

LEASE AND PURCHASE AGREEMENT

This Lease (this "Lease"), dated as of July 20, 1995, is between ATLANTIC RICHFIELD COMPANY, a Delaware corporation ("Landlord"), and THE CITY OF SAN DIEGO, a municipal corporation ("Tenant").

WHEREAS, Landlord desires to sell to Tenant and Tenant desires to buy from Landlord the premises described in Provision 1 below (the "Premises"); and

WHEREAS, the Premises contain hazardous substances and Landlord desires to remediate such contamination prior to conveying the Premises to Tenant; and

WHEREAS, Landlord desires to lease the Premises to Tenant during such remediation efforts;

NOW, THEREFORE, the parties hereby agree as follows:

1. Premises. Subject to the terms herein, Landlord leases to Tenant the real estate in the City of San Diego, County of San Diego, State of California, generally known as 7255 Jackson Drive, San Diego, and more particularly described as follows:

That portion of Lot 399 of Lake Shore Unit No. 5, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 5178, filed in the Office of the County Recorder of San Diego County, May 16, 1963, described as follows:

Beginning at the Southeasterly corner of said Lake Shore Unit No. 5, being also the point of intersection of the center lines of Golfcrest Drive and Jackson Drive as shown on said Map No. 5178; being also a point in a 1000 foot radius-curve concave Southerly, a radial line of said curve bearing North $26^{\circ}51'54''$ East to said point; thence Westerly along said curve and along said center line of Jackson drive through an angle of $10^{\circ}46'59''$ a distance of 188.20 feet; thence radial to said curve North $16^{\circ}04'55''$ East 51.00 feet to a point in the Southerly line of said Lot 299, being also a point in a 1051.00 foot radius curve concave Southerly which is concentric with said 1000 foot radius curve and being also the True Point of Beginning; thence Easterly along said 1051.00 foot radius curve and along the Southerly line of said Lot 399 through an angle of $7^{\circ}15'$ a distance of 132.99 feet to the beginning of a reverse 20 foot radius curve concave Northerly; thence Easterly along said curve and along the boundary of said Lot 399 through an angle of $82^{\circ}08'55''$ a distance of 28.68 feet; thence tangent to said curve along the Easterly line of said Lot 399, North $31^{\circ}11'$ East 48.20 feet to the beginning of a tangent 1251.00 foot radius curve concave Southeasterly; thence Northeasterly along said curve and along said Easterly line through an angle of $3^{\circ}51'$ a distance of 84.43 feet; thence leaving said Easterly line of Lot 399, North $65^{\circ}56'58''$ West 151.53 feet; thence South $31^{\circ}11'$ West 160.00 feet to the True Point of Beginning.

2. Lease Term. The Lease term shall commence on 7/20/95 (the "Commencement Date") and expire on the date when title to the Premises is conveyed from Landlord to Tenant as provided in Provision 16.2 or, if Tenant does not exercise its option to purchase the Premises pursuant to Provision 16.1, on the date when such option to purchase expires. Such conveyance of title to Tenant shall not occur until the date (the "Completion Date") Landlord completes the environmental remediation of the Premises as set forth in Provision 13 (the "Remediation") and the appropriate governmental agencies have certified that no further remediation will be required.

3. Rent and Taxes. Rent in the amount of \$1.00 per year shall be payable in advance on the Commencement Date and each anniversary thereafter during the term of this Lease. Landlord shall pay all real property taxes relating to the Premises.

4. Use; Restrictions.

4.1 Tenant's Use. Tenant's intended use of the Premises is for the operation of a parking facility for the patrons of the adjacent City Library. Tenant's use shall not interfere with the exercise of Landlord's rights set forth in Provision 14 below ("Landlord's Remediation Rights").

4.2. Restrictions on Use. During the Lease term, and thereafter if the Premises is conveyed to Tenant pursuant to Provision 16.2, Tenant shall not, nor permit others to, make any excavation on the Premises to a depth greater than four (4) feet below the surface without obtaining Landlord's prior written consent.

5. Maintenance. Tenant shall be responsible for maintenance of the Premises and for payment of all utilities and all other services provided to and used by Tenant. This provision shall not apply to any maintenance and any utility or other service related to the Remediation, which shall be the sole responsibility of Landlord.

6. Indemnification Regarding Environmental Claims.

6.1 Tenant's Indemnification. Tenant shall defend, indemnify, and hold harmless Landlord regarding government or third party claims and awards against Landlord for any environmental contamination or hazardous substances on the Premises to the extent that such contamination or substances exceed lawful concentration limits and were

generated by Tenant or by any employee, officer, director, agent, subsidiary, division, franchisee, or dealer (collectively, a "Representative") of Tenant subsequent to the date on which Tenant occupied the Premises.

6.2 Landlord's Indemnification. Landlord shall defend, indemnify and hold harmless Tenant regarding government or third party claims and awards against Tenant arising from or related to (a) any environmental contamination or hazardous substances contained on or about the Premises, except to the extent such contamination or substances were generated by Tenant or by any Representative of Tenant subsequent to the date on which Tenant occupied the Premises; and (b) any remediation actions undertaken by or on behalf of Landlord with respect to any such contamination or hazardous substances as contemplated by the terms and intent of this Lease.

6.3 Continuing Obligations. The obligations of Landlord or Tenant under Provision 6.1 and Provision 6.2 shall survive the termination of this Lease.

7. Prohibition on Assignment and Subletting. Tenant shall not assign this Lease, or sublet the whole or any part of the Premises, without the consent of Landlord, which may be withheld in its sole and absolute discretion.

8. Notices. Notices shall be in writing and shall be deemed delivered when personally delivered or when deposited with the U.S. Postal Service, certified mail, postage prepaid, or when deposited with a common carrier, freight prepaid, or when sent by electronic facsimile, addressed as provided below or in accordance with subsequently provided written instructions. Notices shall be sent to:

Landlord: Atlantic Richfield Company
4 Centerpointe Drive
La Palma, California 90623

Attn: J. J. Coffey
Fax: 714-670-5440

Tenant: City of San Diego
Real Estate Assets Department, Mail Station 51-A
Civic Center Plaza
1200 Third Avenue, Suite 1700
San Diego, CA 92101-4199

Attn: Robert A. Gerhardt
Fax: 619-236-6706

Either party may change its notice recipient or address by notice to the other.

9. Quiet Enjoyment. Landlord warrants that (a) it holds fee simple title to the Premises, (b) it has the right to enter into this Lease, and (c) Tenant shall have quiet enjoyment of the Premises during the term of this Lease, subject to Landlord's Remediation Rights.

10. Condemnation, Damage and Destruction. In the event of a taking of the Premises, casualty, or act of God during the Lease term, Tenant may cancel this Lease, provided that Tenant vacates the Premises as of the effective date of the cancellation. For purposes of this Provision 10, a "taking" occurs on the day that the condemning authority first obtains possession of the property to be condemned whether by court order, judgment, or mutual agreement. Condemnation shall include inverse condemnation. Tenant shall have no right to share in any condemnation awards arising during the term of this Lease.

11. Mechanic's Liens. Tenant shall defend, indemnify, and save Landlord harmless against any loss or claim on account of any liens arising out of work or materials supplied to the Premises which were ordered by Tenant or those working for Tenant.

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12. Insurance. Landlord acknowledges that Tenant is a self-insured municipal corporation. Tenant shall provide Landlord a letter verifying its self-insured status in lieu of a Certificate of Insurance.

13. Landlord's Remediation Rights.

13.1 Rules Regarding Contamination. Tenant acknowledges that the Premises are contaminated with petroleum hydrocarbons, the exposure to which may present health problems, and that Landlord is and will be involved in environmental remediation efforts with respect to any hazardous substance generated by Landlord or Landlord's Representatives and found on the Premises during the Lease term. Landlord will provide Tenant with rules, advice, and relevant information regarding the use of the Premises during Landlord's environmental remediation, which will minimize any dangers to health or property. However, Landlord makes no representation or warranty that such information will protect any person on the Premises from any danger to his health or property. Tenant will convey such rules, advice, and information to any of Tenant's invitees and Representatives entering the Premises and will enforce such rules. Tenant

assumes all risks of health problems to Tenant's invitees or Representatives due to such petroleum hydrocarbon exposure arising from Tenant's entering, taking possession of, and using the Premises before Landlord completes its environmental remediation of the Premises.

13.2 Landlord's Obligation and Right to Enter and Remediate.

(a) Landlord hereby agrees to perform any environmental remediation which has been or may be required by law, and such remediation shall continue until the appropriate governmental agency has certified that no further remediation will be required.

(b) Landlord may enter the Premises to make tests, measurements, and examinations, post signs, remediate any environmental contamination, and perform any other work which Landlord deems necessary in connection with its divestment of the Premises.

(c) At Landlord's cost, Landlord shall remove or dispose of any contaminated soil or groundwater it may unearth from the Premises during the course of any such tests, which was generated by any Representative of Landlord.

(d) Landlord shall be identified as the generator of any contaminated soil or water or other hazardous substances removed from the Premises by Landlord during the Remediation.

(e) Landlord shall attempt to perform the Remediation and any other work in a manner which causes the least amount of interference with Tenant's possession

and use of the Premises. Subject to the terms of the immediately following sentence, Landlord shall have no obligation to incur additional costs or risks in order to minimize such interference, and Tenant shall have no right to require that the Remediation be performed in any particular manner, to any particular standard, or according to any particular schedule. Landlord shall determine, in its sole and absolute discretion, how its remediation or any other work on, under, or about the Premises shall be performed.

(f) Landlord shall remediate any contamination on the Premises generated by any Representative of Landlord to the extent required by law.

13.3 Release; Indemnification.

(a) Tenant hereby releases Landlord from any claim, or right to any compensation, arising from (i) its own inability to use the Premises as a result of the exercise of Landlord's Remediation Rights (subject to the terms of Provision 13.2 (e)), or (ii) any damage suffered while on or about the Premises due to an act or failure to act by Tenant.

(b) Tenant shall defend, indemnify, and hold harmless Landlord from any claims by any invitee or Representative of Tenant arising from (i) his inability to use the Premises as a result of the exercise of Landlord's Remediation Rights, or (ii) any damage suffered while on or about the Premises due to any act or failure to act by Tenant.

14. **Default.** A party shall not be deemed in default under this Lease, unless (a) one party has failed to perform an obligation herein, and (b) the other party has sent written notice to the defaulting party, identifying such failure to perform and demanding a

cure thereof. If either party defaults, and such default is not cured within thirty (30) days of the other party's demand therefor (or within such other length of time as is reasonable and necessary if the nature of the default is such that it is not susceptible of being cured within such thirty (30) days), the noticing party shall have available all the remedies provided by law and equity, including, where so provided, termination of this Lease.

15. No Recordation of Lease. This Lease shall not be recorded at the County Recorder's office of San Diego County.

16. Tenant's Option to Purchase the Premises.

16.1 Option Terms. Upon the Completion Date, Tenant shall have the option to purchase the fee interest in the Premises from Landlord for the purchase price of \$150,000. When the appropriate governmental agencies have certified that no further remediation will be required on the Premises, Landlord will give Tenant notice of such fact in writing (the "Certification Notice"). Upon receipt of the Certification Notice, Tenant shall have sixty (60) days to notify Landlord whether it intends to exercise this option to purchase the Premises. If such option is exercised, the purchase of the Premises shall close one hundred twenty (120) days after the Tenant's receipt of Certification Notice. However, this Provision 16 shall become null and void, and neither party shall have any obligation to the other pursuant to this Provision 16, if (a) Tenant does not timely exercise its option to purchase, (b) the Premises are abandoned by Tenant pursuant to a written notice to Landlord, or (c) this Lease is otherwise terminated by Tenant before the Completion Date.

16.2 Deed; Title Insurance. Upon Tenant's purchase of the fee interest in the Premises, Landlord shall prepare and deliver a Corporation Grant Deed and any other documents necessary and appropriate to transfer title free and clear of all liens and encumbrances. Tenant will execute documents prepared by Landlord transferring to Tenant all responsibilities following closing for taxes and otherwise in connection with the Premises. However, Landlord shall indemnify and hold Tenant harmless from and against any claims arising from or related to environmental contamination not caused by Tenant pursuant to Provisions 6.2 and 6.3 of this Lease. Landlord shall also provide Tenant with a C.L.T.A. Standard Coverage title insurance policy. Closing shall be deemed effected on recording of the Corporation Grant Deed.

17. Relationship of Parties. The relationship between the parties herein is that of landlord and tenant, and seller and buyer, and none other.

18. Entire Agreement; Amendments. This Lease constitutes the entire agreement between Landlord and Tenant. No promise or obligation exists unless stated herein. Any oral understandings are hereby repudiated. No amendments or modifications can be made to this Lease, except in a writing executed by Landlord and Tenant.

19. Governing Law. This Lease shall be construed in accordance with the laws of California.

20. No Waiver. No waiver of any covenant or condition contained in this Lease, or of any breach of any such covenant or condition shall (a) constitute a waiver of the rights of either party to act upon any subsequent breach of such covenant or condition or

(b) justify or authorize the nonobservance of any other occasion of the same or any other covenant or condition hereof of either party.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and
year set forth above.

LANDLORD:
ATLANTIC RICHFIELD COMPANY,
a Delaware corporation

By: _____

J. J. Coffey
Assistant Vice President

TENANT:
THE CITY OF SAN DIEGO,
a municipal corporation

By: _____

Approved as to form:

City Attorney

golfcres.lsp/050295
CP1975



THE CITY OF

SAN DIEGO

PROPERTY DEPARTMENT MAIL STATION 51-A

SECURITY PACIFIC PLAZA, 1200 THIRD AVENUE, SUITE 1700

SAN DIEGO, CALIFORNIA 92101 - 4199

TELEPHONE: (619) 236-6020

FAX: (619) 236-6706

TELECOPIER TRANSMISSION

DATE 1-16-96

TIME STARTED: 1:20 A.M. ☒ P.M.

CAPTION OF DOCUMENT: LETTER FROM ARCO
REGARDING REMEDIATION

NO. OF PAGES (including cover sheet): 4

TRANSMISSION TO: SHARON CRISWOLD

ADDRESS: _____

TELEPHONE NO.: _____

TELECOPIER PHONE NO.: 236-5878

NAME OF SENDER: STEW CARMENY

SENDER TELEPHONE NO.: X 660066

SENDER TELECOPIER NO.: (619) 236-6706

COMMENTS: HARD COPY TO FOLLOW



ARCO Products Company
4 Centerpointe Drive
La Palma, California 90623-1066
Telephone 714 670 5300

Mailing Address: Box 5077
Buena Park, California 90622-5077



SEC.
13.1
INFO.
REMEDIATION
PROGRAM

January 9, 1996

Mr. Stewart A Cerveney
City of San Diego
Real Estate Assets Dept. Mail Station 51-A
Civic Center Plaza
1200 Third Avenue Suite 1700
San Diego, CA 92101-4199

Rc: Golfcrest and Jackson

Dear Mr. Cerveney:

Per your request I am submitting this letter to you regarding the subject location (the Property). As described in the lease agreement, gasoline components are contained in the soils and groundwater below the Property. Remediation of the gasoline will be performed to the extent required by the regulatory agencies.

Attached to this letter is a generalized schedule that encompasses approximately 33 months. Although the need for remediation has not been determined, this schedule commences with various remediation feasibility tests and includes the installation and operation of a remedial system. We have completed the field work associated with the first task of the schedule, Conduct Sparge Test/Submit Report/Agency Review. The next task involving field work is the construction of a remedial system in approximately 7 to 8 months.

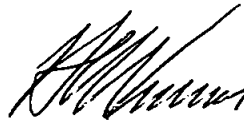
It is my understanding that the City is prepared to construct a parking lot on the Property. The existing monitoring and extraction wells located on the Property need to be protected during the construction activity and accessible for future use. These wells are installed vertically into the soil and are constructed of 2-inch and 4-inch diameter PVC pipe. Prior to this construction activity, City and ARCO representative should meet on the site to identify these wells and design a method to protect them during construction.

As described above the installation and operation of a remediation system may be necessary. The remediation system compound requires a space of approximately 10 feet by 20 feet. The system operates by extracting gasoline vapors from the on-site wells, transporting the vapors by subsurface pipeline to the compound and combusting the vapors within the remedial treatment compound. To minimize the impact to the City's landscaping and/or asphalt resulting from the installation of a remedial system it would be beneficial to indentify the most logical location for a remedial compound prior to the parking lot construction activities. The location of the remedial compound

could be discussed during the meeting described above regarding monitoring well preservation.

In the event that ARCO needs to install additional wells or a remedial system, ARCO will replace and repair any asphalt or landscaping impacted during such activities.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. C. Winsor', written in a cursive style.

H. C. Winsor
Manager Western Remediation Projects

cc: C. Yamasaki ARCO
B. Taraschi ARCO
I. Sharpe Emcon

FIGURE 1

**CITY OF SAN DIEGO
REAL ESTATE ASSETS DEPARTMENT
MEMORANDUM**

CITY OF SAN DIEGO	
REAL ESTATE ASSETS DEPT.	
☐	DIRECTOR
☐	DEPUTY MANAGER
☒	FILE COPY
☐	CHRON COPY
☐	INITIATOR

FILE NO.: Leases - City/Atlantic Richfield Corp.

DATE: December 21, 1995

TO: Patti Boekamp, Deputy Director, Traffic Engineering Division, Engineering Department

FROM: Stew Cerveney, Asset Management Section, Real Estate Assets Department

SUBJECT: Arco Site - Jackson Drive at Golfcrest Drive

I talked to Chris Winsor at Arco today. His department will be conducting the environmental remediation work at the Jackson/Golfcrest Drive site.

He indicated that they have already installed some test wells and conducted some preliminary testing. He said, at this point, it looks like they will be constructing the monitoring system on the site sometime toward the latter part of 1996.

Constructing the system apparently consists of trenching between the monitoring wells and tying them together with a subsurface pipe system. This system is then tied to an above ground monitoring unit which they have some flexibility in where they locate it.

His indicated that when they do the trenching work, they will then patch, reseal, and restripe the area of the actual trenching.

He suggested that it would be a good idea for the City, after it develops a plan, but before it does any work, to contact him at (714) 670-5125. He will have his contractor meet with City staff or it's contractor at the site to show them the location of the wells and explain in more detail the proposed design of the remediation system.

If I can provide further information, please give me a call at 236-6066.



Stewart A. Cerveney
Property Agent

cc: Michael Steffen
Sharon Griswold
Robert Gerhardt

ARCO ⇄

December 21, 1995

To: Stu Cerveny
From: S. Craig Yamasaki

Re: Library parking lot

Dear Stu,

Please contact Chris Winsor at 714/67-5125^③ for information regarding repairs of the parking lot. We believe Chris will be the best person to respond will be able to respond to your request, since it is his department which will be conducting the operation.

Should you have any questions, please don't hesitate to contact us. (714)857-0771.

Sincerely,
by fax
S. Craig Yamasaki
Senior Real Estate Representative

12-21-95

TALKED TO CHRIS WINSOR @ 714/670-5125

HE SAID THEY HAVE INSTALLED TWO TEST WELLS
AND ~~WELL~~ SOME PRELIMINARY TESTING.

HE SAID ~~AS~~ WHEN THEY CONSTRUCT THE
MONITORING SYSTEM THEY WILL TRENCH
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WILL BE UNDER THE SURFACE AND WILL
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IN WHERE THEY ACTUALLY PLACE IT.

HE SAID IT WOULD BE GOOD FOR
CITY TO CONTACT HIM AFTER WE
HAVE DEVELOPED A PLAN SO THAT
THEIR CONTRACTOR CAN MEET WITH
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(b) Landlord may enter the Premises to make tests, measurements, and examinations, post signs, remediate any environmental contamination, and perform any other work which Landlord deems necessary in connection with its divestment of the Premises.

(c) At Landlord's cost, Landlord shall remove or dispose of any contaminated soil or groundwater it may unearth from the Premises during the course of any such tests, which was generated by any Representative of Landlord.

(d) Landlord shall be identified as the generator of any contaminated soil or water or other hazardous substances removed from the Premises by Landlord during the Remediation.

(e) Landlord shall attempt to perform the Remediation and any other work in a manner which causes the least amount of interference with Tenant's possession

and use of the Premises. Subject to the terms of the immediately following sentence, Landlord shall have no obligation to incur additional costs or risks in order to minimize such interference, and Tenant shall have no right to require that the Remediation be performed in any particular manner, to any particular standard, or according to any particular schedule. Landlord shall determine, in its sole and absolute discretion, how its remediation or any other work on, under, or about the Premises shall be performed.

(f) Landlord shall remediate any contamination on the Premises generated by any Representative of Landlord to the extent required by law.

13.3 Release; Indemnification.

(a) Tenant hereby releases Landlord from any claim, or right to any compensation, arising from (i) its own inability to use the Premises as a result of the exercise of Landlord's Remediation Rights (subject to the terms of Provision 13.2 (e)), or (ii) any damage suffered while on or about the Premises due to an act or failure to act by Tenant.

(b) Tenant shall defend, indemnify, and hold harmless Landlord from any claims by any invitee or Representative of Tenant arising from (i) his inability to use the Premises as a result of the exercise of Landlord's Remediation Rights, or (ii) any damage suffered while on or about the Premises due to any act or failure to act by Tenant.

14. Default. A party shall not be deemed in default under this Lease, unless (a) one party has failed to perform an obligation herein, and (b) the other party has sent written notice to the defaulting party, identifying such failure to perform and demanding a

cure thereof. If either party defaults, and such default is not cured within thirty (30) days of the other party's demand therefor (or within such other length of time as is reasonable and necessary if the nature of the default is such that it is not susceptible of being cured within such thirty (30) days), the noticing party shall have available all the remedies provided by law and equity, including, where so provided, termination of this Lease.

15. No Recordation of Lease. This Lease shall not be recorded at the County Recorder's office of San Diego County.

16. Tenant's Option to Purchase the Premises.

16.1 Option Terms. Upon the Completion Date, Tenant shall have the option to purchase the fee interest in the Premises from Landlord for the purchase price of \$150,000. When the appropriate governmental agencies have certified that no further remediation will be required on the Premises, Landlord will give Tenant notice of such fact in writing (the "Certification Notice"). Upon receipt of the Certification Notice, Tenant shall have sixty (60) days to notify Landlord whether it intends to exercise this option to purchase the Premises. If such option is exercised, the purchase of the Premises shall close one hundred twenty (120) days after the Tenant's receipt of Certification Notice. However, this Provision 16 shall become null and void, and neither party shall have any obligation to the other pursuant to this Provision 16, if (a) Tenant does not timely exercise its option to purchase, (b) the Premises are abandoned by Tenant pursuant to a written notice to Landlord, or (c) this Lease is otherwise terminated by Tenant before the Completion Date.

16.2 Deed; Title Insurance. Upon Tenant's purchase of the fee interest in the Premises, Landlord shall prepare and deliver a Corporation Grant Deed and any other documents necessary and appropriate to transfer title free and clear of all liens and encumbrances. Tenant will execute documents prepared by Landlord transferring to Tenant all responsibilities following closing for taxes and otherwise in connection with the Premises. However, Landlord shall indemnify and hold Tenant harmless from and against any claims arising from or related to environmental contamination not caused by Tenant pursuant to Provisions 6.2 and 6.3 of this Lease. Landlord shall also provide Tenant with a C.L.T.A. Standard Coverage title insurance policy. Closing shall be deemed effected on recording of the Corporation Grant Deed.

17. Relationship of Parties. The relationship between the parties herein is that of landlord and tenant, and seller and buyer, and none other.

18. Entire Agreement; Amendments. This Lease constitutes the entire agreement between Landlord and Tenant. No promise or obligation exists unless stated herein. Any oral understandings are hereby repudiated. No amendments or modifications can be made to this Lease, except in a writing executed by Landlord and Tenant.

19. Governing Law. This Lease shall be construed in accordance with the laws of California.

20. No Waiver. No waiver of any covenant or condition contained in this Lease, or of any breach of any such covenant or condition shall (a) constitute a waiver of the rights of either party to act upon any subsequent breach of such covenant or condition or

(b) justify or authorize the nonobservance of any other occasion of the same or any other covenant or condition hereof of either party.

IN WITNESS WHEREOF, the parties have executed this Lease as of the day and
year set forth above.

LANDLORD:
ATLANTIC RICHFIELD COMPANY,
a Delaware corporation

By: _____

J. J. Coffey
Assistant Vice President

TENANT:
THE CITY OF SAN DIEGO,
a municipal corporation

By: _____

Coleman Conrad

Approved as to form:

W. Stiller
City Attorney

golfcres.lsp/050295
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