 04°42'12" EAST; (5) THENCE WESTERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 60°17'06" A DISTANCE OF 631.30 FEET; (6) THENCE NORTH 34°25'06" WEST, 109.04 FEET TO THE BEGINNING OF A TANGENT 223.00 FOOT RADIUS CURVE CONCAVE EASTERLY, A RADIAL TO WHICH BEARS SOUTH 55°34'54" WEST; (7) THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 26°27'23" A DISTANCE OF 102.97 FEET TO THE BEGINNING OF A COMPOUND 345.00 FOOT RADIUS CURVE CONCAVE EASTERLY, A RADIAL TO WHICH BEARS SOUTH 82°02'17" WEST; (8) THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 53°09'15" A DISTANCE OF 320.06 FEET TO THE BEGINNING OF A REVERSE 255.00 FOOT RADIUS CURVE CONCAVE WESTERLY, A RADIAL TO WHICH BEARS SOUTH 44°48'28" EAST; (9) THENCE NORTHERLY, NORTHWESTERLY AND WESTERLY ALONG THE ARC OF SAID REVERSE CURVE THROUGH A CENTRAL ANGLE OF 116°05'26" A DISTANCE OF 516.67 FEET; (10) THENCE NORTH 70°53'54" WEST, 122.41 FEET TO THE BEGINNING OF A TANGENT 303.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL TO WHICH BEARS SOUTH 19°06'06" WEST; (11) THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 56°55'02" A DISTANCE OF 301.00 FEET; (12) THENCE NORTH 13°58'52" WEST, 636.66 FEET; (13) THENCE NORTH 76°01'08" EAST, 20.59 FEET; (14) THENCE NORTH 13°58'52" WEST, 103.91 FEET; (15) THENCE NORTH 28°24'10" EAST, 32.33 FEET TO A POINT ON THE SEA WORLD LEASE AREA AS DESCRIBED IN LEASE AMENDMENT PER CITY COUNCIL RESOLUTION NO. 263507, ADOPTED JUNE 24, 1985, AND ON DOCUMENT NO. 769275 ADOPTED DECEMBER 10, 1985, BOTH IN THE OFFICE OF THE CITY CLERK OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA; (16) THENCE ALONG THE BOUNDARY OF SAID LEASE AREA SOUTH 61°35'50" EAST, 124.71 FEET; (17) THENCE SOUTH 23°11'55" EAST, 37.48 FEET; (18) THENCE SOUTH 00°00'00" EAST, 175.00 FEET; (19) THENCE SOUTH 13°45'54" EAST, 575.54 FEET TO THE BEGINNING OF A NON-TANGENT 270.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL TO WHICH BEARS SOUTH 45°14'11" WEST; (20) THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 26°08'05" A DISTANCE OF 123.16 FEET; (21) THENCE SOUTH 70°53'54" EAST, 121.23 FEET TO THE BEGINNING OF A TANGENT 332.00 FOOT RADIUS CURVE CONCAVE WESTERLY, A RADIAL TO WHICH BEARS NORTH 19°06'06" EAST; (22) THENCE SOUTHEASTERLY, SOUTHERLY AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 116°05'26" A DISTANCE OF

672.68 FEET; TO THE BEGINNING OF A REVERSE 268.00 FOOT RADIUS CURVE CONCAVE EASTERLY, A RADIAL TO WHICH BEARS NORTH 44°48'28" WEST; (23) THENCE SOUTHERLY ALONG THE ARC OF SAID REVERSE CURVE THROUGH A CENTRAL ANGLE OF 73°56'28" A DISTANCE OF 345.86 FEET; TO THE BEGINNING OF A COMPOUND 568.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL TO WHICH BEARS SOUTH 61°15'04" WEST; (24) THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 65°57'16" A DISTANCE OF 653.84 FEET; (25) THENCE NORTH 85°17'48" EAST, 515.45 FEET TO THE BEGINNING OF A TANGENT 1032.00 FOOT RADIUS CURVE CONCAVE SOUTHERLY, A RADIAL TO WHICH BEARS NORTH 04°42'12" WEST; (26) THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 36°52'29" A DISTANCE OF 664.18 FEET; (27) THENCE SOUTH 57°49'43" EAST, 53.69 FEET TO THE BEGINNING OF A TANGENT 828.86 FOOT RADIUS CURVE CONCAVE NORTHERLY, A RADIAL TO WHICH BEARS SOUTH 32°10'17" WEST; (28) THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 21°06'00" A DISTANCE OF 305.24 FEET TO THE TRUE POINT OF BEGINNING.

(SAID PARCEL OF LAND CONTAINS 7.34 ACRES MORE OR LESS).

Clinton E. Hale 06-18-98
Clinton E. Hale, PLS 6787, Date
Hale Engineering
Registration Expires: 09-30-00



LEASE AMENDMENT

This Lease Amendment ("Amendment"), executed in duplicate as of July 9, 2002, at San Diego, California, by and between THE CITY OF SAN DIEGO, a municipal corporation in the County of San Diego, State of California ("CITY"), as lessor, and SEA WORLD, INC., a Delaware corporation, 500 Sea World Drive, San Diego, California 92109 ("LESSEE"), as lessee, is made with reference to the following facts:

A. CITY leases to LESSEE and LESSEE leases from CITY certain real property in Mission Bay Park (the "Premises") described in lease amendments dated December 14, 1977, January 29, 1979, December 12, 1983, June 24, 1985, September 22, 1986, and June 29, 1998 and filed in the office of the City Clerk of San Diego as Document Nos. 762304, 765767, RR-259814, RR-263507, RR-266641, and OO-18538-1, respectively collectively referred to in this Amendment as the "Lease").

B. On July 10, 2001, the San Diego City Council (the "City Council") adopted Resolution Number R-295139 (the "Resolution"), which approved the SeaWorld Master Plan Update ("SeaWorld Master Plan"), and Local Coastal Program Amendment 2-2001-C (collectively, the "LCP Amendment") and amendments to CITY's Progress Guide and General Plan and required CITY and LESSEE to make certain modifications to the Lease. On February 7, 2002, the California Coastal Commission voted to certify the LCP Amendment subject to suggested modifications and required CITY and LESSEE to make additional modifications to the Lease.

C. The parties desire to amend the Lease to satisfy the requirements of the Resolution and the LCP Amendment as hereinafter provided.

THEREFORE, in consideration of the mutual covenants contained herein, the Lease is amended to provide, and LESSEE and CITY agree, as follows:

1. Personal Watercraft. Subparagraph D of Article III, USE OF THE PREMISES, is amended to add the following after the last paragraph:

"The rights and privileges hereby granted extend only to the operation of personal watercraft by LESSEE. LESSEE may not rent, sell or lease personal watercraft for use by members of the public without the written consent and approval of the City Council."

DOCUMENT NO. RR-296787
FILED JUL 09 2002
CITY CLERK
SAN DIEGO, CALIFORNIA

2. Identification of Mission Bay Master Park Master Plan. Subparagraph A of Article XXXII, GENERAL DEVELOPMENT PLAN, is deleted and the following is added in its place:

“A. From and after the commencement of the term of this Lease the further development of the Premises shall be generally in accordance with the SeaWorld Master Plan for the Premises as set forth in the LCP Amendment (“Development Plan”), as the same may from time to time be amended, and, to the extent applicable, CITY’S MISSION BAY PARK MASTER PLAN UPDATE as the same is amended from time to time or as otherwise approved by CITY or the California Coastal Commission. It is understood that the Development Plan is a conceptual plan only, and that the depictions of the approved uses and improvements are illustrative only and are not binding as to the exact configuration and location of the uses and improvements authorized.”

3. Subparagraph C of Article XXXII, GENERAL DEVELOPMENT PLAN, including the substantial rent credit to LESSEE, is deleted in its entirety and the following is added in its place:

“C. Traffic Mitigation Fund.

(i) LESSEE shall pay to CITY a total amount of Ten Million Two Hundred Fifty Three Thousand One Hundred Dollars (\$10,253,100) plus the increase adjustment as provided below (collectively, the “Traffic Mitigation Fund”) in five (5) annual installments as provided herein for use as provided in the LCP Amendment and further detailed in section 2.C.(ii) below. CITY and LESSEE acknowledge that the Traffic Mitigation Fund constitutes the aggregate of LESSEE’s individual fair share contributions to the funding of traffic mitigation measures identified in the Mitigation Monitoring and Reporting Program (“MMRP”) of Environmental Impact Report LDR No. 99-0618 certified by the City Council on July 10, 2001 pursuant to Resolution Number R-295138 (“EIR”) and more particularly explained in the traffic mitigation measure implementation table attached hereto as Exhibit “6” (the “Traffic Mitigation Table”)¹. Pursuant to the MMRP, LESSEE is required to pay to CITY LESSEE’s fair share contribution for funding of an identified traffic mitigation measure only when the level of traffic impacts directly attributable to LESSEE’s park operations attain or exceed the corresponding threshold of significance for such traffic mitigation measure as identified in the MMRP and more particularly explained in the Traffic Mitigation Table. Notwithstanding the MMRP, and instead, pursuant to this Subparagraph C, LESSEE’s payment of the Traffic Mitigation Fund, representing the aggregate of its fair share

¹Lessee and City acknowledge and agree that Exhibits 6, 7 & 8 are provided for illustrative purposes only and are not intended to supersede the mitigation requirements of the EIR and the MMRP as certified by the City Council.

contributions under the MMRP, may be made prior to the date LESSEE's traffic impacts attain or exceed each of the requisite thresholds of significance as provided herein.

(ii) CITY shall use the Traffic Mitigation Fund only for the planning, development and construction of traffic congestion reduction measures in Mission Bay Park as provided in the LCP Amendment, and more specifically, Mitigation Measures 2.1.1, 2.4.2, 2.5.1, 2.4.3, 2.4.4, and 2.3.1 of the MMRP and Mitigation Measures 4.4-1, 4.4-4, 4.4-5, 4.4-6, and 4.4-7 of the EIR, and CIP 52-706 and CIP 52-643. The Traffic Mitigation Fund amounts for MMRP mitigation measures identified in Exhibit "6" shall be deposited into CIP 52-706 and CIP 52-643 and the required mitigation measures shall be constructed as required by the EIR and MMRP in phases as set forth in Exhibit "7," unless otherwise agreed to by CITY, LESSEE and the California Department of Transportation ("Caltrans"). LESSEE shall be solely responsible for the performance, construction, installation and estimated costs of Four Hundred Eighty-Six Thousand Five Hundred Dollars (\$486,500) for Mitigation Measures 2.2.1, 2.4.1, 2.6.1, 2.6.2 and 2.6.3 of the MMRP and Mitigation Measures 4.4-2, 4.4-3, 4.4-8, 4.4-9 and 4.4-10 of the EIR.

(iii) The Traffic Mitigation Fund shall be payable in five (5) annual installments adjusted annually as provided below. The installment amounts shall be revised to the extent LESSEE's traffic impacts attain or exceed each of the requisite thresholds of significance set forth in the Traffic Mitigation Table to ensure that payment for impacts is never made later than actually due according to the thresholds. The first annual installment of the Traffic Mitigation Fund shall be due and payable upon the date of the effective certification of the LCP Amendment by the California Coastal Commission ("First Payment Date"), and consecutive annual installments shall be due and payable on each anniversary of the First Payment Date thereafter. The five (5)-year period beginning on the First Payment Date shall be the "Mitigation Payment Period." On each anniversary of the First Payment Date, the then unpaid balance of the Traffic Mitigation Fund shall be subject to an increase adjustment calculated using the U.S. Department of Labor Consumer Price Index for the Western Urban Region ("CPI") or three percent (3%) thereof, whichever is greater. The annual installment that is then due shall be calculated based on the remaining number of payment years and the amount of the unpaid balance of the Traffic Mitigation Fund after the foregoing increase adjustment. Exhibit "8" ("Traffic Mitigation Payment Schedule") provides a schedule of LESSEE payments at the three percent (3%) minimum. City shall create a separate interest-bearing fund for the Traffic Mitigation Fund to be used solely for this purpose.

(iv) If LESSEE's traffic impacts do not attain or exceed each of the requisite thresholds of significance provided in the Traffic Mitigation Table, LESSEE shall be entitled to annual refunds of prepaid mitigation payments during the succeeding five (5)-year period ("Unrealized Mitigation Reimbursement Period") commencing upon the expiration of the Mitigation Payment Period for all traffic mitigation measures that do not attain or exceed their respective threshold of significance identified in the MMRP and

the Traffic Mitigation Table during the Mitigation Payment Period. The amount of each mitigation reimbursement payment shall be calculated based on the Traffic Mitigation Payment for the corresponding year of the Mitigation Payment Period (i.e., the first year of each period will be compared, the second year of each period, and so on), less any mitigation actually due in the corresponding year of the Mitigation Payment Period because of thresholds having been attained and any interest accrued during said period. LESSEE's Traffic Mitigation Payments shall be deposited into interest bearing accounts in accordance with City's standard practice for deposit of development impact fees. All interest shall accrue to the benefit of the Traffic Mitigation Fund for payment of costs of mitigation measures or refund to LESSEE as provided in this Lease.

(v) When traffic impacts directly attributable to LESSEE's park operations attain or exceed a threshold of significance for any or all of the improvements identified in the MMRP and the Traffic Mitigation Table, City shall use the Traffic Mitigation Funds to pay for the required mitigation measures in phases as set forth in Exhibit "7." If the then existing balance of the Traffic Mitigation Fund is insufficient to cover LESSEE's fair share contribution for the funding of any Traffic Mitigation Measure identified in the MMRP and the EIR for which a significance threshold has been met, LESSEE shall immediately pay to City an amount sufficient to cover the difference between the amount for that mitigation measure in the Traffic Mitigation Fund and LESSEE's required fair share contribution for that mitigation measure. To the extent LESSEE has received a reimbursement for prepayment of such mitigation, LESSEE shall immediately pay such refund amount and any additional amount necessary to cover LESSEE's required fair share contribution to CITY. For traffic mitigation measures in the MMRP that attain or exceed a threshold of significance during the Mitigation Payback Period, LESSEE will not be eligible for a refund. For traffic mitigation measures that attain or exceed a threshold of significance following the Unrealized Mitigation Reimbursement Period, LESSEE will immediately pay to City an amount equal LESSEE's fair share contribution for the then current cost of the required mitigation measure. All of LESSEE's traffic mitigation payments shall be based solely on LESSEE's fair share of the costs of only the mitigation measures identified in the MMRP and EIR.

(vi) Prior to conducting the annual mitigation monitoring traffic analysis required in the EIR, LESSEE shall determine whether any of the intersections and road segments identified in the Traffic Mitigation Table have been improved since the EIR traffic analysis was conducted in 2000. For intersections or road segments where improvements have been constructed or installed since the EIR traffic analysis was conducted, the annual traffic analysis will be based on the pre-improvement condition. To determine whether the project described in the EIR has an impact relative to the pre-improvement condition, LESSEE shall determine the appropriate background traffic level to use in the analysis by comparing the traffic counts for the year monitored with the "calculated background traffic" for the same year. "Calculated background traffic" shall

be derived by interpolation of the projected traffic volumes set forth in the EIR traffic study, using standard methods accepted by City traffic engineers. The annual traffic analysis shall be conducted as provided in the EIR if the annual 24-hour tube counts (ADTs) at LESSEE access points as established in the MMRP show an increase in traffic generation.

In the event LESSEE amends the SeaWorld Master Plan (the Development Plan) in a manner that requires environmental review subsequent to this Lease Amendment, any mitigation measures imposed pursuant to any subsequent environmental review shall supersede and replace the mitigation measures set forth in the MMRP and the EIR and the Lease shall be amended accordingly.”

4. The following provisions shall be added to Article XXXII, GENERAL DEVELOPMENT PLAN:

H. A minimum of 75% of LESSEE’s total attractions within Area 1, the Theme Park, as designated in the Development Plan, shall include significant animal education or conservation related elements. Within the SeaWorld Theme Park, the current mix of attractions existing as of the date of this Amendment, reflect the dominant marine animal theme and the primary emphasis areas of entertainment, education, research, and conservation.

Within Area 1, the SeaWorld Theme Park, an element in a larger, single attraction shall be considered “significant” if, in the reasonable opinion of the City Manager (i) the education or animal-conservation related element could function as a separate exhibit, independent of the larger attraction into which it is incorporated, and (ii) the education or animal-conservation related element imparts information and knowledge about the animal and/or its environment.

I. If CITY and/or the Metropolitan Transit District or any other agency construct a public transit station (“Transit Station”) on the Premises, (1) LESSEE shall provide reasonable right-of-way for, to and from the Transit Station, at a location on the Premises mutually agreed upon by CITY and LESSEE, provided that the location of such right-of-way is no further from the entrance gate to SeaWorld Theme Park than any vehicle parking space, with the exception of spaces designated for handicap parking; and (2) LESSEE shall contribute to CITY: (1) funds sufficient to provide 50% of the total cost for siting, design, installation and construction of a standard design station, provided, however, that LESSEE’s maximum required contribution shall be limited to \$500,000, as increased by the greater of CPI or 3% per annum beginning on the effective date of this Amendment; and (2) additional costs attributable to adding a SeaWorld thematic style to the Transit Station.

J. LESSEE may not submit a development permit application for construction of the hotel identified in the Development Plan prior to July 10, 2011. LESSEE agrees to give the City ninety (90) days written notice prior to the submittal of any applications for development of the hotel. City and LESSEE agree to negotiate in good faith any amendment to the lease necessary for the development of a hotel on the Premises.

K. Except for displays on July 4, LESSEE's fireworks displays are permitted only from the "fireworks barge" and shall be limited to a maximum of one hundred fifty (150) nights per year. LESSEE agrees to relocate the fireworks barge eastwardly one-half mile toward South Shores from its [current] approved location from April 1 to September 15 of each year for the least tern nesting season."

5. Article XLIII, ANNUAL ATTENDANCE FIGURES, is hereby added as follows:

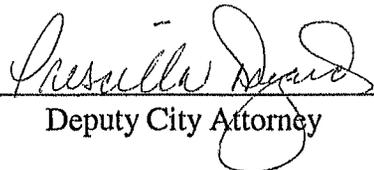
"During the entire Term of this Lease, LESSEE shall prepare and submit annually to the City Manger on or before March 1 an audit report showing LESSEE's attendance figures for the preceding calendar year."

IN WITNESS WHEREOF, this Amendment is executed by CITY, acting by and through its City Manager under and pursuant to Resolution No. R-296787 of the City Council authorizing such execution, and by LESSEE, acting by and through its duly authorized officer, as of the date first above written.

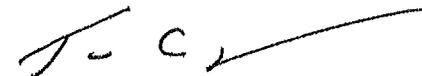
Approved as to form and legality:

September 11, 2002.

CASEY G. GWINN, City Attorney

By: 
Deputy City Attorney

THE CITY OF SAN DIEGO

By: 
Title: Deputy Director

SEA WORLD, INC.

By: 
Title: Exec. VP & General Mgt.

EXHIBIT 6
TRAFFIC MITIGATION MEASURE IMPLEMENTATION SCHEDULE

Traffic Mitigation Measure (Referenced by MMRP and EIR Mitigation Measure number)	Implementation (Significance) Thresholds	LESSEE's Fair Share Contribution (Estimated Cost)
MMRP 2.1.1; EIR 4.4-1 Sea World Drive between I-5 and Sea World Way: Widen Sea World Drive to 6 lanes	Threshold is more than 2% increase in roadway volume over capacity ratio by LESSEE's traffic.	44% (\$2,740,100)
MMRP 2.4.2 AND 2.5.1; EIR 4.4-4 SeaWorld Drive/I-5. Intersection: Add westbound right-turn lane and northbound dual left-turn lane at northbound ramps intersections. Ramps: storage by adding an additional lane at northbound and southbound ramps.	Intersection threshold is a 2-second increase in the overall intersection delay by LESSEE's traffic. Ramp threshold is adding more than 2 minutes to ramp having more than 15-minute delay.	29% of WB RT and NB lefts 50% of NB ramps 27% of SB ramps (\$1,435,000)
MMRP 2.4.3; EIR 4.4-5 Seaworld Drive/Pacific Highway: Reconstruct three southbound (westbound) thru lanes on Sea World Drive across Pacific Highway and three northbound (eastbound) thru lanes on Sea World Drive across Pacific Highway and one southbound (westbound) right turn lane.	Threshold is a 2-second increase in the overall intersection delay by LESSEE's traffic.	100% of NB lanes 36% of SB lanes (\$773,300)
MMRP 2.4.4; EIR 4.4-6 West Mission Bay Drive/I-8 westbound off-ramp. Add third right-turn lane.	Threshold is a 2-second increase in the overall intersection delay by LESSEE's traffic.	28% (\$134,200)
MMRP 2.3.1; EIR 4.4-7 West Mission Bay Drive Bridge widened to 6 lanes.	Threshold is more than 2% increase in roadway volume over capacity ratio by LESSEE's traffic.	9.4% (47% of the City's cost) (\$5,170,000)
Estimated Cost Subtotal		\$10,253,100.00
LESSEE Will Maintain 100% Responsibility for the Following Mitigation Measures		Estimated Cost
MMRP 2.2.1; EIR 4.4-2 Install traffic signal interconnect on Sea World Drive between Friars Rd and I-5 northbound ramps and extend eastbound right-turn lane back 400 feet at Sea World Dr/I-5 SB ramps.	Upon approval of a Tier 1 project.	\$366,500
MMRP 2.4.1; EIR 4.4-3 Ingraham Street/Perez Cove Way Intersection re-phasing, re-stripe and reconstruction to provide dual left turns and a shared thru/right lane westbound.	Threshold is a 2-second increase in the overall intersection delay by LESSEE's traffic.	\$77,500
MMRP 2.6.1; EIR 4.4-8 Traffic event officers at SeaWorld Drive/I-5 interchange during busy days.	Upon approval of a Tier 1 project.	\$36,500
MMRP 2.6.2; EIR 4.4-9 Improve lane management at the entrance gates to maximize vehicle storage.	Upon approval of a Tier 1 project.	\$5,000
MMRP 2.6.3; EIR 4.4-10 Distribute promotional material to employees and repeat patrons to use alternative routes.	Upon approval of a Tier 1 project.	\$1,000
Subtotal		\$486,500.00
TOTAL		\$10,739,600

EXHIBIT 7
RECOMMENDED PHASING PLAN FOR CIP 52-706

Rank	Mitigation, Monitoring and Reporting Program Mitigation Measure	Total Cost	Running Total
1	2.4.2 (Part I) Seaworld Dr/I-5 NB Ramps: Add WB right turn lane (from Baseline Cost in Table 1, this is only half of the improvement; therefore, the total cost is estimated at one-half of \$1,887,900 or \$943,950).	\$943,950	\$943,950
2	2.2.1 Install traffic signal interconnect on Sea World Dr btw Friars Rd and I-5 NB ramps and extend EB RT lane back 400 feet at Sea World Dr/I-5 SB ramps (from Baseline Cost in Table 1, \$198,100 + \$168,400 = \$366,500).	\$366,500	\$1,310,450
3	2.4.3 Seaworld Dr/Pacific Highway: Reconstruct for three SB (WB) thru lanes on Sea World Dr across Pac Hwy and three NB (EB) thru lanes on Sea World Dr across Pac Hwy (from Baseline Cost in Table 1, \$630,000 + \$546,000 = \$1,176,500).	\$1,176,500	\$2,486,950
<i>Fulfills SeaWorld's short-term fair share obligation (\$3,106,600 from Table 1). Remaining items will require funds from SeaWorld's long-term fair share obligations. SeaWorld's short-term obligation exceeds the total improvement by \$619,650 (\$3,106,600 - \$2,486,950 = \$619,650), which is carried over to the next phase.</i>			
4	2.5.1 Sea World Drive northbound and southbound I-5 on-ramps: Increase vehicle storage by adding an additional lane (from Baseline Cost in Table 1, \$1,424,900 + \$650,000 = \$2,074,900).	\$2,074,900	\$4,561,850
<i>Fulfills SeaWorld's fair share long-term obligation (long-term of \$2,206,600 + short-term of \$3,106,600 for a total of \$5,315,400, from Table 1). Remaining items will require funding from other sources. After this improvement, SeaWorld has a credit of \$753,550 (\$5,315,400 - \$4,561,850 = \$753,550), which is not enough to pay for the next complete improvement. Therefore, the \$753,550 would be applied to the next improvement when sufficient funds to complete that improvement become available.</i>			
5	2.4.2 (Part II) Seaworld Dr/I-5 NB Ramps: Add NB dual left turn lane (from Baseline Cost in Table 1, this is only half of the improvement; therefore, the total cost is estimated at one-half of \$1,887,900 or \$943,950).	\$943,950	\$5,505,800
6	2.1.1 Sea World Drive btw I-5 and Sea World Way: Widen Sea World Drive to 6 lanes (from Baseline Cost in Table 1, \$6,227,400)	\$6,227,400	\$11,733,200

Exhibit 8
Traffic Mitigation Payment Schedule

Balance		\$10,253,100
CPI (1)		3%
Mitigation Payment Period		2002 - 2007

Pay-in

	Due	Amount
Payment # 1	2002 (2)	\$2,050,620
Unpaid Balance		\$8,202,480
New Balance		\$8,448,554
Payment # 2	2003	\$2,112,139
Unpaid Balance		\$6,336,416
New Balance		\$6,526,508
Payment # 3	2004	\$2,175,503
Unpaid Balance		\$4,351,006
New Balance		\$4,481,536
Payment # 4	2005	\$2,240,768
Unpaid Balance		\$2,240,768
New Balance		\$2,307,991
Payment # 5	2006	\$2,307,991
Total Pay-in		\$10,887,020

Present Value	(3)	\$10,253,100
----------------------	-----	---------------------

Item Explanations

- (1) Increase adjustment calculated using the U.S. Department of Labor Consumer Price Index for the Western Urban Region or three percent, whichever is greater.
- (2) Date of effective certification of the LCP Amendment by the California Coastal Commission.
Remaining payments due on anniversary date of certification
- (3) Rate = 3% from first payment date



THE CITY OF SAN DIEGO

June 20, 2012

John T. Reilly
President
Sea World LLC, d.b.a. Sea World San Diego
500 Sea World Drive
San Diego, CA 92109-7904

2012 JUN 25 10:06 AM

Dear Mr. Reilly:

Subject: Percentage Rent Adjustment – Lease Agreement – The City of San Diego (“City”) / Sea World, LLC, (“Sea World”), Documents Nos. 762304, 765767, RR-259814, RR-263507, RR-266641, OO-118538 in the Office of the City Clerk

Pursuant to Subparagraph A.5 (a) of Article IV, Rent, of the above-referenced lease agreement, the lease percentage rates shall be adjusted as of January 1, 2014. At least eighteen months prior to the adjustment date, the parties shall negotiate in good faith to determine whether the rates then in effect should be adjusted.

On June 8, 2012, the City and Sea World through mutual consent agreed to the following rental rates on the categories as defined in Subparagraph A.1 of Article IV:

- | | | |
|----|--|--------|
| a. | Food and non-alcohol beverages to \$600,000 | 3.00% |
| b. | Food and non-alcohol beverages above \$600,000 | 3.00% |
| c. | General admission | 3.25% |
| d. | Alcohol beverages | 6.00% |
| e. | Parking | 10.00% |
| f. | Other sale, service or operations approved | 9.00% |
| h. | Ride concessions approved | 3.00% |
| i. | Animal food | 3.00% |
| j. | Games/amusement device | 10.00% |
| k. | Institutional advertising and sponsorship agreements | 2.50% |
| l. | Petroleum products, except diesel | 3.00% |
| m. | Diesel fuel | 1.50% |
| n. | Sale of boats/motors and accessories installed at initial sale | 2.00% |
| o. | Service of boats/motors, sale of parts, accessories and hardware | 4.00% |



Real Estate Assets

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199

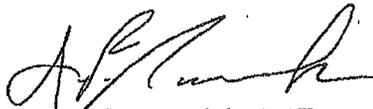
p.	Boat storage and related boating operations	20.00%
q.	Boat slip rentals	25.00%
r.	Lease surcharge	3.00%
New	Wireless telecom equipment (except DAS equipment)	50.00%
New	DAS (distributed antenna system) commission (Calculated only on SWSD portion of gross income)	30.00%

The Letter of Clarification regarding Sponsorship/Marketing Agreements dated August 3, 2004 from Jack D. Farris of City of San Diego Real Estate Assets and acknowledged by Roy Rieve and Dennis Burks of SeaWorld San Diego is cancelled.

The new percentage rates shall be effective through December 31, 2023. Please indicate your acceptance by signing and returning a copy of the letter to Vladimir Balotsky, Supervising Property Agent at 1200 Third Avenue, Suite 1700, San Diego, CA, 92010.

Should you have any questions, I can be reached at (619) 236-6145.

Sincerely,



James F. Barwick, CCIM
Real Estate Assets Director

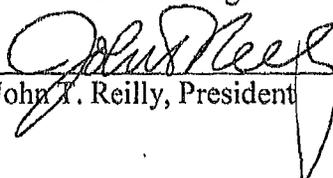
Acknowledged and Accepted:

SEA WORLD LLC
d/b/a Sea World San Diego

Date:

6/21/12

By:


John T. Reilly, President

cc: Kristi Geitz, Asset Manager
Doug Enger, Revenue Audit Manager
Vladimir Balotsky, Supervising Property Agent
Shelley Redman, Lease Billing Supervisor

Lease File: Sea World, LLC



Rec 2/3/14

THE CITY OF SAN DIEGO

January 31, 2014

Tara Pleickhardt
Director of Finance
Sea World LLC
500 Sea World Drive
San Diego, CA 92109-7904

Dear Ms. Pleickhardt:

Subject: Minimum Rent Adjustment – Lease Agreement – The City of San Diego /
Sea World, Inc.

Pursuant to Article IV, Subsection 2, of the above-referenced lease agreement, the minimum rent shall be adjusted to an amount equal to eighty percent (80%) of the "average accounting year rent" actually paid for the three previous full accounting years. No such adjustment shall result in a decrease in the minimum rent in effect immediately prior to the adjustment date. The "average accounting year rent" shall be the average of the rent for the three full accounting years immediately preceding an adjustment date unless the highest rent of said three years differs from the middle rent of said three years by more than ten percent (10%) of the middle rent, in which case the "average accounting year rent" shall be average of the middle rent and the lowest rent of said three years.

Therefore, effective January 1, 2014, the minimum rent is adjusted to \$10,401,305.69 annually. The attached spreadsheet shows how this amount was calculated. The next adjustment of the minimum rent will be on January 1, 2017.

Should you have any questions, I can be reached at (619) 235-5248.

Sincerely,

V. Beeldrum

Vladimir Balotsky
Supervising Property Agent

cc: Kristi Geitz, Asset Manager
Shelley Redman, Lease Billing Supervisor

Enclosure



Real Estate Assets

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199
Tel (619) 236-6020 Fax (619) 236-6706

Minimum Rent Adjustment - Sea World LLC

Accounting years:

01/01 to 12/31/2011 01/01 to 12/31/2012 01/01 to 12/31/2013

Total paid:	\$12,677,011.45	\$13,580,510.87	\$13,961,486.00
Less rent credit (City Audit Letter 8/7/2013)		\$7,775.00	
Grand total:	\$12,677,011.45	\$13,572,735.87	\$13,961,486.00

Minimum Rent Calculations:

Total rent paid January 1, 2011 through December 31, 2013:	\$40,211,233.32
Less 3% surcharge:	\$39,004,896.32
Three year average:	\$13,001,632.11
New Minimum Annual Rent (80% of three year average):	\$10,401,305.69
Highest rent/middle rent (\$13,961,486.00/\$13,572,753.87)<10%	2.86%

Note: Pursuant to Article IV. C., total rent paid for accounting year does not include any payment of 3% surcharge.



THE CITY OF SAN DIEGO

January 3, 2017

Tara Pleickhardt
Director of Finance
Sea World LLC
500 Sea World Drive
San Diego, CA 92109-7904

Dear Ms. Pleickhardt:

Subject: Minimum Rent Adjustment – Lease Agreement – The City of San Diego /
Sea World, Inc.

Pursuant to Article IV, Subsection 2, of the above-referenced lease agreement, the minimum rent shall be adjusted to an amount equal to eighty percent (80%) of the "average accounting year rent" actually paid for the three previous full accounting years. No such adjustment shall result in a decrease in the minimum rent in effect immediately prior to the adjustment date. The "average accounting year rent" shall be the average of the rent for the three full accounting years immediately preceding an adjustment date unless the highest rent of said three years differs from the middle rent of said three years by more than ten percent (10%) of the middle rent, in which case the "average accounting year rent" shall be average of the middle rent and the lowest rent of said three years.

Therefore, effective January 1, 2017, the minimum rent will remain unchanged \$10,401,305.69 annually. The attached spreadsheet shows how this amount was calculated. The next adjustment of the minimum rent will be on January 1, 2020.

Should you have any questions, I can be reached at (619) 235-5248.

Sincerely,

Vladimir Balotsky
Supervising Property Agent

cc: Patti Phillips, Asset Manager
Shelley Redman, Lease Billing Supervisor

Enclosure

Real Estate Assets

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199
Tel (619) 236-6020 Fax (619) 236-6706



Minimum Rent Adjustment - Sea World LLC

Accounting years:

01/01 to 12/31/2014 01/01 to 12/31/2015 01/01 to 12/31/2016

Total paid:	\$11,817,414.00	\$11,035,634.00	\$11,007,054.00
Less rent credit (City Audit Letter 1/4/2017)		\$5,767.00	
Grand total:	\$11,817,414.00	\$11,029,867.00	\$11,007,054.00

Minimum Rent Calculations:

Total rent paid January 1, 2014 through December 31, 2016:	\$33,854,335.00
Less 3% surcharge:	\$32,838,704.95
Three year average:	\$10,946,234.98
80% of three year average:	\$8,756,987.99
New Minimum Annual Rent (No Decrease is allowed per Article IV, Subsection 2):	\$10,401,305.69
Highest rent/middle rent (\$11,817,414/\$11,029,867)<10%	7.00%

Note: Pursuant to Article IV. C., total rent paid for accounting year does not include any payment of 3% surcharge.



Real Estate Assets Department

January 31, 2019

Maria Browne
Sea World LLC
500 Sea World Drive
San Diego, CA 92109-7904

Dear Ms. Browne:

Subject: Minimum Rent Adjustment – Lease Agreement – The City of San Diego /
Sea World, Inc.

Pursuant to Article IV, Subsection 2, of the above-referenced lease agreement, the minimum rent shall be adjusted to an amount equal to eighty percent (80%) of the “average accounting year rent” actually paid for the three previous full accounting years.

No such adjustment shall result in a decrease in the minimum rent in effect immediately prior to the adjustment date. The “average accounting year rent” shall be the average of the rent for the three full accounting years immediately preceding an adjustment date unless the highest rent of said three years differs from the middle rent of said three years by more than ten percent (10%) of the middle rent, in which case the “average accounting year rent” shall be average of the middle rent and the lowest rent of said three years.

Therefore, effective January 1, 2020, the minimum rent will remain unchanged \$10,401,305.69 annually. The attached spreadsheet shows how this amount was calculated. The next adjustment of the minimum rent will be on January 1, 2023.

Should you have any questions, I can be reached at (619) 236-6123.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Saladin", written over a light blue horizontal line.

Pierre Saladin
Supervising Property Agent

cc: CaSundra Perry, Asset Manager
Shelley Redman, Lease Billing Supervisor

Enclosure

Minimum Rent Adjustment - Sea World LLC

Accounting years:	<u>01/01 to 12/31/2017</u>	<u>01/01 to 12/31/2018</u>	<u>01/01 to 12/31/2019</u>
Total paid:	\$10,507,442.00	\$11,098,772.00	\$10,672,898.00
add rent owed (City Audit Letter November 2019)		\$7,194.59	
Grand total:	\$10,507,442.00	\$11,105,966.59	\$10,672,898.00

Minimum Rent Calculations:

Total rent paid January 1, 2017 through December 31, 2019:	\$32,286,306.59
Less 3% surcharge:	\$31,317,717.39
Three year average:	\$10,439,239.13
80% of three year average:	\$8,351,391.30
New Minimum Annual Rent (No Decrease is allowed per Article IV, Subsection 2):	\$10,401,305.69
Highest rent/middle rent (\$11,105,966.59/\$10,672,898)<10%	4%

Note: Pursuant to Article IV. C., total rent paid for accounting year does not include any payment of 3% surcharge.