

## **CONSENT TO INGRESS, EGRESS AND PARKING EASEMENT AGREEMENT**

The City of San Diego (CITY), as LESSOR and successor in interest to Union-Breitbard Joint Venture under that certain Agreement to Sublease dated February 7, 1969, as amended and subsequently assigned to

### **TREND FURNITURE OF SAN DIEGO, INC.**

Now called **Trend Furniture of La Mesa Inc., a California Corporation** (LESSEE), filed in the Office of the City Clerk as Document No. C-04674, on March 29, 1993 (UBJV Lease), and as LESSOR under that certain Flat Rate Lease as amended with

### **PIER I IMPORTS (U.S.), INC., a Delaware Corporation**

(LESSEE), filed in the Office of the City Clerk as Document No. RR-280329 on July 13, 1992 (Trend Furniture Lease) (the UBJV Lease and the Trend Furniture Lease are referred to collectively as the Master Leases), hereby consents to that certain Ingress, Egress and Parking Easement Agreement (Agreement) between the above LESSEES dated September 1, 2000. The Agreement shall be subordinate to both Master Leases in all respects. The CITY is hereby merely approving the Agreement and the proposed use, and all terms and conditions of the Master Leases shall control and supersede any inconsistent or contrary provisions in the Agreement. The CITY is not bound by any term or condition in the Agreement which in any way conflicts with or is additional to the provisions of the Master Leases.

In addition, this consent is subject to the following:

**Hold Harmless:** LESSEES shall assume the defense of, indemnify and save harmless the CITY from all claims, expenses and liability of every nature, directly or indirectly arising from, or alleged to have arisen from operations conducted on the leased premises or from any act or omission of LESSEES, their agents and invitees; provided, however, LESSEES' duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the CITY, its agents, officers, or employees.

**Modification:** Neither this Consent nor the Agreement may be modified, amended or extended without the prior written consent of the CITY. The CITY'S consent will not be unreasonably withheld.

**Notification of CITY:** LESSEES shall provide to the City written notice in advance of any termination of the Agreement.

**Legal Proceeding:** Should a controversy arise relating to the enforcement of any provision of the Agreement, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.

Subordination: This Consent permits an ingress, egress and parking easement of a portion of the CITY owned premises covered by that certain Master Leases between the CITY and LESSEES filed in the office of the City Clerk as Documents No. C-04674, and No. RR-280329. This Consent and the Agreement are subject and subordinate to the covenants and conditions of the Master Leases notwithstanding any provision contrary to or in conflict with the Master Leases.

THE CITY OF SAN DIEGO

Dated 11/30/00

By [Signature] ~~THE CITY MANAGER~~ ADMINISTRATIVE PROPERTY AGENT  
~~for~~ The City Manager

PIER 1 IMPORTS, (U.S.), INC.

Dated OCTOBER 31, 2000

By [Signature]  
J. Rodney Lawrence  
Title Senior Vice President

TREND FURNITURE OF SAN DIEGO, INC.  
(Now called Trend Furniture of La Mesa Inc.,  
a California Corporation)

Dated November 3, 2000

By [Signature]  
Stephen N. Schulman  
Title President

APPROVED AS TO FORM AND LEGALITY:

CASEY GWINN, City Attorney

Dated 12/11/00

By [Signature]  
Deputy City Attorney

## INGRESS, EGRESS AND PARKING EASEMENT AGREEMENT

This Ingress, Egress and Parking Easement Agreement ("Agreement") is entered into on September 1, 2000 between Trend Furniture of La Mesa, Inc., a California corporation ("Owner"), with an address of c/o Stephen Schulman, 700 Front Street, Suite 1407, San Diego, California 92101, and Pier 1 Imports (U.S.), Inc., a Delaware Corporation ("Pier 1"), with an address of Attention: Vice President-Real Estate, 301 Commerce Street, Suite 600, Fort Worth, Texas 76102.

### RECITALS

This Agreement is entered into with reference to the following facts:

- A. Owner leases the real property shown on the Site Plan attached hereto as page 1 of **Exhibit A** ("Owner's Property") from the City of San Diego ("Landlord") pursuant to a Lease Agreement dated effective February 7, 1969 and filed on March 29, 1993 as Doc. No. C-04674 with the Office of the City Clerk of San Diego, California ("Owner's Lease"). Owner's Property is commonly known as 3240 Sports Arena Boulevard, San Diego, California 92110, and the legal description of Owner's Property is attached hereto as **Exhibit B**.
- B. Pier 1 leases the real property shown on page 2 of **Exhibit A** ("Pier 1's Property") from Landlord pursuant to a Lease Agreement, as amended, dated effective November 1, 1990 and filed on July 13, 1992 as Doc. No. RR-280329 with the Office of the City Clerk of San Diego, California ("Pier 1's Lease"). Pier 1's Property is commonly known as 3220 Sports Arena Boulevard, San Diego, California 92110, and the legal description of Pier 1's Property is attached hereto as **Exhibit C**.
- C. Owner and Pier 1 desire to grant each other easements for ingress, egress and/or parking over their respective properties.

### AGREEMENT

In consideration of their mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party, Owner and Pier 1 hereby agree:

1. Recitals and Cooperation. Owner and Pier 1 incorporate the above recitals into this Agreement and affirm such recitals are true and correct. Owner and Pier 1 will reasonably cooperate with each other to effectuate the intents and purposes of this Agreement.
2. Effective Date. This Agreement is contingent upon Landlord's written consent and is effective as of the date of Landlord's execution of a Consent to Ingress, Egress and Parking Easement Agreement ("Effective Date").

3. Character and Duration of Agreement. The easement granted in this Agreement is an easement appurtenant and is effective from the Effective Date until one of the following occurs:

- (a) Owner or Pier 1, or their respective employees, agents, contractors or invitees, obstructs the Access Area (defined in Section 9), and the obstructing party does not remedy the obstruction within thirty (30) days after receipt of notice from the non-obstructing party,
- (b) Owner or Pier 1, or their respective employees, agents, contractors or invitees, violates this Agreement by using areas on Owner's Property or Pier 1's Property outside the Access Area (defined in Section 9), and the violating party does not remedy the violation within thirty (30) days after receipt of notice from the non-violating party,
- (c) Pier 1's Lease expires or is terminated, or
- (d) Owner's Lease expires or is terminated.

Owner is not required to exercise any options to extend the term under Owner's Lease. Pier 1 is not required to exercise any options to extend the term under Pier 1's Lease.

4. Governing Law and Construction. This Agreement is governed by the laws of the state in which Pier 1's Property is located, and any legal action to interpret or enforce this Agreement must be instituted in San Diego County in a court of competent jurisdiction. Owner and Pier 1 acknowledge they and, if they so choose, their respective counsel have reviewed and revised this Agreement and the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or any exhibits, attachments and addenda to this Agreement. If any provision of this Agreement is deemed illegal or unenforceable, the balance of this Agreement is deemed unaffected and fully enforceable.
5. Entire Agreement and Modification. This Agreement constitutes the entire agreement between Owner and Pier 1 and supersedes all prior discussions, negotiations and agreements, whether verbal or written. This Agreement may not be modified, except by written agreement executed by Owner and Pier 1.
6. Binding Effect. The easements and covenants set forth in this Agreement (a) run with Owner's Property and Pier 1's Property and (b) are binding on and inure to the benefit of Owner and Pier 1 and their respective successors and assigns.
7. Attorneys' Fees. If Owner or Pier 1 commences an action against the other party arising out of or in connection with this Agreement, the prevailing party is entitled to recover reasonable attorneys' fees and costs incurred in connection with the prosecution or defense of such action.

8. Authority. Owner and Pier 1 represent and warrant to each other the persons and entities signing this Agreement on behalf of Owner and Pier 1 have authority to enter into and execute this Agreement.
9. Grant of Right. Owner and Pier 1 grant each other a nonexclusive easement for ingress and egress of vehicular and pedestrian traffic over and across the drive areas and parking areas of each party's respective property as well as a nonexclusive easement for parking on each party's respective property in the "Access Area" shown on **Exhibit A**.
10. Maintenance. Owner, as to the Access Area on Owner's Property and at Owner's expense, and Pier 1, as to the Access Area on Pier 1's Property and at Pier 1's expense, will maintain the Access Areas located on their respective properties in good order and repair, including without limitation keeping the respective Access Areas free of rubbish and maintaining landscaped areas.
11. Obstructions. Owner and Pier 1 will not obstruct or allow their respective properties to be obstructed, nor will Owner or Pier 1 construct or allow to be constructed any buildings or structures on their respective properties without the consent of the other.
12. Insurance. Owner, as to Owner's Property and at Owner's expense, and Pier 1, as to Pier 1's Property and at Pier 1's expense, will maintain in full force commercial general liability insurance issued by one or more insurance carriers, insuring against liability for injury to or death of persons and loss of or damage to property occurring on their respective properties. The coverage limits of each policy will be a combined single limits for bodily injury and property damage in an amount of at least One Million Dollars (\$1,000,000) per occurrence.
13. Indemnification. Owner and Pier 1 (each an "Indemnitor") will indemnify and defend the other (each an "Indemnitee") from and against all claims, liabilities, demands or causes of action, including all reasonable expenses of Indemnitee incidental thereto, for injury to or death of or damage to personal property of any employee, agent or invitee of Indemnitee arising within Owner's Property or Pier 1's Property and caused by Indemnitor's negligent act or omission or the negligent act or omission of any employee, agent or contractor of Indemnitor.
14. Notices. Any notice, demand, consent or communication required to be given to Owner or Pier 1 under the terms of this Agreement ("notice") is deemed received on receipt or refusal to accept delivery, provided the notice is in writing and mailed by certified mail return receipt requested or sent by overnight courier to the appropriate address listed in the preamble paragraph, or to any other address as Owner or Pier 1 may furnish each other in writing.
15. Directional Signage. Owner may erect directional signage on Owner's Property indicating additional parking on Pier 1's Property. However, such directional signage is subject to Pier 1's reasonable approval.

16. Default. In the event of a default under this Agreement, the non-defaulting party may (a) exercise any rights and remedies it may have at law or in equity and/or (b) terminate this Agreement on notice to the defaulting party, and this Agreement will terminate thirty (30) days after receipt of such notice unless the defaulting party remedies the default within such thirty (30) day period.
17. Exhibits. All exhibits referred to herein are considered a part hereof for all purposes with the same effect as if copied at verbatim herein. The exhibits attached hereto are:

Exhibit A

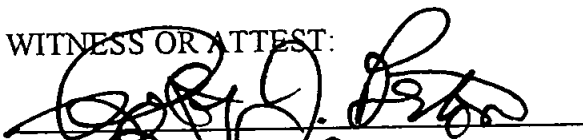
Page 1-Owner's Property Site Plan

Page 2-Pier 1's Property Site Plan

Exhibit B-Owner's Property Legal Description

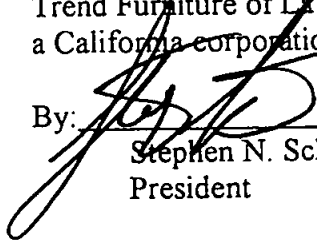
Exhibit C-Pier 1's Property Legal Description

WITNESS OR ATTEST:

  
Date: September 7, 2000

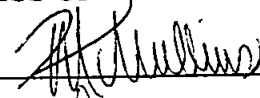
OWNER:

Trend Furniture of La Mesa, Inc.,  
a California corporation

By: 

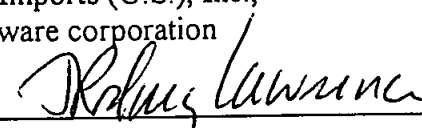
Stephen N. Schulman,  
President

WITNESS OR ATTEST:

  
Date: August 31, 2000

PIER 1:

Pier 1 Imports (U.S.), Inc.,  
a Delaware corporation

By: 

J. Rodney Lawrence,  
Senior Vice President

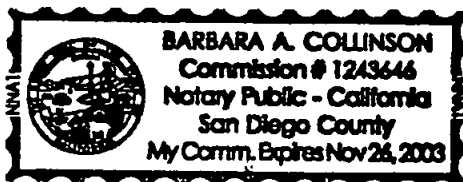
[Acknowledgements on the following page]

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

On 9/7/2000 before me Barbara A. Collinson, a Notary Public in and for said State, personally appeared Stephen N. Schulman, President of Trend Furniture of La Mesa, Inc., a California corporation, personally known to me ~~(or proved to me on the basis of satisfactory evidence)~~ to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Barbara A. Collinson  
Notary Public

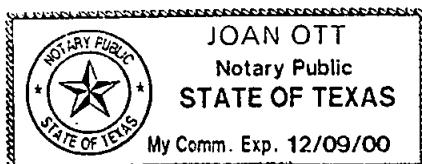
STATE OF TEXAS

COUNTY OF TARRANT

Before me, the undersigned authority, on this day personally appeared J. Rodney Lawrence, Senior Vice President of **Pier 1 Imports (U.S.), Inc.**, a Delaware corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and official seal this 31<sup>st</sup> day of August, 2000.

(SEAL)

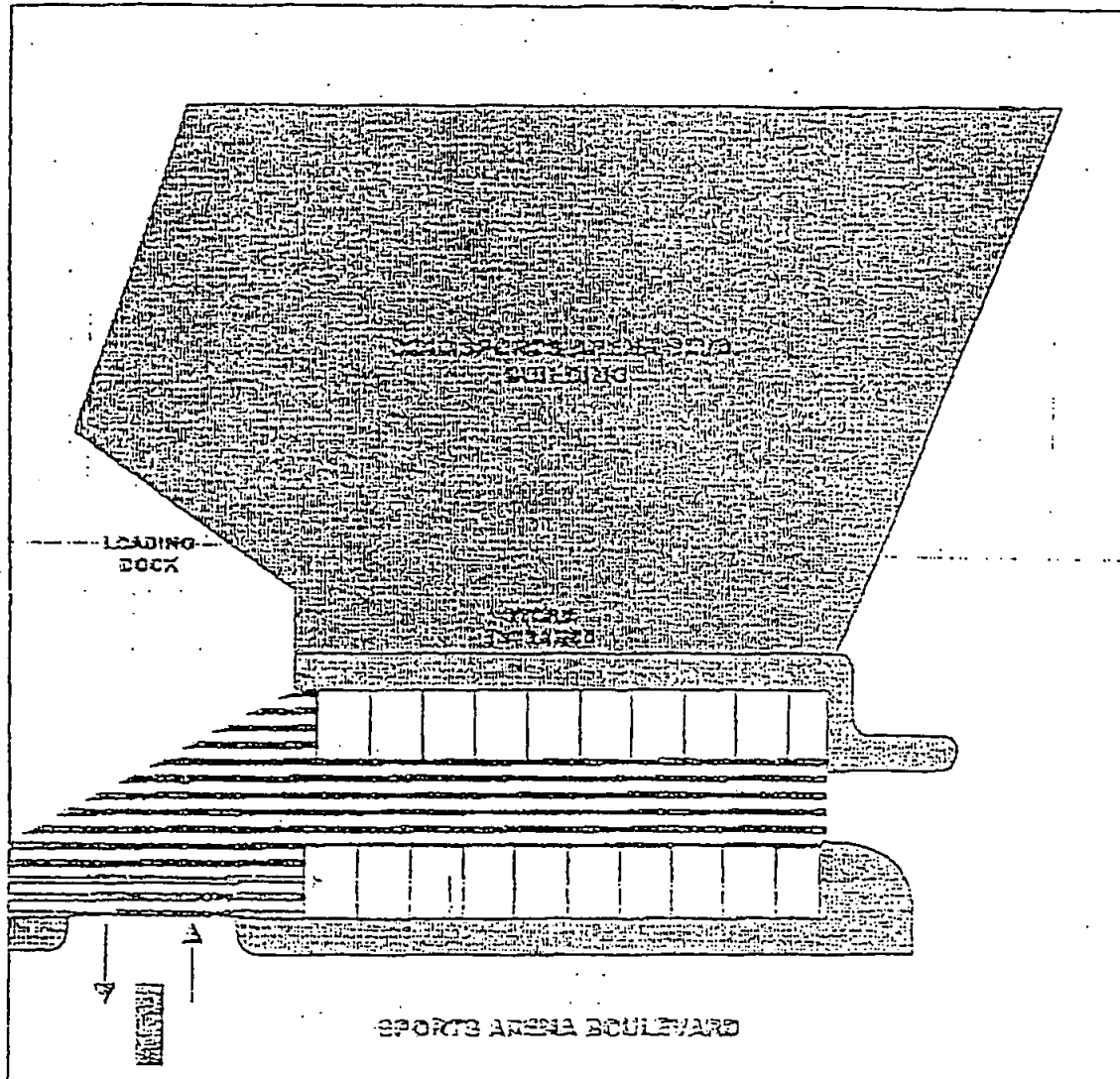


My commission expires: \_\_\_\_\_

Joan Ott  
Notary Public in and for the State of Texas

EXHIBIT A

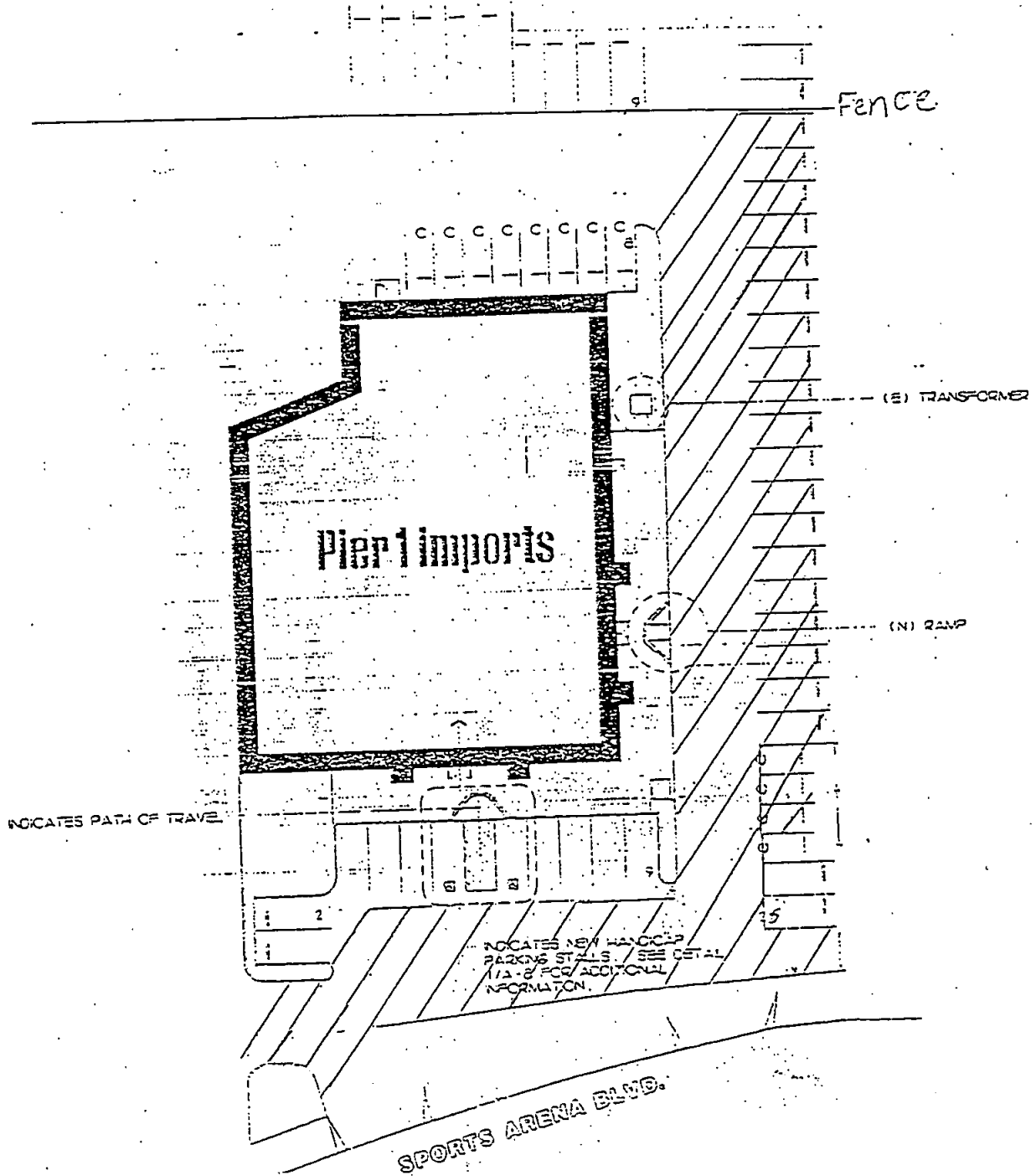
OWNER'S PROPERTY SITE PLAN



== ACCESS AREA

EXHIBIT A

PIER 1'S PROPERTY SITE PLAN



Access Area

## EXHIBIT B

### OWNER'S PROPERTY LEGAL DESCRIPTION

That portion of Pueblo Lots 314 and 337 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to the map thereof made by James Pascoe recorded in the office of the county recorder of said county as Miscellaneous Map No. 36, described as follows:

Beginning for reference at a point in the southeasterly line of said lot distant South  $35^{\circ} 56' 45''$  West along said line 7.00 feet from the northeast corner of said lot, said point being also a point in the southwesterly line of Kurtz Street as said Street was widened to 57.00 feet by Ordinance No. 7527 passed and adopted by said City of San Diego July 25, 1957; thence along said southwesterly line North  $53^{\circ} 58' 40''$  West 80.00 feet; thence leaving said southwesterly line South  $35^{\circ} 56' 45''$  West 147.25 feet; thence North  $54^{\circ} 03' 15''$  West 50.00 feet; thence South  $35^{\circ} 56' 45''$  West 93.80 feet; thence North  $75^{\circ} 04' 35''$  West 30.00 feet to the TRUE POINT OF BEGINNING; thence South  $35^{\circ} 56' 45''$  West 182.83 feet to a point in that certain curve in the northerly line of Frontier Street, 115.00 feet wide, having a radius of 1019.93 feet and being concave northeasterly, a radial line of said curve through said point bears North  $18^{\circ} 04' 01''$  East; thence westerly along said curve through a central angle of  $5^{\circ} 59' 16''$  an arc distance of 106.59 feet; thence tangent to said curve along said northerly line North  $77^{\circ} 55' 15''$  West 46.42 feet; thence leaving said northerly line North  $35^{\circ} 56' 45''$  East 185.00 feet; thence South  $75^{\circ} 04' 35''$  East 152.12 feet to the TRUE POINT OF BEGINNING; containing 0.594 acres, more or less.

## EXHIBIT C

### PIER 1'S PROPERTY LEGAL DESCRIPTION

That portion of Pueblo Lot 337 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to the map thereof made by James Pascoe recorded in the office of the County Recorder of said county as Miscellaneous Map No. 36, described as follows:

Beginning at a point in the Southeasterly line of said lot distant South  $35^{\circ}56'45''$  West along said line 7.00 feet from the Northeast corner of said lot, said point being also a point in the Southwesterly line of Kurtz Street as said street was widened to 57.00 feet by Ordinance No. 7527 passed and adopted by said City of San Diego July 25, 1957; thence along said Southwesterly line North  $53^{\circ}58'40''$  West 80.00 feet; thence leaving said Southwesterly line South  $35^{\circ}56'45''$  West 147.26 feet; thence North  $54^{\circ}03'15''$  West 50.00 feet; thence South  $35^{\circ}56'45''$  West 93.80 feet; thence North  $75^{\circ}04'35''$  West 30.00 feet; thence South  $35^{\circ}56'45''$  West 182.83 feet to a point in that certain curve in the Northeasterly line of Sports Arena Boulevard (formerly Frontier Street), 115.00 feet wide, having a radius of 1,019.93 feet and being concave Northeasterly, a radial line of said curve through said point bears North  $18^{\circ}04'01''$  East; thence Southeasterly along said curve through a central angle of  $9^{\circ}07'51''$  an arc distance of 162.54 feet to the intersection of said curve with the Southeasterly line of said lot, a radial line of said curve through said intersection bears North  $27^{\circ}11'52''$  East; thence leaving said Northeasterly line non-tangent to said curve along said Southeasterly line North  $35^{\circ}56'45''$  East 397.15 feet to the Point of Beginning; containing 1.173 acres, more or less.

December 13, 1999

|                                     |                |
|-------------------------------------|----------------|
| CITY OF SAN DIEGO                   |                |
| REAL ESTATE ASSETS DEPT.            |                |
| <input type="checkbox"/>            | DIRECTOR       |
| <input type="checkbox"/>            | DEPUTY MANAGER |
| <input checked="" type="checkbox"/> | FILE COPY      |
| <input type="checkbox"/>            | CHRON. COPY    |
| <input type="checkbox"/>            | ORIGINATOR     |

Mr. Steve Shulman  
700 Front Street, Suite 1407  
San Diego, CA 92101

Dear Mr. Shulman:

Subject: Agreement to Sublease - Union Breitbard Joint Venture / Victor Shulman - City Owned Real Property at 3240 Sports Arena Boulevard, San Diego

This letter is in response to your notification to exercise the option to extend the term of the Agreement to Sublease for an additional fifteen years, and request to redetermine the rent during the extension term.

Section 2. Term, (c), Option to Renew, of the Agreement to Sublease provides that sublessee shall have the right to extend the term of the sublease through November 7, 2015. In accordance with this section, the term of the sublease will be extended for an additional fifteen years on November 8, 2000.

We look forward to meeting with you in January to discuss the rental determination. I will contact you the week of January 3<sup>rd</sup> to schedule the meeting.

Should you have any questions, please call me at (619)235-5248.

Sincerely,

*V. Balotsky*

Vladimir Balotsky  
Property Agent

VBB/vbb

cc: Robert J. Berton  
Procopio, Cory, Hargreaves & Savitch, LLP  
530 B Street, Suite 2100  
San Diego, CA 92101-4468

Ms. Mimi McCoy  
Northern Trust Bank  
4370 La Jolla Village Dr., Suite 1000  
San Diego, CA 92122

trendredet.wpd

Recorded as Document # 171150  
on 02-27-72 with the  
County of San Diego.

AGREEMENT TO SUBLEASE

63903

THIS SUBLEASE is made on February 7, 1969,  
between UNION-BREITBARD JOINT VENTURE, composed of Union Oil  
Company of California, a corporation, and Robert Breitbard, an  
individual, as Joint Venturers (Sublessor), and Victor J. Schulman

(SUBLESSEE) In consideration of the mutual covenants, terms and  
conditions of this Agreement to Sublease, the parties agree as  
follows:

1. Description of Premises. Sublessor subleases to  
Sublessee, on the terms and conditions hereinafter set forth,  
those certain premises, together with all easements and rights  
appurtenant thereto (leased premises) described in Exhibit "A"  
attached hereto and made a part hereof, and depicted upon map  
marked Exhibit "B" attached hereto and made a part hereof. The  
leased premises and certain other lands comprising approximately  
80 acres of property fronting on Frontier Street are owned by the  
City of San Diego. This property was originally placed under an  
Option Agreement between the City and Robert Breitbard (Breitbard).  
This Option Agreement was dated July 23, 1963. Subsequently this  
Option Agreement was extended, revived and amended. Acting in  
accordance with the terms of the Option Agreement, Breitbard  
assigned his rights in certain portions of the property covered  
by the Option Agreement to San Diego Arena Lease Company, a  
California non-profit corporation (the Lease Company). Acting  
under this assignment of rights, the Lease Company entered into  
The San Diego Sports Arena Ground Lease Agreement dated August 10,  
1965, with the City (Ground Lease). A copy of the Ground Lease  
is attached hereto and marked Exhibit "C". On November 8, 1965,  
the Lease Company and San Diego Sports Enterprises, a California  
corporation, entered into the San Diego Sports Enterprises Sublease  
(Operating Sublease). A copy of the Operating Sublease is attached  
as Exhibit "III" to the Ground Lease. Subsequently Robert Breitbard  
assigned his remaining rights under the Option Agreement to Sub-  
lessor. Exercising its right under the Option Agreement, Sublessor  
filed with the City an Exercise of Option dated May 26, 1967 for a  
portion of the land covered by that agreement. On August 10, 1967,  
the City entered into the First Amendment to the Ground Lease. A  
copy of that First Amendment is attached hereto and marked Exhibit  
"D". In accordance with these documents and a Consent to Sublease  
Agreement between the City, the Lease Company, and Sublessor,  
dated August 10, 1967, Sublessor and the Lease Company entered into  
a Sub-Lease Agreement dated August 10, 1967. The Consent to Sub-  
lease Agreement is attached hereto and marked Exhibit "E"; and the  
Sublease Agreement is attached hereto and marked Exhibit "F". As  
additional consideration for Sublessor's entering into this

Agreement to Sublease, Sublessee agrees that the rights granted under this Agreement to Sublease are subject to the rights granted to Sublessor under the foregoing agreements, and Sublessee further agrees to conduct its business and activities upon the leased premises in such manner as not to violate the terms thereof.

2. Term

(a) Primary Term - The primary term of this Sublease shall be for a period commencing with the date hereof and ending November 7, 1990.

(b) Option to Renew at Increased Rental - Sublessee shall have the right to extend this lease for a term of twenty-five years from November 7, 1990, by giving notice and by paying rents as set forth below.

3. Basic Yearly Rental During Primary Term. Sublessee agrees to pay Sublessor at such place or places as Sublessor shall from time to time designate in writing, a basic yearly rental in the sum of \$9,325. One-twelfth of said Yearly Rental shall be due and payable monthly in advance on the first day of each month during the term of this Sublease without further demand and without any deduction of offset whatsoever. Rental in respect of any sublease period of less than one month shall be prorated upon the basis of a 30-day month and paid in advance.

4. Adjustment of Basic Yearly Rental and Rental Redetermination.

(a) Adjustment during Primary Term. The basic yearly rental of \$9,325 shall be increased at 5-year intervals during the term of this Agreement in accordance with the following schedule, effective on November 8 of each year set forth below:

| <u>Period</u>           | <u>Yearly Rental</u> |
|-------------------------|----------------------|
| Years 1973 through 1978 | \$ 9,575             |
| Years 1978 through 1983 | 9,825                |
| Years 1983 through 1988 | 10,075               |
| Years 1988 through 1990 | 10,325               |

(b) Rental Redetermination During Extended Term. The Sublease Agreement (Exhibit "F" attached hereto) provides by reference to the Ground Lease that there shall be a redetermination of Sublessor's yearly rental for the 26th through 35th year of the term of the Ground Lease; and a further determination of Sublessor's yearly rental for the 36th through the 50th year of that period.

Sublessee's basic yearly rental, as adjusted, under the terms of this Agreement to Sublease, shall be

redetermined concurrently with and for the same periods as any redetermination made in Sublessor's rental obligation for the leased premises under the terms of the Ground Lease and/or Lease Agreement. In the redetermination of rental pursuant to the Ground Lease, a value per acre will be ascertained. To the value per acre will be applied the factor of .594, which is the portion of an acre being leased in this sublease agreement. To such resultant figure shall be applied the percentage of 14.34 which shall be the redetermined annual rental to Sublessee except as the same may be modified as set out below. - of 20  
over

*over - record  
2/20/1962*

Sublessor shall give Sublessee notice in writing of the redetermined rental. Within ten days of the receipt thereof Sublessee may give written notice to Sublessor of a request for appraisal of just the subleased premises. Upon receipt of such request for an appraisal the Sublessor and Sublessee shall each appoint a real property appraiser. These two appraisers shall then select a third appraiser. If the appraisers selected by Sublessor and Sublessee are unable to agree upon a third appraiser, appropriate application shall be made by either Sublessor or Sublessee to the Presiding Department of the Superior Court of the County of San Diego, State of California, for the appointment of said third appraiser. All appraisers shall be qualified independent fee appraisers who have been awarded the professional designation of "M.A.I." or its equivalent, if the "M.A.I." designation is no longer in existence. The three appraisers shall make one appraisal of the leased premises and determine the fair market value of the subleased premises as vacant land and within an M-1 zone classification, taking into account the utilization thereof as of the time of the appraisal. The fair market value as determined by the single appraisal of the three independent fee appraisers shall be submitted by the appraisers to Sublessor and Sublessee. The cost of the appraisal shall be shared equally between Sublessor and Sublessee. To such fair market value appraisal of the subleased premises shall be applied a ten percent factor for the annual rental. The lower rental determined by the two methods shall be the annual rental for the period until the next redetermination.

(c) Option to Renew. Upon the determination of the rental as set out in 4(b) above, Sublessee shall have an option to renew for a period of ten years at such redetermined rental. The exercise of this option shall be made in writing within 90 days of such rental redetermination. In the event Sublessee does not elect to extend this lease for such ten year period at such redetermined rental, he shall within said 90 day period give Sublessor nine months written notice of intent to terminate and shall during such period or such portion of said period that Sublessor is paying the redetermined rent to the City of San Diego, pay to Sublessor rent at the redetermined amount. In the event Sublessee elects to exercise this option to renew he shall so notify Sublessor in writing and shall in that event have an additional option to extend the lease for the 36th through 50th year with the redetermination of rent and the exercise of option to be done in the same manner as set forth above.

(d) Adjustment During Extended 25 Years of Term. During the extended twenty-five years of the term, Sublessee's redetermined basic yearly rental as described in paragraph 4(b) shall be adjusted further by increasing the redetermined basic yearly rental by \$250.00 per year for each of the five-year periods commencing on November 8, 1995, November 8, 2005, and November 8, 2010, respectively. Each such adjusted redetermined basic yearly rental shall be effective for a period of five years.

DELETED  
5. Payment of Rental. Sublessee shall pay Sublessor the first month's rental in advance concurrent with the execution of this Agreement, which amount shall be applied to the first month's rental, which is due and owing on the first day Sublessee is open for business on the leased premises, or 150 days from the date of the execution of this Agreement, whichever date occurs first, and during such period, rental shall not be due or owing.

HAVE THE RIGHT TO  
6. Construction. Sublessee shall construct upon the subleased premises such improvements as are set forth on the building location plot plan and building elevation plan set forth in Exhibit "H" attached hereto and made a part hereof. The construction of the improvements shall be in accordance with the plans and specifications to be prepared by Sublessee and approved by Sublessor prior to the commencement of construction. The Sublessee shall submit to the Sublessor a copy of the "as built"

construction drawings upon the completion of construction and improvements.

No material addition to or alteration of any structure erected on said premises shall be commenced unless and until plans and specifications covering the proposed addition or alteration shall have been first submitted to and approved by Sublessor in the manner above provided. When the construction of any building or other structure upon said premises, or any addition thereto or alteration thereof, is commenced, the same shall be prosecuted with reasonable diligence until completed, and shall conform to all public laws, ordinances and regulations applicable thereto, and shall be constructed and completed at the sole cost and expense of the Sublessee and without any cost, expense or liability of Sublessor whatever.

Upon termination of this Agreement to Sublease, whether at the end of the term or prior thereto, all improvements to the leased premises shall be removed by Sublessee and Sublessee shall be entitled to the salvage value of such improvements and facilities removed.

7. Use of Premises. The leased premises shall be used by Sublessee for the purpose of retail sales activity (excluding the service of food for consumption on the premises) and except those sales activities specifically prohibited in Paragraph 15 and for no other purpose, without the written consent of Sublessor, which shall not be unreasonably withheld.

8. Encumbrance of Sublessee's Estate. Sublessor consents and agrees that the Sublessee may encumber this Agreement to Sublease, sublease estate, and any improvements located thereon, by deed or deeds of trust, mortgage or mortgages, or other security type instruments to assure the payment of a promissory note or notes, or replacements thereof executed in accordance with the provisions of this section. The net proceeds of the loan or loans received by the Sublessee shall be devoted to direct costs of labor, materials, engineering and architectural fees for the primary purpose of constructing improvements upon the lease premises to be constructed in accordance with the provisions of this Agreement to Sublease and/or for the permanent financing thereof. Such loan proceeds may be disbursed for, or applied to, payment of incidental costs of such construction project, including, but not limited to any one or more of the following: Off-site improvements for service of the leased premises, labor, material, or other equipment charges, as for on-site improvements; premiums for hazard insurance or other insurance or bonds required by this Agreement to Sublease; archi-

tectural and engineering fees, loan fees, interest, title insurance, escrow charges, and related fees. Sublessee hereby covenants that all loan funds secured by encumbrances permitted by this section shall be utilized only for the purposes permitted hereby, but the parties agree that no beneficiary or mortgagee or other obligee in good faith loaning funds to Sublessee, and securing said loan or loans by a deed of trust or mortgage as permitted hereby, shall lose or impair the priority of the encumbrance in its favor by reason of any misuse of funds by Sublessee. Sublessor further consents and agrees that in the event said deed of trust, mortgage or other type of security instrument should at any time be in default and be foreclosed, the Sublessor will accept the mortgagee, beneficiary or other obligee thereof as its new tenant under this Sublease with all the rights and privileges of the original Sublessee upon the curing of any existing defaults by the mortgagee, beneficiary or other obligee. In the event that it is desired thereafter by any mortgagee, beneficiary or other obligee to assign this Agreement to Sublease to its nominee, and said nominee is a reputable, qualified and financially responsible tenant, the Sublessor agrees that upon giving notice of the request for consent to such assignment, the Sublessor will give its consent thereto.

9. Quiet Possession. Sublessor agrees that Sublessee shall and may at all times during the term of this Agreement to Sublease peaceably and quietly have and enjoy the exclusive use of the leased premises.

10. Repairs and Maintenance. The Sublessor shall have no duty, obligation or liability whatsoever to care for or maintain the subleased premises, or any improvements thereon. The Sublessee shall at its own expense, from time to time and when required, make all repairs and improvements upon the subleased premises. The Sublessee shall keep and maintain the subleased premises in good, sightly and reasonably attractive condition.

11. Utilities. Sublessee shall pay all utilities used on the premises during the term of the sublease.

12. Taxes. Sublessee shall pay to Sublessor, or to the appropriate taxing authority, as additional rental all ad valorem real property taxes and assessments in respect to the premises including any taxes on Sublessor's possessory interest in the leased premises and all taxes and assessments levied on or against Sublessee's property on said premises and all licenses, permits, occupational and inspection fees assessed or charged against said premises or either party to this Sublease by reason

of Sublessee's use or occupancy of said premises, and the Sublessee shall hold the Sublessor free and harmless from any loss, damage or expense arising out of, or by reason of any charges specified in this paragraph. All payments by Sublessee under this section shall be made not later than ten days prior to the delinquent date for the tax. If Sublessee shall make payment directly to the appropriate taxing authority, Sublessee shall, not later than ten days prior to the delinquent date, deliver to Sublessor a receipt from the taxing authority indicating payment in full of the tax.

In the event the leased premises are not separately assessed or if more than the leased premises are included in any such assessment, it is agreed that Sublessee's liability under this section shall be based only on the portion of the assessment reasonably allocated to the leased premises. For the purpose of determining the amount of any assessment payable by Sublessee under this section, the allocation supplied by the County Assessor or other taxing authority shall be conclusive. All such taxes and assessments for the tax fiscal year in which the term of this Agreement to Sublease commences or ends shall be prorated between Sublessor and Sublessee, as of the respective commencement and termination dates of this Sublease.

13. Insurance. During the term of this Sublease, Sublessee shall procure and maintain at its sole expense, fire insurance with extended coverage endorsement with such co-insurance clause as the Sublessor may determine, covering the subleased premises and in an amount equal to at least 80% of the insurable value of the subleased premises. All fire insurance shall be written by companies licensed to do business in California.

Sublessee, at its sole expense, shall procure, and maintain public liability insurance in the minimum amount of \$50,000 for property damage, \$300,000 for injury to one individual, and \$500,000 for injury to more than one individual. Sublessee shall cause Sublessor to be named as additional insureds on any policy and shall deliver to Sublessor a certificate of insurance thereunder.

Sublessee agrees to indemnify and save the Sublessor harmless against and from any and all claims, damages, costs and expenses, including reasonable attorney's fees arising from the conduct or management of the business conducted by Sublessee on the subleased premises.

14. Destruction of Premises. If the subleased premises are totally destroyed by fire or other casualty, the Sublessee

shall, at its own cost and expense, commence to rebuild, restore, and/or replace the said premises as soon as practicable, and in any event within three months of such destruction. Such work shall be prosecuted with due diligence. In the event that the work or repair, reconstruction, restoration and replacement of the subleased premises is not commenced within three months after such total destruction by fire or other cause, or is not prosecuted with reasonable diligence, the Sublessor may, at its option, cancel and terminate this Agreement to Sublease by notice in writing to Sublessee or the Sublessor may repair, reconstruct or restore or replace the portion of the premises leased by it hereunder, and shall charge the costs thereof against and shall have the right to receive to the extent that the same may be required to pay such costs, all money paid by any insurance companies on account of the destruction or damage to the premises subleased by it hereunder, and apply the same to the costs of making repairs and rebuilding thereof, subject to the right of any lender then holding a mortgage, deed(s) of trust or other security instrument on the leased premises.

If the leased premises are partially damaged or destroyed by fire or other cause, the Sublessee shall, within thirty days after receipt of any insurance proceeds or in any event within three months after loss, commence the repair and/or reconstruction of the leased premises at Sublessee's own cost and expense. The leased premises shall be placed as nearly as possible in the same condition as they existed before such partial destruction or damage. In the event that the work or repair, reconstruction or restoration is not commenced within thirty days after receipt of any insurance proceeds for such partial damage by fire or other cause, or within three months after such loss (whichever date is earlier), or in the event that the work or repair, reconstruction or restoration is not substantially completed within six months from the commencement, the Sublessor may, at its option, cancel and terminate this Agreement to Sublease by notice in writing to the Sublessee, or the Sublessor may repair, reconstruct or restore such partial damage and charge the cost thereof against and shall have the right to receive to the extent that the same may be required to pay such costs, all monies paid by the insurance companies on account of such partial damage, and apply the same to the costs of making repairs and rebuilding; provided, however, that delay caused by war, strikes, governmental action, acts of God, or any major cause beyond control of the parties hereto shall not be included within such six-month period for repair, reconstruction or restoration, subject to the rights of any lender then holding a mortgage, deed(s) of trust or other security instrument on the leased premises.

In the event of any destruction or partial destruction of the premises within five years from the end of the term hereof, or within five years from the end of any extension of the term, Sublessee may, at its option, elect not to rebuild. In the event of such election, Sublessee shall be obligated to clear the land and to pay Sublessor the rental due hereunder for the balance of the term, or any extension of the term.

As used herein "the partial destruction" shall mean such destruction as will require the expenditures to rebuild, repair, and/or replace the damaged subleased premises of the sum in excess of 50% of the value of the building immediately prior to its damage.

15. Restrictions. Sublessee shall not sell nor suffer to be sold upon the leased premises any petroleum products, automotive tires, or automotive batteries without the written consent of Sublessor.

16. Mechanics' Liens. Sublessee agrees that it will promptly pay for any work done in or about the leased premises and will not permit or suffer any mechanic's liens to attach to the leased premises, and shall promptly cause and claim for any such lien to be released or secure the Sublessor to its satisfaction in the event Sublessee desires to contest any such claim.

17. Entry of Sublessor. Sublessee shall permit Sublessor and its agents and servants to enter into and upon the leased premises at all reasonable times for the purpose of inspecting or photographing the same, posting notices of non-responsibility for alterations, additions or repairs; showing the leased premises to prospective purchasers, lessees and encumbrancers, all without any rebate of rent and without liability to Sublessee for any loss or occupation or quiet enjoyment of the leased premises thereby occasioned. Sublessee shall permit Sublessor and its agents and servants at any time within thirty days prior to the expiration or termination of this Sublease, to place upon the leased premises one or more usual and ordinary "For Lease" signs.

18. Insolvency, Receiver. Either (i) the appointment of a receiver (except a receiver appointed at the instance of or for the benefit of Sublessor) to take possession of all or substantially all of the assets of Sublessee, or (ii) a general assignment by Sublessee for the benefit of creditors, or (iii) any action taken or suffered by Sublessee under any insolvency or bankruptcy act shall, if any such appointment, assignment or action continues for a period of thirty days, constitute a breach of this Sublease by Sublessee.

19. Events of Default. Any default by Sublessee in respect of the payment of money hereunder shall become a breach if not cured by Sublessee within 10 days from the date of giving written notice by Sublessor to Sublessee of such event of default. Any act or omission of Sublessee in violation of any covenant, other than the covenant to pay money hereunder, shall become a breach if not cured by Sublessee within twenty days from the date of giving written notice by Sublessor to Sublessee of such act or omission. If such latter event of default is not susceptible of being cured within twenty days, it shall become a breach if such act or omission is not cured within a reasonable time.

20. Remedies of Sublessor on Default. In the event of a breach of this Sublease by Sublessee, then Sublessor, in addition to any other rights or remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from the subleased premises. Such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of, Sublessee. Should Sublessor elect to re-enter as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided by law, it may either terminate this Sublease, or it may from time to time, without terminating this Sublease, re-sublet such premises, or any part thereof, for such term or terms (which may be for a term extending beyond the term of this Agreement to Sublease or any extensions thereof) and at such rental or rentals and upon such other terms and conditions as Sublessor in its sole discretion may deem advisable, with the right to make alterations and repairs to the subleased premises. Upon each such re-subletting (i) Sublessee shall be immediately liable to pay Sublessor, in addition to any indebtedness other than rent due hereunder, the cost and expenses of such re-subletting and of such alterations and repairs, incurred by Sublessor, and the amount, if any, by which the rent reserved in this Agreement to Sublease for the period of such re-subletting (up to but not beyond the term of this Agreement to Sublease) exceeds the amount agreed to be paid as rent for the subleased premises for such period of such re-subletting; or (ii) at the option of Sublessor, rents received by Sublessor from such re-subletting shall be applied: First, to the payment of any indebtedness, other than rent due hereunder, from Sublessee to Sublessor; second, to the payment of any costs and expenses of such re-subletting and of such alterations and repairs; third, to the payment of rent due and unpaid hereunder; the residue, if any, shall be held by Sublessor and applied in payment of future rent as the same may become due and payable

hereunder. If Sublessee has been credited with any rent to be received by such re-subletting under option (i), and such rent shall not be promptly paid to Sublessor by the new tenant, or such rental as received from such re-subletting under option (ii) during any month shall be less than that to be paid during the month by Sublessee hereunder, Sublessee shall pay any such deficiency to Sublessor. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of such subleased premises by Sublessor shall be construed as an election on its part to terminate this Sublease unless a written notice of such intent shall be given to Sublessee or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such re-subletting without termination, Sublessor may at any time thereafter elect to terminate this Sublease for such previous breach. Should Sublessor at any time terminate this lease for any breach, in addition to any other remedy it may have, Sublessor may recover from Sublessee all damages it may incur by reason of such breach, including the cost of recovering the premises, and including the amount by which rent, and charges equivalent to rent, reserved in this Sublease for the remainder of the stated term exceeds, at the time of such termination, the then reasonable rental value of the premises for the remainder of the stated term, all of which amounts shall be due and payable from Sublessee to Sublessor.

Anything set forth in this section 20 to the contrary notwithstanding, if at the time of a default by Sublessee, the leasehold estate under this Agreement to Sublease is encumbered by a deed or deeds of trust and/or by a mortgage or mortgages or other security instrument securing the construction or permanent financing loan or loans as provided in section 8 hereof, Sublessor shall not terminate this Agreement to Sublease until it shall have as a condition precedent thereto given written notice to the mortgagees, beneficiaries or other obligees of the default or defaults complained of. In each such event, the beneficiaries, mortgagees or obligees shall have thirty days from receipt of the notice within which to cure the default, if the default is curable by the payment of money to the Sublessor; and thirty days from receipt of the notice within which to commence foreclosure proceedings against Sublessee (if not theretofore commenced) if the default is not curable by the payment of money. In the event such mortgagees, beneficiaries or obligees avail themselves of the remedies set forth herein, they may enter upon and operate the leased premises in the place and stead of Sublessee, with all of the rights, privileges and duties of Sublessee. If the mortgagees, beneficiaries or obligees elect to substitute themselves to Sub-

lessee's estate hereunder, Sublessor hereby expressly consents to that substitution; provided that the mortgagees, beneficiaries or obligees assume the obligations to perform the covenants and undertakings of Sublessee herein contained. In no event shall this Agreement to Sublease be deemed terminated if such mortgagees, beneficiaries or obligees shall give notice in writing of their election so to substitute themselves in accordance with the foregoing, and commence performance within a 30-day period after service upon them of the written notice of default by the Sublessor.

21. Eminent Domain. In the event that the whole or any part of the leased premises shall be taken by any public authority under the power of eminent domain or like power, then the term hereof shall terminate as to the part of the premises so taken, effective as of the date possession thereof shall be required to be delivered pursuant to the final order, judgment or decree entered in proceedings in exercise of such power.

22. Assignment or Subletting. The Sublessee shall have no power to assign this Agreement to Sublease, or any interest therein, and shall not sublet the subleased premises, or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the agents and servants of Sublessee excepted) to occupy or use the subleased premises or any portion thereof, without the prior written consent of Sublessor, and which consent shall not be unreasonably withheld, except, however, Sublessee may assign this Sublease to any corporation having a net worth of not less than \$500,000, or to any corporation or other entity with a smaller net worth if the improvements constructed on the premises have an appraised fair market value of at least \$150,000. Upon such assignment and acceptance by such assignee, Sublessee shall be relieved of all further liability by reason of this lease. In the event assignment is to an entity having a net worth of less than \$500,000 in such event the improvements, if there are any encumbrances thereon, must have a provision in such encumbrance that the encumbrancer shall have no right of removal or destruction of such improvements, except as provided for in the lease.

23. Costs of Enforcement. In the event that Sublessor or Sublessee bring an action to enforce the covenants and agreements of this Agreement to Sublease, the party against whom final judgment is entered shall pay and discharge all costs, expenses and attorneys fees incurred by the other party.

24. Notices. Any and all notices or demands to be given under this Agreement to Sublease by one party to the other shall be in writing. Such notices shall be given either personally or

by registered mail, addressed to the Sublessor c/o Union Oil Company, attention Mr. Fred M. Anderson, Union Oil Center, Los Angeles, California, 90017, and to Sublessee at 4275 El Cajon Boulevard, San Diego, California, 92105, or such other place as Sublessor and Sublessee shall from time to time supply to the other in writing. The date of service of the notice or demand shall be the date of actual personal service or the postmark on the registered mail, as the case might be.

25. Waiver. The waiver by Sublessor 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 Sublessor shall not be deemed to be a waiver of any preceding breach by Sublessee by any term, covenant or condition of this Agreement to Sublease, other than the failure of the Sublessee to pay the particular installment of rent so accepted, regardless of Sublessor's knowledge of such preceding breach at the time of acceptance of such rent.

26. Holding Over. Any holding over after the expiration of the term of this Agreement to Sublease or any extensions thereof, with the consent of Sublessor, shall be construed to be a tenancy from month to month, at the same rental as was in effect immediately prior to such expiration, which rental shall be payable in advance on the first day of each month of said tenancy, and shall otherwise be on the terms and conditions herein specified, so far as is applicable.

27. Recordation. The original copy of this Agreement to Sublease, or a memorandum agreement satisfactory to both parties, shall be recorded in the office of the County Recorder of San Diego County, California, upon the request of either party.

28. Binding on Successors. This Agreement to Sublease and the provisions hereof shall be binding upon the respective parties and shall inure to the benefit of said parties, their respective successors and assigns.

29. Sublessee covenants that it will refrain from operating any equipment or appliances on said leased premises which create excessive noise between the hours of 9 o'clock p.m. and 7 o'clock a.m.

IN WITNESS WHEREOF, the parties hereto have caused  
this Agreement to Sublease to be executed and delivered on the  
date and year first above written.

UNION-BREITBARD JOINT VENTURE  
Union Oil Company of California

By Frederick Anderson

By Dale J. Anderson

By Walter J. Sullivan

By \_\_\_\_\_

PROPERTY DESCRIPTION

SCHULMAN  
LEASE

SAN DIEGO PROPERTY

That portion of Pueblo Lots 314 and 337 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to the map thereof made by James Pascoe recorded in the office of the county recorder of said county as Miscellaneous Map No. 36, described as follows:

Beginning for reference at a point in the southeasterly line of said lot distant South  $35^{\circ} 56' 45''$  West along said line 7.00 feet from the northeast corner of said lot, said point being also a point in the southwesterly line of Kurtz Street as said Street was widened to 57.00 feet by Ordinance No. 7527 passed and adopted by said City of San Diego July 25, 1957; thence along said southwesterly line North  $53^{\circ} 58' 40''$  West 80.00 feet; thence leaving said southwesterly line South  $35^{\circ} 56' 45''$  West 147.26 feet; thence North  $54^{\circ} 03' 15''$  West 50.00 feet; thence South  $35^{\circ} 56' 45''$  West 93.80 feet; thence North  $75^{\circ} 04' 35''$  West 30.00 feet to the TRUE POINT OF BEGINNING; thence South  $35^{\circ} 56' 45''$  West 182.83 feet to a point in that certain curve in the northerly line of Frontier Street, 115.00 feet wide, having a radius of 1019.93 feet and being concave northeasterly, a radial line of said curve through said point bears North  $18^{\circ} 04' 01''$  East; thence westerly along said curve through a central angle of  $5^{\circ} 59' 16''$  an arc distance of 106.59 feet; thence tangent to said curve along said northerly line North  $77^{\circ} 55' 15''$  West 46.42 feet; thence leaving said northerly line North  $35^{\circ} 56' 45''$  East 185.00 feet; thence South  $75^{\circ} 04' 35''$  East 152.12 feet to the TRUE POINT OF BEGINNING; containing 0.594 acres, more or less.

EXHIBIT - A

LEASE

Sublease was  
executed 2/7/1969

It doesn't appear  
that Union  
approved this  
sublease. Should  
they have  
done it  
matter?

DATED: Dec. 18, 1969

PARTIES: VICTOR J. SCHULMAN, Lessor

*U/J* TREND OF SAN DIEGO, INC., a corporation, Lessee  
*FURNITURE*  
*1*

1. Property Leased:

Lessor has entered into an Agreement to Sublease from Union Breitbard Joint Venture, dated February 7th, 1969. A copy of which Agreement to Sublease is attached hereto and marked Exhibit "A". In consideration of the payment of the rents and taxes and other charges and of the performance of all of the covenants and conditions of this lease by the Lessee, Lessor hereby leases to Lessee the parcel of land described in the Agreement to Sublease marked Exhibit "A", together with the improvements constructed thereon, hereinafter referred to as the "leased land."

2. Term of Lease and Use:

The leased land is leased for a period commencing November 17, 1969, and terminating November 7, 1990.

Lessor intends to obtain institutional financing within three (3) years from the commencement date of this lease. In the event the lender as a condition to such financing, requires a longer term lease, Lessee agrees to enter into an extension of lease to extend the lease period to November 7, 2000. As part of such extension of lease, Lessor will agree to exercise the option to renew the Agreement to Sublease marked Exhibit "A" and attached hereto, as provided in Paragraph 4(c) of Exhibit "A".

In the event the lease is not extended as above, or if the lease is extended, as to last option to renew for the

Thirty-sixth to Fiftieth year as set out in Paragraph 4(c) of Exhibit "A", Lessor agrees as follows: Lessor grants to Lessee options to renew this lease which options are to coincide with the options to renew that Lessor has pursuant to Paragraph 4(c) of Exhibit "A".

Upon the redetermination of rent as provided in Paragraph 4 of Exhibit "A", Lessor shall give Lessee written notice of such new ground rent. Within thirty (30) days of the date of such notice, Lessee shall elect as to whether Lessee desires to renew this lease and so notify Lessor in writing. If Lessee elects to renew this lease, Lessor shall within thirty (30) days of Lessee's election, either renew the Agreement to Sublease marked Exhibit "A" pursuant to the terms thereof, or in lieu thereof, assign all of Lessor's right, title and interest in Exhibit "A" to Lessee who in turn can renew said Agreement to Sublease.

The rentals during any of the above extended periods shall be subject to five (5) year rental adjustments as provided in Paragraph 4 of this lease.

Lessor shall have the right to finance or refinance the property and leasehold interest at any time during the period of this lease or any extensions thereof. Lessee agrees to subordinate this lease to any such financing or refinancing if required by the lender.

The leased land, together with the buildings and improvements being built thereon by Lessor for Lessee shall be used for any lawful purpose not prohibited by the Agreement to Sublease marked Exhibit "A".

### 3. Rental:

Lessee agrees to pay to Lessor as rental for the use and occupancy of the leased land at the times and in the manner herein provided, a rental of Twenty Five Thousand, Eight Hundred Fifty (\$25,850.00) Dollars, per annum, which shall be referred to

Union was only getting <sup>-2-</sup> \$ 9325 per year thru 11/7/73  
then:  
9575 " " " 11/7/78  
9825 " " " 11/7/83  
10,075 " " " 11/7/88  
10325 " " " 11/7/90

as "base rental." The base rental as adjusted below is further subject to adjustment as set forth in paragraph 4 below. In addition to said base rental Lessee shall pay to Lessor all rentals called for in the Agreement to Sublease attached hereto and marked Exhibit "A". Such additional rental shall include the taxes and assessments called for in paragraph 12 of said Agreement to Sublease which shall include taxes and assessments on the improvements constructed by Lessor.

The "base rental" is computed on the basis of improvements constructed by the Lessor on the leased premises of a cost of \$235,000.00. If said improvements cost more or less than said \$235,000.00, the base rental shall be adjusted on the basis of eleven (11%) percent per annum on the variation from \$235,000.00. For example, if the improvements were to cost \$245,000.00, the \$10,000.00 variation based on eleven percent would make an annual adjustment in rent of an increase of \$1,100.00.

"Improvement costs" shall mean all costs incurred in connection with the construction of the buildings and improvements constructed on the premises the subject of this lease, including, but not limited to, the following:

(i) Building contract costs, including contractor's bond, if any, building permits, utility hook-up charges and all other costs reasonably attributable to the completion of the building, parking and common areas and other improvements.

(ii) Architectural and engineering fees which include printing of plans and any design services.

(iii) Surveying costs.

(iv) Site preparation and onsite improvements on the premises, including landscaping.

(v) Any offsite utility installation costs, or fees.

(vi) Builders risk, fire and extended insurance, plus any other insurance required by the Agreement to Sublease

marked Exhibit "A", from date of Agreement to Sublease to commencement of this lease.

(vii) Interest on interim construction loan, ground rent from commencement of Agreement to Sublease marked Exhibit "A" to commencement period of this lease, including any property taxes paid in connection therewith.

(viii) Legal fees and miscellaneous costs.

The base rent plus the ground rent shall be paid in equal monthly installments commencing on the 7th day of December, 1969, and continuing on the 7th day of each subsequent month. Lessee agrees to pay on the execution of the lease the rental for the month of December, 1969, plus the rental for the partial period from November 17th to December 7th, based on a prorata basis. The taxes shall be paid to the Lessor in sufficient time to enable Lessor to meet the obligations pursuant to paragraph 12 of the Agreement to Sublease marked Exhibit "A" attached hereto.

#### 4. Rental Adjustments:

It is agreed between the parties hereto that the basic rent as the same may have been adjusted by reason of the improvement costs shall be adjusted during the following periods:

Commencing on the first day of the fifth year of the lease and on the first day of each fifth year thereafter throughout the term of the lease, the annual rental for each year of such ensuing five year period shall be changed in the same percentage proportion that the cost of living index of the U.S. Department of Labor, Bureau of Labor Statistics for the San Diego area (wholesale prices) has changed. The average monthly index for the year 1969 shall be the base index, the average monthly index for the years 1974, 1979, 1984 and 1989 shall be compared to the base index and the percentage of change shall be applied to the base rental for the five year period commencing December 7th 1974, 1979, 1984 and 1989. Any such additional annual rent

shall likewise be paid in equal monthly installments on the 7th day of each and every month during each year of which it is applicable. If, for any reason, the above index should cease to be published, or for any other reason should cease to be practicable in its application, then in such event the parties agree to substitute a similar index to accomplish the same purpose and effect; and, if the parties are unable to agree upon said new index, then the same shall be resolved by arbitration, as provided by the California Code of Civil Procedure. In no event shall the base rent during any time of the lease be decreased below the initial base rent.

5. General Conditions to Lease:

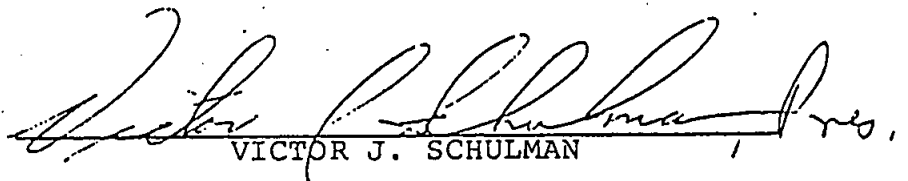
Attached hereto as an Exhibit "B" and made a part of this lease are "General Conditions to Lease."

6. Lessee acknowledges that he has read and understands the Agreement to Sublease attached hereto and marked Exhibit "A". Lessee agrees to perform all of the terms, covenants and conditions required to be performed by the sublessees under said Agreement to Sublease, and to commit no act which will be considered to be a violation of any of the terms, covenants and conditions of said Agreement to Sublease. In the event that any of the terms of this lease or the general conditions attached hereto and marked Exhibit "B" are inconsistent with the terms of the Agreement to Sublease, the terms of the Agreement to Sublease shall prevail.

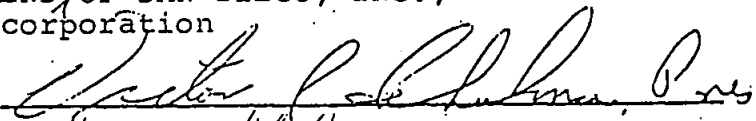
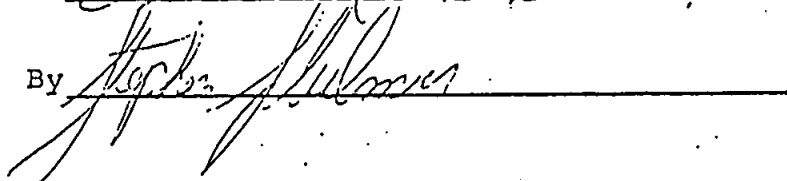
7. Short Term:

Lessor and Lessee agree to execute a recordable short form of this lease wherein there shall be set forth the legal description and the term hereof.

IN WITNESS WHEREOF, the parties hereto have executed  
this Lease the day and year first above written.

  
VICTOR J. SCHULMAN

"Lessor"

*VP* FURNITURE  
TREND, OF SAN DIEGO, INC.,  
a corporation  
By   
By 

"Lessee"

## GENERAL CONDITIONS TO LEASE

The following General Conditions are incorporated in and made a part of the foregoing Lease as though fully set forth at length therein.

### ARTICLE I

#### Lessee's Operations

During such term the leased land and all improvements constructed and maintained thereon shall be used by Lessee for any lawful purpose. Lessee shall not use or permit any other person to use said premises, or any part thereof, for any purpose tending to injure the reputation thereof or for any improper or offensive use or to constitute a nuisance; and Lessee shall at all times during said term conform to and cause all persons using or occupying any part of said premises to comply with all the terms of the Agreement to Sublease, marked Exhibit "A".

### ARTICLE II

#### Taxes

1. All taxes, general and special assessments and other charges of every description which, during the term of this Lease, may be levied upon or assessed against the leased land, shall be paid and discharged by the Lessee.

2. Lessee hereby agrees to protect and hold harmless the Lessor and the leased land and all improvements in, on, or about the same, from all liability for any and all taxes, assessments and charges levied against the property and equipment of Lessee, together with any interest, penalties or other sums thereby imposed, and from any sale or other proceeding to enforce payment thereof. During said term, Lessee shall cause all taxes, assessments and other charges levied upon or imposed upon any

personal property situated in, on or about the leased land to be levied or assessed separately from the leased land and not as a lien thereon.

### ARTICLE III

#### Utilities

1. Lessee shall pay before delinquency any and all water, gas, light, power, heat, air conditioning, telephone or other utility charges.

2. Lessee shall not enter into any contract or agreement with any City, the County of San Diego, or any governmental agency or body or public utility with reference to sewer lines or connections, water line or connections, street improvements, including but not limited to curbs, gutters, parkways and street lighting, or utility connections, lines or easements without the prior written consent of Lessor, Lessor to respond in fourteen (14) days.

### ARTICLE IV

#### Repairs and Upkeep

1. Lessor shall not be required or obligated to make any changes, alterations, additions, improvements or repairs in, on or about the leased land, or any part thereof, during the term of this Lease.

2. At all times during said term the Lessee shall, at its cost and expense, keep and maintain interior facilities in good order and repair and safe condition, and the whole of said land, improvements thereto and landscaping thereon in a clean, sanitary, orderly and attractive condition; and Lessee shall make any and all additions to or alterations or repairs in and about said land and the improvements thereon which may be required by and shall otherwise observe and comply with all public laws, ordinances and regulations from time to time applicable to said land; and Lessee shall indemnify and save

harmless Lessor against all actions, claims and damages by reason of Lessee's failure to comply with and perform the provisions of the foregoing Article.

#### ARTICLE V

##### Lessor's Nonliability

Lessor shall not be liable for any loss, damage or injury of any kind or character to any person or property arising from any use of the leased land, or any part thereof, or caused by or arising from any act or omission of Lessee, or of any of its agents, employees, licensees or invitees, or by or from any accident on said land or any fire or other casualty thereon, or occasioned by the failure of Lessee to maintain the premises in safe condition, or arising from any other cause whatsoever; and Lessee, as a material part of the consideration of this Lease, hereby waives on its behalf all claims and demands against Lessor for any such loss, damage or injury of Lessee, and hereby agrees to indemnify and hold Lessor entirely free and harmless from all liability for any such loss, damage or injury of other persons, and from all costs and expenses arising therefrom.

#### ARTICLE VI

##### Insurance

1. Paragraph (13) of the Agreement to Sublease attached hereto and marked Exhibit "A" contains requirements for the Sublessees to provide fire and public liability insurance. Lessee under this lease agrees to obtain, at Lessee's sole cost and expense, all of the insurance required pursuant to said paragraph (13). In the obtaining of such insurance Lessee agrees to name Lessor in the fire policy as Lessor's interest may appear, and to name Lessor in the public liability policy as a named insured.

2. Lessor and Lessee each agrees that it will not subrogate to its insurance carrier any right or action which

it has or may have against the other of them for any loss covered by insurance, nor will the party suffering such loss prosecute any suit against the other party by reason of such loss covered by insurance. Lessor and Lessee agree to notify their respective insurance carriers of the provisions of this agreement.

#### ARTICLE VII.

##### Restoration.

Paragraph (14) of the Agreement to Sublease marked Exhibit "A" provides for restoration of the premises in the event of destruction by fire or other casualty. Lessee agrees that provided the premises are rebuilt, restored, or replaced, pursuant to said paragraph, that this lease will continue without abatement or proration of rent during the periods of such rebuilding, restoring or replacing. If, however, pursuant to said paragraph the lease between Union Breitbard and Lessor is terminated such termination shall automatically cause a termination of this lease.

#### ARTICLE VIII.

##### Liens and Claims.

1. Lessee shall not suffer or permit to be enforced against the leased land, or any part thereof, any mechanics', materialmen's, contractors' or subcontractors' liens arising from or any claim for damage growing out of the work of any construction, repair, restoration, replacement or improvement, or any other claim or demand howsoever the same may arise, but Lessee shall pay or cause to be paid all of said liens, claims or demands before any action is brought to enforce the same against said leased land; and Lessee agrees to indemnify and hold Lessor and said land free and harmless from all liability for any and all such liens, claims and demands, together with reasonable attorneys' fees and all costs and expenses in connection therewith. Notwithstanding anything to the contrary

hereinabove contained in this Article VIII, if Lessee shall in good faith contest the validity of any such lien, claim or demand, then Lessee shall, at its expense, defend itself and Lessor against the same and shall pay and satisfy any adverse judgment that may be rendered thereon before the enforcement thereof against Lessor or the leased land, upon the condition that if Lessor shall require, Lessee shall furnish to Lessor a surety bond satisfactory to Lessor in an amount equal to such contested lien, claim or demand, indemnifying Lessor against liability for the same, and holding the leased land free from the effect of such lien or claim or if Lessor shall request, Lessee shall procure and record the bond provided for in Section 1193.2 of the California Code of Civil Procedure, or any comparable statute hereafter enacted providing for a bond freeing the leased land from the effect of such lien or claim or action thereon.

2. Prior to the Lessee undertaking any construction, repair, restoration or improvement exceeding Two Thousand Five Hundred (\$2,500.00) Dollars, Lessee shall furnish to Lessor a description of the work to be performed, and in such event Lessor shall be allowed to post notices on the leased land and to request a surety bond from any contractor performing such work.

3. Notwithstanding anything to the contrary in this Lease stated, in the event any conditional seller, chattel mortgagee, or other security holder requests, Lessor will execute a waiver of its statutory or contractual landlord's lien as to any personal property purchased by Lessee. In the event Lessee shall enter into a bona fide lease agreement with any lessor whereby such lessor shall lease to Lessee any chattels to be placed upon or used upon the leased land, or Lessee finances any merchandise inventory before or after placement on the leased land, and if such lessor or financing institution re-

quests, the Lessor hereunder shall execute a waiver of its statutory or contractual landlord's lien with respect to each such chattel or merchandise inventory.

#### ARTICLE IX

##### Assignment and Subletting

Lessee shall not encumber, assign or otherwise transfer this Lease, or any right or interest hereunder, or in or to any of the improvements that hereafter may be constructed or installed on the leased land, and Lessee shall not sublet said premises in whole or in part without the prior written consent and approval of Lessor. No such encumbrance, assignment or other transfer, whether voluntary or involuntary, by operation of law, under legal process, through receivership or bankruptcy, or otherwise, and no such subletting shall be valid or effective without such prior written consent and approval.

#### ARTICLE X

##### Termination

Should Lessee default in any of the terms, covenants or conditions of the Agreement to Sublease marked Exhibit "A" or should Lessee default in any of the terms, covenants and conditions of this lease, and should such default not be cured by Lessee within ten (10) days from the date of giving written notice by Lessor to Sublessee of such event of default, then in any such event Lessor may at its option terminate this lease by giving Lessee written notice thereof, and thereupon the rights of Lessee in and to the leased land and all improvements thereon shall cease and end and Lessor may without further notice or demand or legal process, re-enter and take possession of said land and all improvements thereon and oust Lessee and all persons claiming under Lessee therefrom, and Lessee and all such persons shall quit and surrender possession of said land and all improvements thereon to Lessor.

## ARTICLE XI.

### Removal

1. Upon the expiration of the term of this Lease or any earlier termination thereof, Lessee shall surrender to Lessor possession of the leased land and all improvements constructed and installed thereon; provided that if Lessee shall not then be in default under any of the covenants and conditions hereof, Lessee may remove or cause to be removed all movable furniture, furnishings and equipment installed in the buildings on the said land. Any of said personal property that is not removed from said premises within thirty (30) days after the date of any termination of this Lease thereafter shall belong to Lessor without the payment of any consideration therefor.

2. Upon the expiration of the term of this Lease, or any sooner termination hereof, Lessee agrees to execute, acknowledge and deliver to Lessor a proper instrument in writing, releasing and quitclaiming to Lessor all right, title and interest of Lessee in and to the leased land and all improvements thereto.

## ARTICLE XII.

### Payments and Notices

All rents and other sums payable by Lessee to Lessor hereunder shall be paid to Lessor at such place as Lessor may hereafter designate in writing. Any notice to be given to either of the parties hereto to the other hereunder may be delivered in person to an officer of Lessor, or to Lessee, or may be deposited in the United States Mail in the State of California, duly registered or certified, with postage prepaid, and addressed to the party for whom intended as follows: To Lessor at its said business office, and to Lessee at the leased land, or at such other address as either of the parties may hereafter designate in writing. Service of any such written notice shall be deemed complete at the time of such personal

delivery or within two (2) days after the mailing thereof as hereinabove provided.

#### ARTICLE XIII

##### Eminent Domain

In the event that the whole or any part of the leased premises shall be taken by any public authority under the power of eminent domain or like power, then the term hereof shall terminate as to the part of the premises so taken, effective as of the date possession thereof shall be required to be delivered pursuant to the final order, judgment or decree entered in proceedings in exercise of such power. If it is a partial taking and the remaining portion can economically continue to be used, the basic rental payable by Lessee for the balance of said term shall be abated in the ratio that the square footage of building area taken bears to the whole building area at the time of such taking. The rental abated under the Agreement to Sublease shall be proportionally reduced pursuant to said agreement. Any award for any and all of the improvements constructed on the leased premises shall be the property of the Lessor and the Lessee hereby waives any right or claim to such award. Lessee's only recourse shall be for the value of the leasehold interest, if any.

#### ARTICLE XIV

##### Remedies and Consents

1. Any termination of this lease as herein provided shall not relieve Lessee from the payment of any sum or sums that shall then be due or theretofore accruing against Lessee hereunder, and any such termination shall not prevent Lessor from enforcing the payment of any such sums or sum or claim for damages by any remedy provided for by law, or from recovering damages from Lessee for any default thereunder. All rights, options and remedies of Lessor contained in this Lease shall be construed and held to be cumulative, and no one of them

shall be exclusive of the other, and Lessor shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this lease. No waiver by Lessor of a breach of any of the covenants, conditions or restrictions of this lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition or restriction herein contained.

2. In the event either Lessor or Lessee shall bring any action or proceeding for damages for an alleged breach of any provisions of this lease to recover rents, or to enforce, protect or establish any right or remedy of either party, the prevailing party shall be entitled to recover as a part of such action or proceeding reasonable attorneys' fees and court costs.

3. In the event Lessor is required to give its consent or approval to Lessee, such consent or approval shall not be unreasonably withheld.

#### ARTICLE XV

##### Holding Over

This lease shall terminate and become null and void without further notice upon the expiration of the term specified, and any holding over by Lessee after the expiration of said term shall not constitute a renewal hereof or give Lessee any rights hereunder or in or to the leased land, except as otherwise herein provided, it being understood and agreed that this lease cannot be renewed, extended or in any manner modified except in writing signed by both the Lessor and the Lessee.

#### ARTICLE XVI

##### Construction and Effect

1. Time is of the essence of this lease.
2. In this lease the neuter gender includes the feminine and masculine, and the singular number includes the

plural wherever the context so requires.

3. The article and paragraph headings in the Lease and in these General Conditions are used only for the purpose of convenience and shall not be deemed to limit the subject of the clause or to be considered in the construction thereof.

*EXHIBIT A*

(13) (4)

ASSIGNMENT OF SUBLEASE

This agreement, executed in triplicate, is made this 24 day of July, 1970, in San Diego, California, between VICTOR J. SCHULMAN, Sublessee, hereinafter called "Assignor", and TREND FURNITURE OF SAN DIEGO, INC., a California corporation, hereinafter called "Assignee."

W I T N E S S E T H:

WHEREAS, a Sublease was executed on February 7, 1969, between UNION-BREITBARD JOINT VENTURE, as Lessor, and Assignor as Lessee by the terms of which the property described therein was leased to Assignor as Lessee for the term and upon the conditions as more particularly set forth in said Agreement to Sublease, and

WHEREAS, Assignor now desires to assign the Sublease to Assignee and Assignee desires to accept the assignment thereof and further Assignor desires to be released of any further liability by reason of said Sublease,

NOW, THEREFORE, for good and valuable consideration and the agreement of Assignee hereinafter set forth, Assignor hereby assigns and transfers to Assignee all of his right, title and interest in and to the Sublease hereinbefore described, and Assignee hereby agrees to and does accept the assignment and agrees to keep, perform and fulfill all the terms, covenants, conditions and obligations required to be kept, performed and fulfilled by Assignor as Lessee thereunder, including the making of all

116 109  
payments due or payable on behalf of the Lessor under said Sub-  
lease when due and payable.

Executed at San Diego, California the day and year first  
written.

ASSIGNOR:

Victor J. Schulman  
VICTOR J. SCHULMAN

ASSIGNEE:

TREND FURNITURE OF SAN DIEGO, INC.,  
a California corporation,

BY:

Victor J. Schulman  
Its President

The undersigned is the Lessor in that Sublease described  
in the foregoing Assignment, and hereby consents to the assign-  
ment of the Sublease to TREND FURNITURE OF SAN DIEGO, INC., and  
further acknowledges that the Assignor has complied with the  
provisions of Paragraph 22 of the Sublease, and therefore does  
hereby expressly release VICTOR J. SCHULMAN from any further  
liability or obligation under the terms of the Lease.

DATED: Aug 14, 1970

UNION-BREITBARD JOINT VENTURE

BY: [Signature]

BY: [Signature]

RETURN TO:  
Forrest Easley  
City of San Diego  
Property Dept.

126  
PROPERTY DIRECTOR  
CITY OF SAN DIEGO

1967 AUG 13 5 46 PM '67

RECORDED  
SAN DIEGO COUNTY  
A. S. GRAY, RECORDER

LEASE AGREEMENT

NO FEE

This LEASE AGREEMENT is executed in duplicate on this 10th day of August, 1967, 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 "City", and ROBERT BREITBARD, an individual, and UNION OIL COMPANY OF CALIFORNIA, as a Joint Venture, whose business address is 3500 Frontier Street, San Diego, California, hereinafter referred to as "Lessee". The parties hereto agree as follows:

ARTICLE I. Demise. City hereby leases to Lessee, and Lessee hereby leases and hires from City, that real property (together with the appurtenances thereto), situated in the City of San Diego, State of California, described in Exhibit "A" attached hereto and by this reference made a part hereof, and outlined in red on the plat attached hereto as Exhibit "B" and by this reference made a part hereof. Said leased premises comprise 11.23 acres in total.

ARTICLE II. Term. The term of this Lease shall be for the unexpired term of that certain Ground Lease Agreement dated August 10, 1965 which was recorded in the official records of San Diego County, California on November 8, 1965 as File/Page 203052, Series 6, Book 1965.

Lessee is, however, granted the immediate right to commence the installation of improvements as specified herein prior to the commencement date of this Lease, as hereinabove set forth. Said Lessee shall further be permitted to encumber at any time, the leasehold interest for construction purposes in accordance with the provisions of Article VI, and shall be entitled to replace said construction loan or loans with permanent financing, all as set forth in Article VI.

ARTICLE III. Rent. The rent which Lessee hereby agrees to pay to City during the term of this Lease and which shall be paid at the office of the Treasurer of the City of San Diego, is as follows:

000756 11957

A. The sum of \$43,797 per year, payable monthly in advance in 12 equal instalments of \$3,649.75.

B. In the event that Lessee elects, the rent may be paid annually in arrears on or before December 31 of each year. In the event Lessee elects to pay annually in arrears, then Lessee shall pay City an additional amount equal to 5% of the monthly payments computed annually and pro-rated from the date on which they fall due to December 31 of each year.

ARTICLE IV. Method of Re-determination of Rent. The rental payments required hereby shall be re-determined at the same time as, and in accordance with, the provisions of Article III of that certain Lease Agreement between City as Lessor and San Diego Arena Lease Company, as Lessee, executed on the 10th day of August, 1965, on file in the office of the City Clerk as Document No. 691635 and concerning the area utilized for an indoor sports arena and adjacent parking facilities, except that the yearly rental for the 26th through the 35th year period specified therein, and the 36th through the 50th year specified therein, shall be 6% per annum of the fairmarket value of the unimproved land with which this Lease is concerned.

ARTICLE V. Use of Premises. The premises herein leased may be utilized for any purpose permitted under applicable City ordinances and under its present "M-1" zone designation, or such other uses as will complement the adjoining sports arena and aquatic park in Mission Bay and bolster or promote the economic base of the City of San Diego.

ARTICLE VI. Lease Encumbrance. The City does hereby consent and agree that the Lessee may encumber this Lease, leasehold estate, and any improvements located thereon, by deed of trust, mortgage or mortgages and/or other security type instrument to assure the payment of a promissory note or notes or replacements thereof executed in accordance with the provisions hereof. The net proceeds of such loan or loans received by the Lessee shall be devoted to direct costs of labor, materials, engineering and architectural fees or for developing the leased premises and for the primary purpose of constructing improvements on the leased premises to be constructed in accordance with the provisions hereof and/or for the permanent financing thereof and a reasonable portion of any such loan proceeds may be disbursed for, or applied to, payment of incidental costs of such construction project, including, but not limited to, any one or more of the following:

off-site improvements for service of the leased premises, labor, material and equipment charges, and for on-site improvements; premiums for hazard insurance or other insurance or bonds required by City; architectural and engineering fees; loan fees, interest, title insurance, escrow charges and related fees. Lessee hereby covenants that all loan funds secured by encumbrances permitted by this Article shall be utilized only for the purposes permitted hereby, but the parties agree that no beneficiary or mortgagee or other obligee in good faith loaning funds to Lessee, and securing said loan or loans by a deed of trust or mortgage as permitted hereby shall lose or impair the priority of the encumbrances in its favor by reason of any misuse of funds by Lessee. 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, beneficiary or other obligee thereof as its new tenant under this Lease with all the rights and privileges of the original Lessee. In the event that it is desired thereafter by any mortgagee, beneficiary or other obligee 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 consent to such assignment, the City will give its consent thereto, and agrees not to unreasonably withhold such consent.

ARTICLE VII. 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 said premises for the term aforesaid. If City for any reason whatsoever cannot deliver unobstructed and unencumbered possession of the said premises to Lessee at commencement of said term as hereinbefore specified or, if Lessee is dispossessed from all or any portion of said premises 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 all or any portion of the demised premises.

ARTICLE VIII. Mechanic's Liens. Lessee will save City free and harmless, indemnify it against all claims for labor and materials in connection with improvements, repair or alterations

to the leased premises, and the cost of defending against such claims, including reasonable attorney's fees.

For all improvements, repairs or alterations constructed on the leased premises by other than the City, the Lessee shall file with the City a bond, conditioned for the payment in full of the claims of all persons performing labor upon or furnishing materials to be used, in the amount of the estimated cost of the improvement, alteration, or repair as determined by the City, Manager. The bond shall be acknowledged by the Lessee as principal and by a corporation licensed by the Insurance Commissioner of the State of California to transact the business of a fidelity and surety insurance company as surety.

In the event that a lien is recorded under Chapter II of Title 4 of Part 3 of the California Code of Civil Procedure against the leased premises and the lienholder attempts to perfect such lien by a lawsuit and the Lessee has failed to comply with the requirements of this paragraph, this Lease shall automatically terminate 5 days after service of summons in such lawsuit upon the City; provided, however, that the City Manager shall have the right to continue this Lease in full force and effect by notifying the Lessee in writing of his election to do so.

ARTICLE IX. Compliance with Law. The Lessee shall, at its sole cost and expense, comply and secure compliance with all the requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the said 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 leased premises by reason of any buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected or installed or maintained by Lessee or by reason of the business or other activities of Lessee upon or in connection with the said demised premises. The judgment of any court of competent jurisdiction, or the admission of Lessee or any sub-lessee or permittee in any action or proceeding against them or any of them, whether the City be a party thereto or not, that the Lessee, sub-lessee 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 X. Utilities. Lessee shall order, obtain and pay for all utilities and service and installation charges in connection therewith.

ARTICLE XI. 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 sub-lessees of Lessee.

ARTICLE XII. Waiver. The waiver by the 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 the 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 XIII. 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 sub-leases or sub-tenancies, or may, at the option of City, operate as an assignment to it of any or all such sub-leases or sub-tenancies.

ARTICLE XIV. Notices. Control and administration of this Lease is under the jurisdiction of the Property Department 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, Attention: Property Supervisor, Property Department, San Diego, California.

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 depositing in the United States mails, postage prepaid, a letter addressed to said Lessee at the address stated at the commencement hereof, or may be personally served upon said Lessee (or any one of them), 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.

ARTICLE XV. Insurance. Lessee agrees to take out and maintain public liability insurance with an insurance carrier satisfactory to City to protect against loss from liability imposed by law for damages on account of bodily injury including death resulting therefrom, suffered or alleged to be suffered by any person or persons whatsoever, resulting either directly or indirectly from any act or activities of Lessee or any person acting for Lessee or under Lessee's 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 Lessee or any person acting for Lessee or under Lessee's control or direction. Such public liability and property damage insurance shall be maintained in full force and effect during the entire term of this Lease in the amounts of not less than \$500,000.00 for one person injured in one accident, and no less than \$1,000,000.00 for more than one person injured in one accident, and not less than \$50,000.00 with respect to any property damage. If Lessee does not keep such insurance in full force and effect, City may take out the necessary insurance and pay the premium, and the repayment thereof shall be deemed to be a part of the rental and paid as such on the next day upon which rent becomes due. Provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which Lessee may be held responsible for the payment of damages to persons or property resulting from his activities or the activities of any person for which he is otherwise responsible.

During the term of this Lease, Lessee agrees to defend in the name of, and on behalf of, City, all claims or suits for damages and all fixed costs and interest on all such legal proceedings and pay all sums which City may become liable to pay as damages imposed upon it by law arising out of accidental bodily injury or death suffered, or alleged to have been suffered, by any person

while within or upon the premises described in this Lease or upon the sidewalks or other ways or premises adjacent thereto. Lessee further agrees to pay all sums which City may become liable to pay as damages imposed upon it by law resulting from accidental injury to or destruction of, property not owned, leased, occupied or used by, or in the care, custody, or control of, Lessee or of City or of any employee of Lessee or City, subject to the following conditions:

(a) This Agreement shall not apply to any injury or death caused by any employee of City;

(b) City shall not voluntarily assume any liability or incur any expenses or settle any claims without the prior written consent of Lessee;

(c) Lessee shall, on or before the effective date of this Lease, deliver to the Property Department of City, a certificate of bodily injury and property damage liability insurance issued by a company licensed in the State of California to transact such business, indicating that Lessee has bodily injury and property damage liability insurance as required in this paragraph, and indicating that the policy has been endorsed or does otherwise cover the contractual liability imposed by this Agreement, and that the insurance company shall notify the Property Department if said policy be terminated or limited in any manner prior to the termination date specified in the certificate.

ARTICLE XVI. 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 deaths of them, or any of them, whether caused by or resulting from any acts or omission of Lessee in or about the leased 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.

ARTICLE XVII. Waste, Damage or Destruction of Premises.

Lessee shall give prompt notice to City of any fire or damage that may occur from any reason whatsoever. Lessee shall not commit or suffer to be committed any waste or injury, or any public or private nuisance, shall keep the premises clean and clear of refuse and obstructions; and shall dispose of all garbage, trash, and rubbish in a manner satisfactory to City.

ARTICLE XVIII. Taxes. Lessee shall pay and discharge before delinquency all taxes and assessments which may be levied during said term upon the demised premises by reason of Lessee's leasehold interest.

ARTICLE XIX. Reservation for City Use. City shall have the right to enter said leased premises for the purpose of making repairs to or developing the municipal services of the City. City hereby reserves the right to establish and use such rights of way over, under, along and across said leased premises for public utilities as it may deem advisable for the public good. Lessee shall be reimbursed by City for any damage done to improvements of Lessee.

ARTICLE XX. Improvements, Repair, Alterations. City shall not be required to make any improvements, repairs or alterations not specifically required. Lessee hereby waives all right to make repairs at the expense of City as provided in Section 1942 of Civil Code of State of California and all rights provided for by Section 1941 of said Civil Code. Lessee hereby accepts the premises as being in good and sanitary order, condition and repair and usable for the purposes outlined herein. Lessee agrees on the last day of the term or sooner termination of this Lease, to surrender the premises to City in the same condition as when received or as they may have been put into, subject, however, to Article XXIII herein.

ARTICLE XXI. Remedies of City. In the event (a) that Lessee shall default in the performance or fulfillment of any covenant or condition herein contained on his part to be performed or fulfilled and shall fail to cure such default within 30 days following the service on him of a written notice from City specifying the default or defaults complained of and the date on which his rights hereunder will be terminated as hereinafter provided if such default or defaults is or are not cured; or (b) that Lessee shall file a voluntary petition in bankruptcy; or (c) that Lessee shall be adjudicated a bankrupt; or (d) that Lessee shall make a general assignment for the benefit of creditors then and in either or any of said events, City may at

its option, without further notice or demand upon Lessee, immediately cancel and terminate this Lease and terminate each, every and all of the rights of Lessee and of any and all persons claiming by, through or under Lessee in or to the leased premises and in or to the further possession thereof and may thereupon enter into and upon the leased premises and repossess the same and expel Lessee and any and all persons claiming by, through or under Lessee. The rights and remedies of City as hereinabove set forth, are cumulative only and shall in no wise be deemed to limit any of the other provisions of this Lease or otherwise to deny to City any right or remedy at law or in equity which City may have or assert against Lessee under any law in effect at the date hereof or which may hereafter be enacted or become effective, it being the intent hereof that the rights and remedies of City, as hereinabove set forth, shall supplement or be in addition to or in aid of the other provisions of this Lease and of any right or remedy at law or in equity which City may have against said Lessee.

Anything set forth to the contrary in this article notwithstanding, in the event that at the time of any default by Lessee the leasehold interest hereunder is encumbered by a deed or deeds of trust; and/or by a mortgage or mortgages or other security device securing a construction loan or loans provided for herein, the City shall not terminate this Lease until it shall have as a condition precedent thereto served upon the mortgagees or beneficiaries, or obligees thereof written notice of the default or defaults complained of, and in such event such beneficiaries and/or mortgagees shall have 30 days from the receipt of said notice within which to cure such default, if said default is curable by the payment of money to the City, or 30 days from the receipt of said notice within which to commence foreclosure proceedings against Lessee (if not theretofore commenced), if said default is not curable by the payment of money. In the event such mortgagees and/or beneficiaries and/or obligees avail themselves of the remedies set forth herein, they may enter upon and operate the leased premises in the place and stead of Lessee, with all of the rights, privileges and duties of Lessee and in such event of the election by such mortgagees and/or beneficiaries and/or obligees to substitute themselves to Lessee's estate hereunder, the City expressly consents to said substitution; provided that said mortgagees and/or beneficiaries and/or obligees assume the obligations to perform the covenants and undertakings of Lessee herein contained. In no event shall this Lease be deemed terminated if such mortgagees and/or beneficiaries and/or obligees shall give notice in writing

of their election so to substitute themselves in accordance with the foregoing, and commence performance within a 30-day period after service upon them of the written notice of default by the City.

ARTICLE XXII. Holding Over. Any holding over after the expiration of said 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 XXIII. Removal of Improvements. City agrees that all fixtures and improvements installed by Lessee in accordance with the provisions herein provided shall be and remain the property of Lessee. Lessee shall have the right to remove said fixtures and improvements prior to the termination of this Agreement at Lessee's own expense, provided that any damage to City's property shall be repaired and the premises left in as good order and condition as when Lessee took possession of the leased premises. In the event Lessee does not so remove said fixtures and improvements prior to the expiration of this Agreement, 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. At the option of the City, any property, real or personal, not so removed by Lessee may be deemed abandoned.

ARTICLE XXIV. Recordation. The original copy of this Lease shall be recorded in the office of the County Recorder of San Diego County, California, upon the request of either City or Lessee.

IN WITNESS WHEREOF, the City has executed the foregoing Lease Agreement acting by and through the City Manager of said City, under and pursuant to Resolution No. 176616 authorizing such execution, and Lessee has executed this Lease Agreement on the day and year first hereinabove written.

THE CITY OF SAN DIEGO

By

UNION OIL COMPANY OF CALIFORNIA

By

Vice President

Robert Breitbard

Assistant Secretary

Joint Venture

4217

I HEREBY APPROVE the form and legality of the foregoing  
Lease Agreement this 10<sup>th</sup> day of Aug., 1967.

EDWARD T. BUTLER, CITY ATTORNEY

by Robert Keane  
City Attorney

STATE OF CALIFORNIA }  
COUNTY OF SAN DIEGO } SS

On this 10<sup>th</sup> day of August, 1967, before me, the undersigned a Notary Public in and for said County and State, residing therein, duly commissioned and sworn personally appeared Walter Hahn, known to me to be the City Manager of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal, in the County of San Diego, State of California, the day and year in this certificate first above written.  
(SEAL)

SARA M. HARRISON  
NOTARY PUBLIC - CALIFORNIA  
PRINCIPAL OFFICE IN  
SAN DIEGO COUNTY  
My Commission Expires May 24, 1969

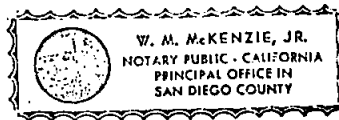
Sara M. Harrison  
Notary Public in and for said County and State

01955-  
00000766

STATE OF CALIFORNIA) SS  
COUNTY OF SAN DIEGO)

On August 9, 1967, before me, the undersigned, a Notary Public in and for said State, appeared ROBERT BREITBARD, known to me to be the person who executed the foregoing Lease Agreement and acknowledged to me that he had executed the Lease Agreement.

WITNESS my hand and official seal.

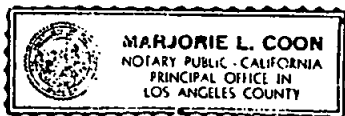


*W. M. McKenzie, Jr.*  
Notary Public  
W. M. McKENZIE, JR.  
My Commission Expires April 14, 1968

STATE OF CALIFORNIA, }  
COUNTY OF LOS ANGELES } ss.

On August 9, 1967, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN W. TOWLER, known to me to be the Vice President, and E. W. CAIRNS, known to me to be the Assistant Secretary of Union Oil Company of California, the Corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument, on behalf of the Corporation herein named, and acknowledged to me that such Corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.



Marjorie L. Coon  
Notary Public in and for said State  
MARJORIE L. COON

My Commission Expires October 4, 1968

Those portions of Pueblo Lots 242, 311, and 259 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to the map thereof, made by James Pascoe, a copy of which map was filed in the office of the County Recorder of said County, and known as Miscellaneous Map Number 36, described as follows:

Beginning at the point of intersection of the South Easterly line of Pueblo Lot Number 312 with the Northerly line of Frontier Street, as described in a deed to Frontier Enterprises, Inc., recorded March 5, 1941, in book 1142, page 320 of Official Records of San Diego County; thence along said Northerly line North  $77^{\circ}57'40''$  West a distance of 513.94 feet; thence North  $12^{\circ}02'20''$  East a distance of 15 feet to the point of true beginning; thence North  $12^{\circ}02'20''$  East a distance of 703.21 feet; thence North  $36^{\circ}01'$  East a distance of 559.40 feet; thence North  $36^{\circ}04'$  East a distance of 344.42 feet; thence South  $64^{\circ}08'$  West a distance of 912.60 feet; thence South  $12^{\circ}02'20''$  West a distance of 968.25 feet; thence South  $77^{\circ}57'40''$  East to the point of true beginning.

THE SAN DIEGO SPORTS ARENA

GROUND LEASE AGREEMENT

First Amendment

Exhibit "D"

This First Amendment to the San Diego Sports Arena Ground Lease Agreement is executed in duplicate on this 12 day of August, 1967, 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 "City"), and the SAN DIEGO ARENA LEASE COMPANY, whose business address is 2201 United States National Bank Building, San Diego, California, (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, City and Lessee have previously entered into the San Diego Sports Arena Ground Lease Agreement, (hereinafter referred to as the "Ground Lease"), dated August 10, 1965, for the lease of certain real property located in the City of San Diego, County of San Diego, State of California, more particularly described in Exhibit "I" attached to the Ground Lease; and

WHEREAS, Lessee has performed its obligations under Article IV of the Ground Lease for constructing and substantially completing an indoor sports arena with a seating capacity of not less than 10,000 persons for the general use of the public; and

WHEREAS, the indoor sports arena has been opened and used for a pre-scheduled and previously advertised sports or public event attended by 500 persons or more within ninety (90) days after the completion and occupancy of the indoor sports arena; and

WHEREAS, San Diego Sports Enterprises, the operator of the indoor sports arena under the San Diego Sports Arena Operating Sublease, (hereinafter referred to as "Operating Sublease") dated November 8, 1965, has requested Lessee to provide an area available for parking in the approximate area shown on Exhibit "A1" attached hereto and by this reference made a part hereof, or an equal area contiguous to the site at the northwest end of the

site; and the deletion of a portion of the parking area shown on Exhibit "A-1"; and

WHEREAS, the Lessee, the City and the Operator believe it to be in the best interests of the operation of the indoor sports arena and to the benefit of the City and the citizens of the City to accomplish this change, the parties hereto agree as follows:

1. The following paragraph shall be added to the provisions of Article IV of the Ground Lease

"That portion of the site shown on Exhibit "A1" to this First Amendment, outlined in red, and constituting approximately 11.23 acres, may be subleased by Lessee for use as commercial property, in accordance with the uses presently provided under the zoning regulations applicable to this property. As a condition precedent to the exercise of this right to sublease this property to others for commercial uses, Lessee shall provide an equal area contiguous to the site for use as a parking lot. This equal area shall be comparably paved and lighted to the end that there shall at all times be a total of 33 acres of parking contiguous to the Arena for use by patrons and attendees at the Arena.

"Lessee further agrees that it will pay or cause to be paid, the percentage parking rental called for in Article III(2) of the Ground Lease and the applicable portions of Section 9 of the Operating Sublease on the gross income derived from the operation of the parking lot, whether or not located on the original site or the area provided under the terms of this First Amendment. Nothing in this First Amendment, however, shall be construed to require the payment of the minimum rental or percentage rental on more than 33 acres of parking."

IN WITNESS WHEREOF, City has executed the foregoing First Amendment, acting by and through the City Manager of said City under and

pursuant to Resolution 191246 authorizing such execution and Lessee has executed this First Amendment on the day and year first hereinabove written.

Walter Hahn, Jr.  
CITY OF SAN DIEGO City Manager

By [Signature]  
Assistant City Manager

SAN DIEGO ARENA LEASE COMPANY

By A. B. Larson  
President

By [Signature]  
Secretary

I hereby approve the legality and form of the foregoing First Amendment this 10<sup>th</sup> day of August, 1967.

EDWARD T. BUTLER, City Attorney

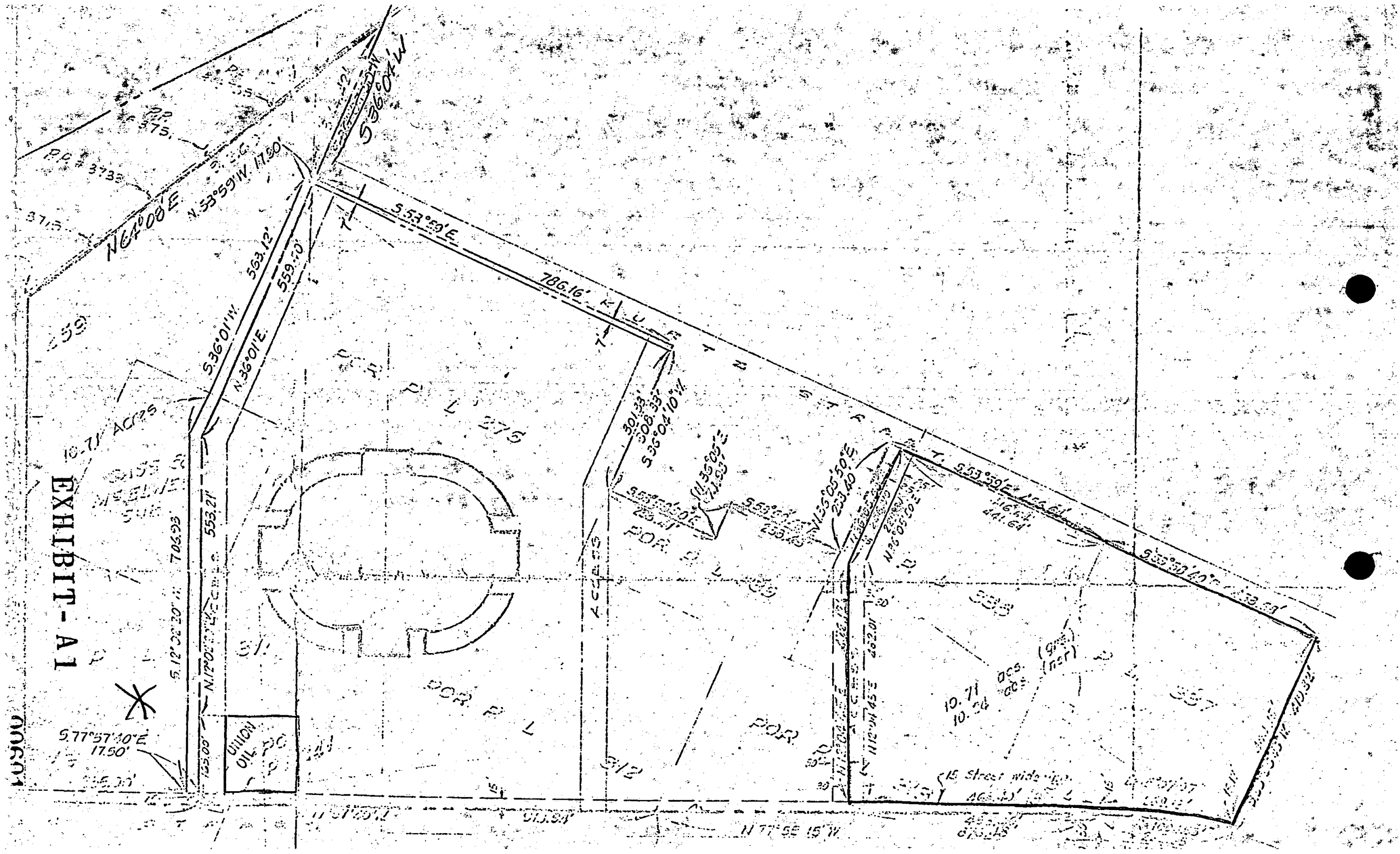
By [Signature]

AUG 10 1967

191246

AUG 11 1967

EXHIBIT-A1



Exhibit, E'

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego, as Lessor, under those certain lease agreements on file in the office of the City Clerk as Documents Nos. 691635 and 714702, hereinafter referred to as "Master Leases", hereby consents to that certain sublease agreement between the San Diego Arena Lease Company, hereinafter referred to as "Lease Company", and Union Oil Company of California, a California corporation, and Robert Breitbard, an individual, as joint venturers, hereinafter referred to as "Union-Breitbard", a copy of which sublease agreement is on file in the office of the City Clerk as Document No. 714747. The consent of the City of San Diego as herein given is subject to the following terms and conditions.

1. That said sublease agreement shall be subordinate to said master leases, except as otherwise specified herein or in said sublease agreement.
2. The rent due the City under said master leases on those parcels exchanged in said sublease agreement shall be paid in accordance with Article III of said sublease agreement.
3. The parcels exchanged in said sublease agreement shall be used only according to Article IV of said sublease agreement and no other use shall be made thereof without the consent of the City Manager.

DATED: August 10, 1967

Walter Hahn, Jr.  
CITY OF SAN DIEGO City Manager

By [Signature]  
Assistant City Manager

APPROVED:

UNION-BREITBARD JOINT VENTURES

UNION OIL COMPANY OF CALIFORNIA

By John W. Fowler  
Vice President  
By [Signature]  
Assistant Secretary

Robert Breitbard  
ROBERT BREITBARD

SAN DIEGO ARENA LEASE COMPANY

By Ch. Larren  
President  
By Thomas B. [Signature]  
Secretary

191246

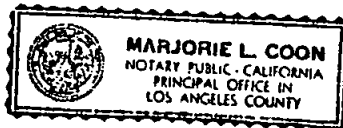
AUG 10 1967

00568

STATE OF CALIFORNIA, }  
COUNTY OF LOS ANGELES } ss.

On August 9, 1967, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN W. TOWLER, known to me to be the Vice President, and E. W. CAIRNS, known to me to be the Assistant Secretary of Union Oil Company of California, the Corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument, on behalf of the Corporation herein named, and acknowledged to me that such Corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.



Marjorie L. Coon  
Notary Public in and for said State

MARJORIE L. COON

My Commission Expires October 4, 1968

Exhibit "F"

SUB-LEASE AGREEMENT

THIS SUB-LEASE AGREEMENT, made this 10 day of August, 1967, by and between SAN DIEGO ARENA LEASE COMPANY, a California corporation, hereinafter referred to as Lease Company, as Party of the First Part, and UNION OIL COMPANY OF CALIFORNIA, a California corporation, and ROBERT BREITBARD, an individual, as Joint Venturers, hereinafter jointly called Union-Breitbard, as Party of the Second Part.

WITNESSETH:

WHEREAS, Lease Company is the Lessee from the City of San Diego under a "Ground Lease Agreement" dated August 10, 1965, which was recorded in the Official Records of San Diego County, California, on November 8, 1965, as File/Page No. 203052, Series 6, Book 1965, covering certain real property described in Exhibit I thereto and outlined in red in the plat attached thereto as Exhibit II, which Exhibit I and Exhibit II are also attached hereto and herein incorporated herein by reference as Exhibit I and Exhibit II hereto; and

WHEREAS, Union-Breitbard is the Lessee from the City of San Diego under a Lease Agreement dated August 10, 1967, which was recorded in the Official Records of San Diego County, California, on August 10, 1967, as File/Page No. 119425, Series 8, Book 1967, covering certain real property described in Exhibit "A" thereto and outlined in the plat attached thereto as Exhibit "B", which Exhibit "A" and Exhibit "B" are also attached hereto as Exhibit "A" and Exhibit "B" hereto; and

WHEREAS, Lease Company desires to exchange the use of approximately 11.23 acres of its leased premises for the use of an 11.23 acre portion of Union-Breitbard's leased premises, and Union-Breitbard also desired to effect this exchange of use,

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties hereto agree as follows:

ARTICLE I. DEMISE:

(a) Lease Company hereby subleases to Union-Breitbard,

and Union-Breitbard hereby subleases and hires from Lease Company that certain real property (together with appurtenances thereto) situated in the City of San Diego, County of San Diego, State of California, more particularly described on Exhibit "C" hereto, being approximately 11.23 acres of the land leased by Lease Company from the City of San Diego under the Ground Lease Agreement dated August 10, 1965, referred to in the premises hereinabove.

(b) Union-Breitbard hereby subleases to Lease Company and Lease Company hereby subleases and hires from Union-Breitbard that certain real property (together with appurtenances thereto) situated in the City of San Diego, County of San Diego, State of California, more particularly described on Exhibit "A" hereto, being approximately 11.23 acres of the land leased by Union-Breitbard from the City of San Diego under the Lease Agreement dated August 10, 1967, referred to hereinabove, said subleased premises to be used for the purposes for which Lease Company agreed to use the premises referred to in Article I(a) above to the same extent as though such premises had been included in said Ground Lease Agreement

#### ARTICLE II. TERM:

The term of this Sublease shall be for the unexpired term of the "Ground Lease Agreement" dated August 10, 1965, from the commencement date of the Lease Agreement between the City of San Diego and Union-Breitbard dated August 10, 1967, and the surrender of the "Ground Lease Agreement" or a mutual cancellation thereof by the City of San Diego and Lease Company, according to Article XIII hereof shall not work a merger nor shall it terminate this Sublease, but said surrender shall constitute an assignment to the City of San Diego of Lease Company's interest in and to this Sublease.

#### ARTICLE III. RENT:

(a) The parties hereto mutually agree that the exchange of parcels covered by this Sublease Agreement is an exchange of parcels with equal rental value, and that no rent shall be payable by either party to the other party.

(b) For the parcel subleased to it under this sublease

agreement, Union-Breitbard agrees to pay to the City of San Diego the rent specified in Articles III and IV of that certain lease agreement between the City of San Diego and Union-Breitbard dated August 10, 1967, and filed in the records of the County Recorder of San Diego County as File/Page No. 119425, Series S, Book 1767, and is hereby relieved from any obligation to pay rent on the parcel subleased by it to Lease Company.

(c) For the parcel subleased to it under this sublease agreement, Lease Company agrees to pay to the City of San Diego the rent specified in paragraph 2 of Article III of the "Ground Lease Agreement" dated August 10, 1965, and is hereby relieved from any obligation to pay rent on the parcel subleased by it to Union-Breitbard.

#### ARTICLE IV. USE OF PREMISES:

(a) The premises herein subleased by Union-Breitbard to Lease Company shall be used only for parking automobiles in connection with the use by Lease Company of the property described in Exhibit I, excluding that portion thereof described in Exhibit "C", for the operation and maintenance of the indoor sports arena known as San Diego International Sports Arena. In connection with such use, Lease Company may pave the premises and install appropriate lighting.

(b) The premises herein subleased by Lease Company to Union-Breitbard may be utilized for any purpose permitted under applicable ordinances of the City of San Diego and under its present "M-1" zone designation, or such other uses as will compliment the adjoining sports arena and aquatic park in Mission Bay and bolster or promote the economic base of the City of San Diego.

#### ARTICLE V. QUIET POSSESSION:

Each party hereto agrees that the other party shall and may at all times during the term hereof peaceably and quietly have and enjoy the exclusive use of the subleased premises.

#### ARTICLE VI. INSURANCE:

Each party hereto agrees during the term hereof to take out and maintain the public liability and property damage insurance provided for

in its respective lease from the City of San Diego and to assume the same obligations to the City of San Diego with respect to the property it subleases as sublessee under this agreement as it had assumed with respect to the property it subleases as sublessor under this agreement and to hold the sublessor party hereto harmless, and indemnify it against any and all claims for or loss from liability imposed by law for damages on account of bodily injury, including death resulting therefrom, suffered or alleged to be suffered by any person or persons whatsoever, resulting either directly or indirectly from any act or activities of the sublessee party or any person acting for it 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 sublessee party or any person acting for it or under its control or direction.

ARTICLE VII. MECHANICS LIENS:

Each party, as sublessee, will save the other party as sublessor free and harmless from and indemnify it against all claims for labor and materials in connection with improvements, repairs, or alterations to facilities on the subleased premises, and the cost of defending against such claims, including reasonable attorney's fees.

ARTICLE VIII. COMPLIANCE WITH LAW:

Each party, as sublessee, shall, at its sole cost and expense, comply and secure compliance with all the requirements of all municipal, state and federal authorities now in force or which may hereafter be in force pertaining to the subleased premises or the operations conducted thereon, and shall faithfully observe and secure observance of others using the subleased premises, of 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 it or the use of the subleased premises by reason of any buildings, structures, machines, appliances or other improvements of any nature whatsoever, erected, installed or maintained on the subleased premises or by reason of any business or other activities conducted on the subleased premises.

ARTICLE IX. UTILITIES:

Each party, as sublessee, shall order, obtain, pay or otherwise provide for all utilities needed for the use of the subleased premises.

ARTICLE X. ASSIGNS:

This sublease Agreement shall inure to the benefit of and be binding upon the parties hereto and any successors of either as fully and to the same extent as though specifically mentioned in each instance, and all covenants, stipulations and agreements in this Sublease Agreement shall extend to and bind any assigns or sublessees of either party.

ARTICLE XI. CHANGE IN DESCRIPTION:

The parties hereto further agree that it is their intent and understanding that the description of the premises to be leased by Union-Breitbard to Lease Company hereunder only describes the premises which will be used by Lease Company for the initial part of the term hereof, and not the premises which will be used by Lease Company for the major part of the term hereof. Lease Company agrees that it will vacate all or any part of the premises described in Exhibit "A" hereto at any time during the term hereof, and quitclaim to Union-Breitbard its leasehold interest therein, provided, however, that (1) Union-Breitbard have provided Lease Company with the legal description of another portion of the land, having the same number of square feet as that portion being vacated and located adjacent to the existing parking lot for the San Diego International Sports Arena (hereinafter referred to as the replacement land) and (2) Union-Breitbard has paved the replacement land in the manner and in accordance with the same specifications used for paving the land being vacated, and have provided lighting comparable to the lighting for the land being vacated. The replacement land so paved and lighted shall be capable of accommodating no fewer parked automobiles than the land being vacated, and shall have access to the streets and highways in the vicinity no less favorable or convenient for motorists than the land being vacated. An appropriate amendment to this Sublease Agreement describing the replacement land and making it subject to this agreement in lieu of the land being replaced shall be prepared and executed by the parties hereto.

ARTICLE XII. ASSIGNMENT:

Neither party hereto shall assign this Sublease Agreement without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld. Either party may, however, enter into subleases of the property leased hereunder without the consent of the other party, and no such sublease shall in any way affect the rights or obligations of the parties hereto to each other or to the City of San Diego.

ARTICLE XIII. REMOVAL OF IMPROVEMENTS:

Each party hereto agrees that all fixtures and improvements installed by the parties hereto or the sublessees of either of them, on any of the land referred to herein shall be and remain the property of the party who installed such improvements itself or whose sublessee installed such improvements. The installing party shall have the right to remove or have removed, such fixtures and improvements prior to the termination of this agreement at such party's expense, provided that any damage to the property occasioned by such removal shall be repaired and the premises left in as good condition as when the party making the improvements took possession.

ARTICLE XIV. APPROVAL BY CITY OF SAN DIEGO:

This Agreement shall be of no force and effect until and unless it is approved by the City of San Diego, which approval shall include the agreement of the City of San Diego to execute amendments to the Ground Lease Agreement and the Lease Agreement to correctly describe the property held by each of the parties hereto after the replacement land has been determined, and upon the execution of such amendments by each of the parties hereto, this Agreement shall terminate.

IN WITNESS WHEREOF, the parties hereto have executed this Sublease Agreement on the day and year first hereinabove written.

UNION-BREITBARD JOINT VENTURES

UNION OIL COMPANY OF CALIFORNIA

By [Signature]

By [Signature] Vice President

By [Signature] Assistant Secretary

[Signature]  
Robert Breitbard

SAN DIEGO ARENA LEASE COMPANY

By [Signature]

By [Signature]

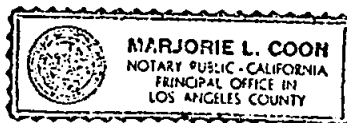
[Signature]

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STATE OF CALIFORNIA, }  
COUNTY OF LOS ANGELES } ss.

On August 9, 1967, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN W. TOWLER, known to me to be the Vice President, and E. W. CAIRNS, known to me to be the Assistant Secretary of Union Oil Company of California, the Corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument, on behalf of the Corporation herein named, and acknowledged to me that such Corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.



Marjorie L. Coon  
Notary Public in and for said State  
MARJORIE L. COON

My Commission Expires October 4, 1968

CONSENT OF OPERATOR

San Diego Sports Enterprises, operator under the San Diego Sports Arena Operating Sublease between San Diego Arena Lease Company and San Diego Sports Enterprises, consents to the foregoing Sublease Agreement and agrees to operate the property described in Exhibit "A" in lieu of the property described in Exhibit "B" for the purposes of parking incidental to the San Diego International Sports Arena and to pay percentage parking rental in accordance with the provisions of the San Diego Sports Arena Operating Sublease.

DATED: August 4, 1967.

SAN DIEGO SPORTS ENTERPRISES

By J. L. B. [Signature]

EXHIBIT I

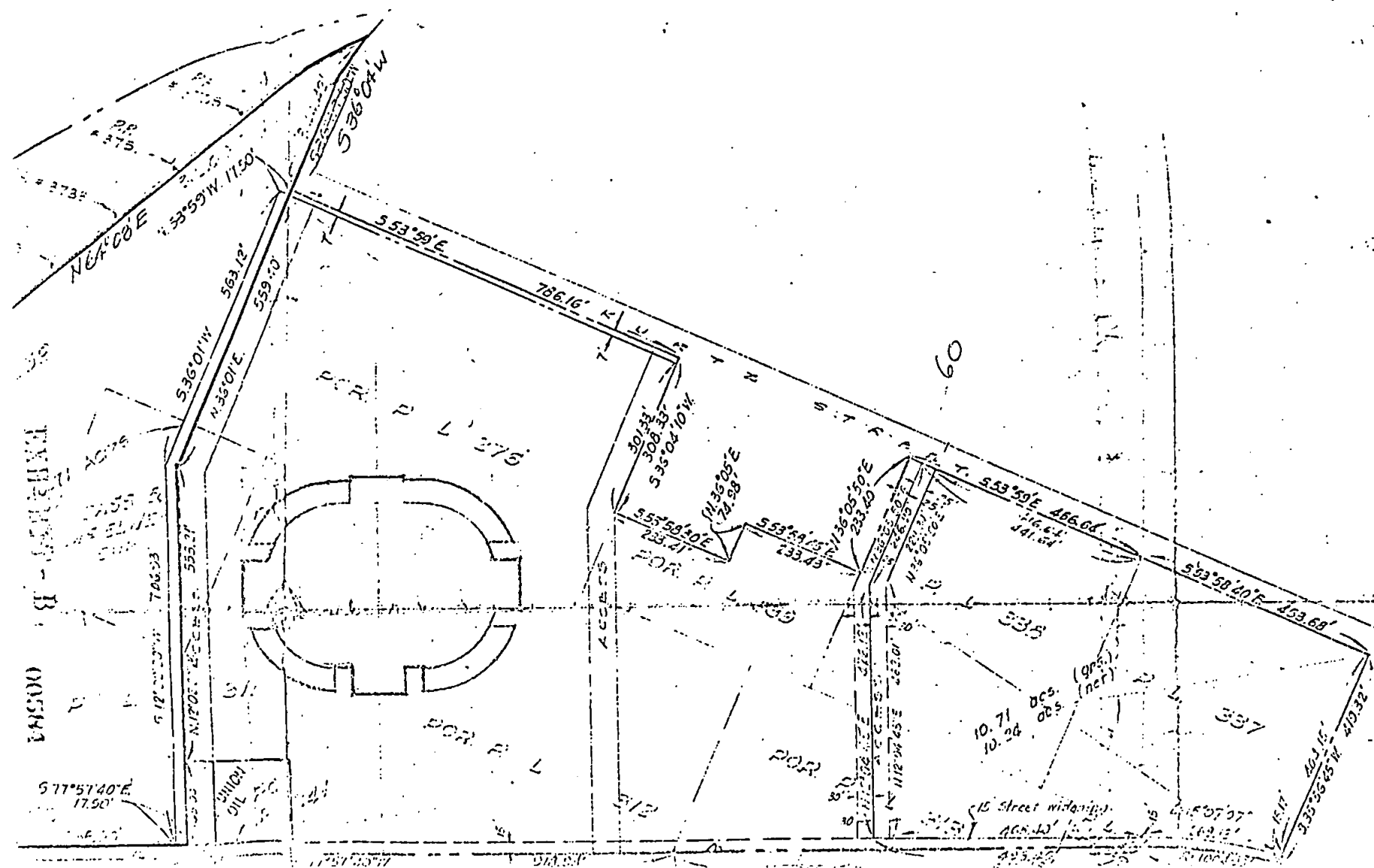
Pueblo Lot 338, portions of 241, 242, 259, 276, 311, 312, 313, 314 and 337 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe, a copy of which said Map was filed in the office of the County Recorder of said County, and known as Miscellaneous Map No. 36, together with a portion of Cass and McElwee Subdivision, according to Map thereof No. 1581, filed in the office of the County Recorder of said San Diego County, also together with Lot "A" and a portion of Lot "B" of Pueblo Lot 339, according to the Partition Map thereof on file in the office of the County Clerk of said County, in an Action entitled "Steele vs. Steele", Superior Court, Case No. 5620, described as follows:

Beginning at the point of intersection of the Southeasterly line of Pueblo Lot 312 with the Northerly line of Frontier Street as described in deed to Frontier Enterprises, Inc., recorded March 5, 1941 in Book 1143, page 320 of Official Records of San Diego County; thence along said Northerly line North  $77^{\circ}57'40''$  West 918.94 feet; thence North  $12^{\circ}02'20''$  East 718.21 feet; thence North  $36^{\circ}01'$  East 559.40 feet to a point in the Northwesterly prolongation of a line which is parallel with and 7 feet Southwesterly from the Northeasterly line of Pueblo Lot 339; thence South  $53^{\circ}59'$  East along said prolongation 786.16 feet to the Northwesterly line of Pueblo Lot 339; thence along the Northwesterly line thereof South  $36^{\circ}04'10''$  West 301.33 feet to a point in the Northwest line of said Lot "B" which is distant South  $36^{\circ}04'10''$  West 308.33 feet from the most Northerly corner of said Pueblo Lot 339; thence South  $53^{\circ}58'30''$  East 233.41 feet to a point on the Northwesterly line of said Lot "A" which is distant North  $36^{\circ}05'$  East 158.40 feet from the most Westerly corner of said Lot "A"; thence North  $36^{\circ}05'$  East along the Northwesterly line of said Lot "A" a distance of 74.98 feet to the most Northerly corner of said Lot "A"; thence South  $53^{\circ}58'45''$  East along the Northeasterly line of said Lot "A" a distance of 233.43 feet to the most Easterly corner thereof, being also a point in the Northwesterly line of Pueblo Lot 338 of said Pueblo Lands of San Diego; thence North  $36^{\circ}05'50''$  East along said Northwesterly line of said Pueblo Lot 338 a distance of 233.40 feet to the most Northerly corner thereof; thence South  $53^{\circ}59'$  East along the Northeasterly line of said Pueblo Lot 338 a distance of 466.64 feet to the Easterly corner of said Pueblo Lot 338, being also the Northerly corner of Pueblo Lot 337; thence South  $53^{\circ}58'40''$  East along the Northeasterly line of said Pueblo Lot 337 a distance of 463.68 feet to the most Easterly corner of said Pueblo Lot 337; thence South  $35^{\circ}56'45''$  West along the Southeasterly line of said Pueblo Lot 337, a distance of 419.32 feet to its intersection with a curve concave to the Southwest whose radial point bears South  $27^{\circ}03'55''$  West a distance of 1004.93 feet from said point of intersection, being a point on said Northerly line of Frontier Street as described in Book 1143, page 320 of Official Records; thence Northwesterly along said curve through an arc whose central angle is  $14^{\circ}59'10''$  and whose length is 262.85 feet to the end of said curve; thence North  $77^{\circ}55'15''$  West a distance of 876.48 feet to the point of beginning.



Those portions of Pueblo Lots 242, 311, and 259 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to the map thereof, made by James Pascoe, a copy of which map was filed in the office of the County Recorder of said County, and known as Miscellaneous Map Number 36, described as follows:

Beginning at the point of intersection of the South Easterly line of Pueblo Lot Number 312 with the Northerly line of Frontier Street, as described in a deed to Frontier Enterprises, Inc., recorded March 5, 1941, in book 1143, page 320 of Official Records of San Diego County; thence along said Northerly line North  $77^{\circ}57'40''$  West a distance of 918.94 feet; thence North  $12^{\circ}02'20''$  East a distance of 15 feet to the point of true beginning; thence North  $12^{\circ}02'20''$  East a distance of 703.21 feet; thence North  $36^{\circ}01'$  East a distance of 559.40 feet; thence North  $36^{\circ}04'$  East a distance of 344.42 feet; thence South  $64^{\circ}08'$  West a distance of 912.60 feet; thence South  $12^{\circ}02'20''$  West a distance of 968.25 feet; thence South  $77^{\circ}57'40''$  East to the point of true beginning.



Parcel 1:

Portions of Pueblo Lots 313, 314, 337 and 338 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to map thereof made by James Pascoe, a copy of which said map was filed in the office of the County Recorder of said county, and known as Miscellaneous Map No. 36, described as follows:

Beginning at the point of intersection of the southeasterly line of Pueblo Lot 312 with the northerly line of Frontier Street, as described in Deed to Frontier Enterprises, Inc., recorded March 5, 1941, in Book 1143, Page 320 of Official Records of San Diego County; thence along said northerly line south  $77^{\circ}55'15''$  east a distance of 378.08 feet; thence north  $12^{\circ}04'45''$  east a distance of 15 feet to the true point of beginning; thence north  $12^{\circ}04'45''$  east a distance of 476.12 feet; thence north  $36^{\circ}05'50''$  east a distance of 246.90 feet; thence south  $53^{\circ}59'$  east along the northeasterly line of Pueblo Lot 338 a distance of 441.64 feet to the easterly corner of said Pueblo Lot 338, being also the northerly corner of Pueblo Lot 337; thence south  $53^{\circ}58'40''$  east along the northeasterly line of said Pueblo Lot 337 a distance of 463.68 feet to the most easterly corner of said Pueblo Lot 337; thence south  $35^{\circ}56'45''$  west along the southeasterly line of said Pueblo Lot 337 a distance of 419.32 feet to its intersection with a curve concave to the southwest whose radial point bears south  $27^{\circ}03'55''$  west a distance of 1004.93 feet from said point of intersection, being a point on said northerly line of Frontier Street as described in Book 1143, page 320 of Official Records; thence north  $35^{\circ}56'45''$  east a distance of 15.17 feet; thence northwesterly along a curve through an arc whose central angle is  $15^{\circ}07'07''$  and whose length is 269.13 feet to the end of said curve; thence north  $77^{\circ}55'15''$  west a distance of 498.40 feet to the point of true beginning.

Parcel 2:

Those portions of Pueblo Lots 241, 242 and 311 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe, a copy of which said map was filed in the office of the County Recorder of said County and known as Miscellaneous Map No. 36, described as follows:

Beginning at the point of intersection of the SELY line of Pueblo Lot 312 with the NLY line of Frontier Street, as described in deed to Frontier Enterprises, Inc., recorded March 5, 1941, in Book 1143, Page 320 of Official Records of San Diego County; thence along said NLY line North  $77^{\circ}57'40''$  West 918.94 feet; thence North  $12^{\circ}02'20''$  East 165 feet; thence South  $77^{\circ}57'40''$  East parallel with and 165 feet NLY at right angles from the NLY line of said Frontier Street 44 feet to the true point of beginning of property described herein; thence continuing along said parallel line South  $77^{\circ}57'40''$  East 150 feet; thence South  $12^{\circ}02'20''$  West 150 feet to the intersection with a line parallel with and 15 feet at right angles NLY from the aforesaid NLY line of Frontier Street; thence along said parallel line North  $77^{\circ}57'40''$  West 150 feet; thence North  $12^{\circ}02'20''$  East 150 feet to the true point of beginning.

# ORIGINAL

## AMENDMENT TO OPTION AGREEMENT

THIS AMENDMENT is made effective as of this 4 day of MAY, 1967, by and between THE CITY OF SAN DIEGO, a municipal corporation (hereinafter called "City"), and UNION-BREITBARD JOINT VENTURE, a joint venture, (hereinafter called "Optionee").

### RECITALS

1. City and Robert Breitbard heretofore on July 23, 1963 entered into an Option Agreement, which said Option Agreement is on file in the office of the City Clerk as Document No. 658695; and heretofore on July 21, 1964, the dates of said Option Agreement were extended by an extension of Option Agreement, which Extension of said Option Agreement is on file in the office of the City Clerk as Document No. 673967; and heretofore on March 11, 1965, City and Robert Breitbard entered into an Agreement Reviving Option Agreement, which Agreement reviving Option Agreement is on file in the office of the City Clerk as Document No. 683589; and heretofore on <sup>MAY</sup> April 4, 1967, City consented to the assignment of said Option Agreement to Optionee, which Consent to Assignment is on file in the office of the City Clerk as Document No. **711224**

2. City and Optionee desire for their mutual benefit to amend said Option Agreement which will be of mutual benefit to both City and Optionee.

### AGREEMENT

1. That Exhibit "A" attached to said Option Agreement, as amended, is hereby deleted in its entirety and the Exhibit "A" attached hereto is substituted therefor.

2. Sub-paragraphs D, E and the first paragraph of Sub-paragraph F of paragraph 8 at pages 5 and 6 of said Option Agreement are deleted in their entirety, and the following substituted in place thereof:

- D. "For the period beginning July 15, 1966 to July 14, 1967, Optionee shall pay City the sum of SIX THOUSAND FIVE HUNDRED DOLLARS (\$6,500.00) per month."
- E. "During the period July 15, 1967 to July 14, 1968, Optionee shall pay City the sum of NINE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$9,750.00) per month."
- F. "During the period July 15, 1968 to the expiration of the term of this Option Agreement, Optionee shall pay City the sum of THIRTEEN THOUSAND DOLLARS (\$13,000.00) per month."

"The above amounts shall be paid either monthly in advance or annually in arrears on or before December 31 of each year."

In the event Optionee elects to pay annually in arrears, then Optionee shall pay City an additional amount equal to 5% of the monthly payments computed annually and pro rated from the date on which they fall due to December 31 of each year."

3. Article III - Rent, of Exhibit "G" to the Option Agreement is deleted in its entirety and the following is substituted in place thereof:

"Optionee shall pay City the following rent which shall be paid at the Office of the Treasurer of the City of San Diego:

The sum of THREE THOUSAND NINE HUNDRED DOLLARS (\$3,900.00) per year times the total acreage leased herein, as set forth in Article I, which said rental shall be payable either monthly in advance in twelve equal installments, or annually in arrears on or before December 31 of each year. In the event Optionee elects to pay said rent annually in arrears,

then Optionee shall pay City an additional amount equal to Five Percent (5%) of the amount due City as of December 31 of each year.

"In the event Optionee fails to pay such rent when due, the Optionee shall pay City, in addition to the delinquent rent, a sum of money equal to Five Percent (5%) of said delinquent rent; provided, however, in the event said delinquent rent is still unpaid on the 15th day after said rent became due, then Optionee shall pay City, instead of said 5%, a sum of money equal to Ten Percent (10%) of said delinquent rent. It is the intent of this provision that City shall be compensated by such additional sums for loss resulting from rental delinquency, including cost to City of servicing the delinquent account. The City Manager, at his option, may for good cause waive any such delinquency compensation required herein upon written application of Optionee prior to the delinquent period.

IN WITNESS WHEREOF this Amendment to Option Agreement is executed by The City of San Diego, acting by and through the City Manager of said City under and pursuant to Resolution No. \_\_\_\_\_ authorizing such execution, and by the Union-Breitbard Joint Venture on the day and year hereinabove written.

THE CITY OF SAN DIEGO  
By Walter Hahn, Jr.  
Assistant City Manager  
City Manager

UNION-BREITBARD JOINT VENTURE

By [Signature]

I HEREBY APPROVE the form and legality of the foregoing Amendment this 20<sup>th</sup> day of March, 1967.

190280

EDWARD T. BUTLER, City Attorney

By James P. McGowan

Exhibit "C"

7/28/65

ORIGINAL

1049

THE SAN DIEGO SPORTS ARENA  
GROUND LEASE AGREEMENT

THIS LEASE AGREEMENT is executed in duplicate on this 10<sup>th</sup> day of August, 1965, 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 "City," and The San Diego Arena Lease Company, whose business address is 2100 Electronic Capital Building, San Diego, California, hereinafter referred to as "Lessee."

WITNESSETH:

WHEREAS, City is the owner of certain real property in the City of San Diego, located in the City of San Diego, County of San Diego, State of California, more particularly described in Exhibit "I" attached hereto and by this reference made a part hereof (hereinafter sometimes referred to as the "Site"); and

WHEREAS, City has approved plans and specifications for the construction of an indoor sports arena and parking facility and related facilities (hereinafter sometimes referred to as the "facilities" and said Site and facilities together are sometimes hereinafter referred to as "Project"); and

WHEREAS, it is the intention of City that the Project be constructed and operated so that the citizens of City shall have the benefit of the finest of athletic contests, conventions, exhibits and other types of performances and events essential to the educational, recreational, commercial and cultural development of the community; and

WHEREAS the construction and financing of the Project in a manner which will produce the desired results present unusual and difficult problems demanding extraordinary knowledge and experience and the Board of Directors of Lessee is composed of persons having experience in corporate management, construction and finance.

The parties hereto agree as follows:

ARTICLE I. Demise. City hereby leases to Lessee, and Lessee hereby leases and hires from City, that real property, (together with appurtenances thereto) situated in the City of San Diego, County of San Diego, State of California, described in Exhibit "I", and outlined in red on the plat attached hereto as Exhibit "II," which is by this reference made a part hereof. Said leased premises are to be utilized as a site for the facilities in accordance with the terms of this Lease.

ARTICLE II. Term.

1. The term of this Lease shall commence on the earlier of the following dates:
  - (a) The date upon which a deed of trust, mortgage, or other security device, securing the long-term financing (to be amortized in appropriate installments) for the facilities is recorded in the Office of the County Recorder of San Diego County, California; or
  - (b) On March 1, 1967.
2. Lessee is, however, granted the immediate right to commence the installation of improvements as specified herein prior to the commencement date of this Lease as hereinabove set forth.
3. City at its option may terminate and cancel this Lease if construction of the facilities is not substantially completed by March 1, 1967, as evidenced by a certificate of completion issued by the Building Department of The City of San Diego. In the event this Lease is terminated as hereinabove set forth, all improvements made by Lessee shall become the property of City, and Lessee

1

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RECORDED REQUEST OF  
TITLE INSURANCE AND TRUST COMPANY

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SERIES C BOOK 1965  
OFFICIAL RECORDS  
SAN DIEGO COUNTY, CALIF.  
A. S. GRAY, RECORDER

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shall have no right of removal, nor shall Lessee be entitled to any reimbursement for the costs thereof. The hereinabove set forth right to cancel shall not be applicable, however, if, with the consent of City the date for substantial completion is extended; or if Lessee (or any contractor or contractors employed by Lessee) is delayed by: (1) acts or omissions of City or of any employee or agent of City, or (2) any act of God which Lessee could not reasonably have foreseen and provided for, or (3) any strikes, boycotts, or like obstructive actions by employee or labor organizations which are beyond the control of Lessee and which Lessee cannot overcome with reasonable effort and could not reasonably have foreseen and provided for, or (4) any war or declaration of a state of national emergency, or (5) the imposition by government action or authority of restrictions upon the procurement of labor or materials necessary for the completion of the project, or (6) any litigation relating to the validity of this Lease or the proposed plan of operation of the project.

4. The term of this Lease shall be the period of fifty (50) years unless earlier terminated as hereinafter provided. In the event that all of the indebtedness required to finance the completion of the Project pursuant to Article V hereof is retired, Lessee shall dissolve and its assets remaining after payment of or provision for all its debts and liabilities shall be distributed to the City of San Diego and this Lease shall terminate.

ARTICLE III. 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, is as follows:

1. As consideration for the construction and development of an indoor sports arena with a seating capacity for not less than ten thousand (10,000) persons, the rent for the site occupied by said sports arena shall be the sum of One Dollar (\$1.00) per year, payable yearly in advance, for the full term of the Lease.

2. For that portion of the Site utilized as and for a parking lot substantially as shown on Exhibit II, Lessee shall cause the Operator to pay the monthly rent set forth in the Operating Sublease attached hereto as Exhibit III and by this reference made a part hereof.

ARTICLE IV. Use of Premises. The Site herein leased shall be used for the purpose of the construction, operation and maintenance of an indoor sports arena with a seating capacity of not less than ten thousand (10,000) persons for the principal use of the general public, plus other uses incident thereto, together with a parking lot in substantial accordance with the plans and specifications referred to in the recitals hereof including any changes and modifications made in accordance with the provisions hereof. Lessee shall proceed with the construction of the facilities required hereby with reasonable diligence, and shall substantially complete same not later than March 1, 1967.

No changes shall be made in the plans and specifications as finally filed with and approved by said City unless such changes are approved in writing by City and Lessee, respectively. Such joint approval shall be made under such procedure as both parties shall establish and shall not change the rental payments as herein provided unless a supplemental agreement is entered into providing for such change.

Lessee shall not make, or allow to be made, any changes or alterations in the Project after its completion and shall not make any additions thereto except with the written consent of City and upon such terms as may then be agreed upon. This shall not prevent Lessee, without obtaining City's consent, from temporarily affixing personal property to the Project, providing Lessee shall repair any damage thereto when such property is removed.

City at its option may terminate and cancel this Lease if, within ninety (90) days after the completion and occupancy of the Project, it has not been opened and used for a prescheduled and previously advertised sports or public event attended by five hundred (500) persons or more; provided that Lessee has been given thirty (30) days' written notice of the City's intent to exercise said option to terminate, and during that thirty (30) day period has been given the opportunity to schedule a

7/28/65

1051

sports or public event and use the Project for that purpose. Nothing contained in this paragraph shall be construed to in any way diminish rights granted to mortgagees, beneficiaries or obligees of deeds of trust, mortgages or security devices as granted in Article XXII.

**ARTICLE V. Mortgage of Leasehold.** Lessee may, without the consent of City, give, assign, transfer, mortgage, hypothecate, grant control of, or encumber Lessee's interest under this Lease and the leasehold estate hereby created, in accordance with the financial plan approved by the City Manager of City, to any bona fide lender or lenders (including purchasers or holders of notes, bonds or other obligations of Lessee) on the security of the leasehold estate, and Lessee may execute any and all instruments in connection therewith necessary and proper to complete such loan and perfect the security therefor to be given such lender or lenders. Any such lender or lenders shall after the receipt of reasonable notice be granted the right at any time during the term of the loan, and prior to termination of this Lease:

(a) To do any act or thing required of Lessee in order to prevent a forfeiture of Lessee's rights hereunder, including the completion of construction, and all such acts or things so done shall be as effective to prevent a forfeiture of Lessee's rights hereunder as if done by Lessee.

(b) To realize on the security of the leasehold estate and to acquire and succeed to the interest of Lessee hereunder by foreclosure or by a deed or assignment in lieu of foreclosure and thereafter at such lender's option to convey or assign the interest or title to said leasehold estate to any other person subject to all the terms, conditions and covenants of this Lease.

Two (2) copies of any and all security devices or instruments shall be filed with City two weeks prior to the effective date thereof, and Lessee shall give City prior written notice of any changes or amendments thereto.

**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 said Site for the term aforesaid. If City for any reason whatsoever cannot deliver possession of the said 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 a proportionate deduction of the rent covering the period or periods during which Lessee is prevented from having the quiet possession of the Site.

**ARTICLE VII. Insurance.** Lessee shall, during the term of the Lease, secure a policy or policies of insurance against loss or damage to the facilities, their appurtenances and permanent equipment, resulting from fire, lightning, vandalism, malicious mischief, and such perils ordinarily defined as "extended coverage" and other perils as Lessee and City may agree should be insured against on forms and in amounts satisfactory to each. City shall be named as an additional insured under such policies of insurance as the building contractor may be required by Lessee to carry during the construction of the facilities. Lessee agrees to take out and maintain public liability insurance with an insurance carrier satisfactory to City to protect against loss from liability imposed by law for damages on account of bodily injury, including death resulting therefrom, suffered or alleged to be suffered by any person or persons whatsoever, resulting either directly or indirectly from any act or activities of Lessee or any person acting for Lessee or under Lessee's 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 Lessee or any person acting for Lessee or under Lessee's control or direction. Such public liability and property damage insurance shall be maintained in full force and effect during the entire term of this Lease in the amounts of not less than Five Hundred Thousand Dollars (\$500,000.00) for one person injured in one accident, and no less than One Million Dollars (\$1,000,000.00) for more than one person injured in one accident, and

7/28/65

1052

not less than Fifty Thousand Dollars (\$50,000.00) with respect to any property damage. If Lessee does not keep such insurance in full force and effect, City may take out the necessary insurance and pay the premium, and the repayment thereof shall be deemed to be a part of the rental and paid as such on the next day upon which rent becomes due.

Provisions of this Article as to maintenance of insurance shall not be construed as limiting in any way the extent to which Lessee may be held responsible for the payment of damages to persons or property resulting from its activities or the activities of any person or persons for which he is otherwise responsible.

The Lessee may also carry such other insurance as is required by the indenture or other instrument, if any, which secures or declares the terms of any debt or borrowings by Lessee, all or substantially all of the proceeds of which are to be used to finance the facilities.

During the term of this Lease, Lessee agrees to defend in the name of, and on behalf of, City, all claims or suits for damages and all fixed costs and interest on all such legal proceedings and pay all sums which City may become liable to pay as damages imposed upon it by law arising out of accidental bodily injury or death suffered, or alleged to have been suffered, by any person while within or upon the Project. Lessee further agrees to pay all sums which City may become liable to pay as damages imposed upon it by law resulting from accidental injury to, or destruction of, property not owned, leased, occupied or used by, or in the care, custody, or control of, Lessee or of City or of any employee of Lessee or City, subject to the following conditions:

- (a) This agreement shall not apply to any injury or death caused by any employee of City;
- (b) City shall not voluntarily assume any liability or incur any expenses or settle any claims without the prior written consent of Lessee;

(c) Lessee shall, on or before the effective date of this Lease, deliver to the Property Division of City, a certificate of bodily injury and property damage liability insurance issued by a company licensed in the State of California to transact such business, indicating that Lessee has bodily injury and property damage liability insurance as required in this paragraph, and indicating that the policy has been endorsed or does otherwise cover the contractual liability imposed by this agreement, and that the insurance company shall notify the Property Division if said policy be terminated or limited in any manner prior to the termination date specified in the certificate.

**ARTICLE VIII. Mechanic's Lien Bond.** Lessee will save City free and harmless, indemnify it against all claims for labor and materials in connection with improvements, repair or alterations to the leased facilities, and the cost of defending against such claims, including reasonable attorney's fees.

For all improvements, repairs, or alterations constructed on the Site by other than City, Lessee shall file with City, or cause to be filed with Lessee and City by the contractor or contractors performing the work, a bond, conditioned for the payment in full of the claims of all persons performing labor upon or furnishing materials to be used, in the amount of the estimated cost of the improvement, alteration, or repair as determined by the City Manager. The bond shall be acknowledged by Lessee or contractor, as the case may be, as principal and by a corporation licensed by the Insurance Commissioner of the State of California to transact the business of a fidelity and surety insurance company as surety.

In the event that a lien is recorded under Chapter 11 of Title 4 of Part 3 of the California Code of Civil Procedure against the leased Project and the lien-holder attempts to perfect such lien by a lawsuit and Lessee has failed to comply with the requirements of this paragraph, this Lease shall automatically terminate five (5) days after service of summons in such lawsuit upon City; provided, however, that the City Manager shall have the right to continue this Lease in full force and effect by notifying Lessee in writing of his election to do so.

7/28/65

1053

ARTICLE IX. Compliance with Law. Lessee shall, at its sole cost and expense, comply and secure compliance with all the requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the said Project, or the operations conducted thereon, and shall faithfully observe, and secure observance with, in the use of the Project, 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 Lessee or the Project 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 other activities of Lessee upon or in connection with the said Project. The judgment 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 be a party thereto or not, that Lessee, sublessee or permittee has violated any such ordinance or statute in the use of the Project shall be conclusive of that fact as between City and Lessee.

ARTICLE X. Utilities. Lessee shall order, obtain, pay or otherwise provide for the installation of all utilities necessary for the Project.

ARTICLE XI. 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 XII. 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 City and Lessee.

ARTICLE XIII. Merger. The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation thereof, shall not work a merger, and nor shall it terminate all or any existing subleases or subtenancies, but said surrender shall constitute an assignment to it of the Operating Sublease and any other subleases or subtenancies.

ARTICLE XIV. Notices. Control and administration of this Lease is under the jurisdiction of the Property Division 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, attention: Property Supervisor, Property Division, San Diego 1, California. 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 depositing in the United States mails, postage prepaid, a letter addressed to said Lessee at the address stated at the commencement hereof, or may be personally served upon said Lessee (or any one of them), or any persons 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.

ARTICLE XV. 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

7/28/65

1054

effects of Lessee or any of Lessee's representatives, agents, employees, guests, licensees, invitees, patrons or clientele or of any other persons whatsoever, nor for personal injuries to, or deaths of them, or any of them, whether caused by or resulting from any acts or omission of Lessee in or about the Project, or any act or omission of any person or from any defect in any part of the leased Project 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.

**ARTICLE XVI. Waste, Damage or Destruction of Premises.** Lessee shall give prompt notice to City of any fire or damage that may occur from any reason whatsoever. Lessee shall not commit or suffer to be committed any waste or injury, or any public or private nuisance, shall keep the Project clean and clear of refuse and obstructions; and shall dispose of all garbage, trash, and rubbish in a manner satisfactory to City. If the Project shall be damaged by any cause as to render the Project untenable or unfit for the use or purpose for which the same are hereby let and said damages are repairable within a reasonable time in the opinion of the City Manager, Lessee may elect, by written notice to City within thirty (30) days of such destruction, to make full repairs to said damages so as to restore the Project to the condition which existed prior to said damages, or Lessee may elect to clear and remove from the leased Project all debris resulting for said damages and to continue operations on a limited scale. In the event Lessee elects to make such repairs or clear such debris, the work shall be commenced within thirty (30) days and the restoration or clearance shall be completed within a reasonable time thereafter. Failure to commence such restorative work or clearance, or failure to complete such work or clearance within said reasonable time shall constitute an abandonment of this Lease by said Lessee. In the event Lessee does not so elect to make such repairs or to continue operations on a limited scale as hereinbefore provided, then either Lessee or City may after thirty (30) days from the date of damage terminate this agreement; provided, however, that Lessee to exercise this right to terminate must first remove all debris from the Project.

**ARTICLE XVII. Taxes.** Lessee shall pay and discharge before delinquency all taxes and assessments which may be levied during said term upon the Project by reason of Lessee's leasehold interest. This Lease is entered into upon the assumption that there will be no taxes and assessments so levied; but, if any shall be levied, Operator pursuant to the Section 9(c) of the Operating Sublease shall pay the same on behalf of Lessee and said sums shall be deducted from the rent otherwise due City in excess of the minimum rental under Section 9(b) of Operating Sublease.

**ARTICLE XVIII. Reservation for City Use.** City shall have the right to enter the Project for the purpose of making repairs to or developing the municipal utility services of City. City hereby reserves the right to establish and use such rights of way over, under, along and across the Project for public utilities as it may deem advisable for the public good. Lessee shall be reimbursed by City for any damage done to improvements of Lessee.

**ARTICLE XIX. Improvement, Repair, Alterations.** 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 Civil Code of State of California and all rights provided for by Section 1941 of said Civil Code. Lessee hereby accepts the Site as being in good and sanitary order, condition and repair and usable for the purposes outlined herein. Lessee agrees on the last day of the term or sooner termination of this Lease, to surrender the Project to City in the same condition as when received or as they may have been put into, subject, however, to Article XXIV herein.

**ARTICLE XX. Operation.** Except in the case of a default of Operator, Lessee shall not operate, manage or maintain the sports arena and parking lot itself, but shall contract or sublease with any person, firm, or corporation (hereinafter referred to as "Operator") therefor in accordance with an Operating Sublease attached hereto as Exhibit "III". In the case of default of the Operator, Lessee shall be substituted therefor and shall perform all the duties under such Operating Sublease (hereinafter called "Operating Sublease") or the Operating Sublease shall be assigned to a new Operator with the consent of City.

7/28/65

1055

ARTICLE XXI. Assignments and Subleases. Except as provided in Article V, Lessee shall not assign this Lease without the prior written consent of the City Manager of City, which consent shall not be unreasonably withheld. Consent to one assignment shall not be deemed to be consent to any subsequent assignment, and any such assignment without the consent of City shall be void, and shall, at the option of City, terminate this Lease. This Lease shall not be assignable by operation of law without the written consent of the City Manager.

ARTICLE XXII. Remedies of City. In the event (a) that Lessee shall default in the performance or fulfillment of any covenant or conditions herein contained on its part to be performed or fulfilled and shall fail to cure such default within thirty (30) days following the service on it of a written notice from City specifying the default or defaults complained of and the date on which its rights hereunder will be terminated as hereinafter provided if such default or defaults is or are not cured, or (b) that Lessee shall file a voluntary petition in bankruptcy, or (c) that Lessee shall be adjudicated a bankrupt, or (d) that Lessee shall make a general assignment for the benefit of creditors, then and in either or any of said events, City may, at its option, without further notice or demand upon Lessee or upon any person or persons claiming by, through or under Lessee, immediately cancel and terminate this Lease and terminate each, every and all of the rights of Lessee and of any and all persons claiming by, through or under Lessee in or to the Project and in or to the further possession thereof, and may thereupon enter into and upon the Project and repossess the same and expel Lessee and any and all persons claiming by, through or under Lessee. The rights and remedies of City as hereinabove set forth are cumulative only and shall in no wise be deemed to limit any of the other provisions of this Lease or otherwise to deny to City any right or remedy at law or in equity which City may have or assert against Lessee under any law in effect at the date hereof or which may hereafter be enacted or become effective, it being the intent hereof that the rights and remedies of City, as hereinabove set forth, shall supplement or be in addition to or in aid of the other provisions of this Lease and of any right or remedy at law or in equity which City may have against said Lessee.

Anything set forth to the contrary in this article notwithstanding, in the event that at the time of any default by Lessee the leasehold interest hereunder is encumbered by a deed or deeds of trust, and/or by a mortgage or mortgages or other security device pursuant to Article V hereof securing a construction or other loan or loans provided for herein, City shall not terminate this Lease until it shall have as a condition precedent thereto served upon the mortgagees or beneficiaries, or obligees, thereof written notice of the default or defaults complained of, and in such event such beneficiaries and/or mortgagees shall have thirty (30) days from the receipt of said notice within which to cure such default, if said default is curable by the payment of money to City, or thirty (30) days from the receipt of said notice within which to commence foreclosure proceedings against Lessee (if not theretofore commenced), if said default is not curable by the payment of money. In the event such mortgagees and/or beneficiaries and/or obligees avail themselves of the remedies set forth herein, they may enter upon and operate the Project in the place and stead of Lessee, with all of the rights, privileges and duties of Lessee, and in such event of the election by such mortgagees and/or beneficiaries and/or obligees to substitute themselves to Lessee's estate hereunder, City expressly consents to said substitution; provided that said mortgagees and/or beneficiaries and/or obligees assume the obligations to perform the covenants and undertakings of Lessee herein contained. In no event shall this Lease be deemed terminated if such mortgagees and/or beneficiaries and/or obligees shall give notice in writing of their election so to substitute themselves in accordance with the foregoing, and commence performance within a thirty (30) -day period after service upon them of the written notice of default by City.

ARTICLE XXIII. Holding Over. Any holding-over after the expiration of said 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 herein provided.

7/28/65

1056

**ARTICLE XXIV. Removal of Improvements.** City agrees that all fixtures and improvements installed by Lessee in accordance with the provisions herein, and not being a replacement or repair of or for any improvement or improvements existing and belonging to City, shall be and remain the property of Lessee. Lessee shall have the right to remove said fixtures and improvements prior to the termination of this agreement at Lessee's own expense, provided that any damage to Project shall be repaired and the premises left in as good order and condition as when Lessee took possession of the Project. In the event Lessee does not so remove said fixtures and improvements prior to the expiration of this agreement, 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 Project resulting from such removal, sale or destruction. At the option of City, any property, real or personal, not so removed by Lessee may be deemed abandoned.

**ARTICLE XXV. Records and Accounts.** Lessee shall keep proper books of records and accounts in which complete and correct entries shall be made of all transactions relating to the Project. Said books of records and accounts shall be available at reasonable times for inspection by City and shall be audited at such times and in such manner as City shall determine.

**ARTICLE XXVI. Performance of Obligations of Lessee.** Subject to any provisions of this Lease or the Operating Sublease requiring the consent of the City, Lessee may perform any obligations or duties set forth in this Lease, by itself through its own personnel, or by contracting or subleasing for the performance thereof by Operator or by others.

**ARTICLE XXVII. Conflict of Interest.** No officer, director or employee of Lessee shall have any financial interest, direct or indirect, in Operator or in any contract made by Operator.

**ARTICLE XXVIII. Recordation.** The original copy of this Lease shall be recorded in the Office of the County Recorder of San Diego County, California, upon the request of either City or Lessee.

**ARTICLE XXIX. Competitive Facilities.**

1. So long as any of the bonds or any other indebtedness authorized by the Indenture issued by Lessee to finance the Project are outstanding and unpaid or so long as provision for the full payment and discharge thereof at maturity or upon redemption thereof prior to maturity has not been made (whether by City or otherwise), the City covenants and agrees that until the procedures required by this Article are complied with it will not finance or aid in the financing of, operate any facility to be constructed hereafter which would or might compete with the Project to such an extent as to impair the ability of the Project to produce enough money to pay principal of and interest on the bonds or any other indebtedness authorized by the Indenture issued by Lessee.

2. If either Lessee or Operator object to the City doing any of the things mentioned in the foregoing paragraph 1, objector shall employ an arena consultant to make a report. "Arena Consultant" is herein defined to be any consultant or firm of such consultants of national and favorable reputation experienced in the field of consulting with and advising public bodies with respect to problems of revenues, expenses, construction, maintenance and operations of sports arenas, stadiums and similar facilities, who or each of whom:

- (1) is in fact independent and not under the domination of the City, Lessee or Operator;
- (2) does not have any substantial interest, direct or indirect, with the City, Lessee or Operator; and
- (3) is not connected with the City, Lessee or Operator as an officer or employee thereof, but who may be regularly retained to make annual or other periodic reports.

3. A copy of the report of the Arena Consultant shall be delivered to the City, Lessee and Operator. City shall thereupon by written notice fix the time and place for a hearing on the report before the

7/28/65

1057

Council and notify Lessee and Operator in writing thereof. At such hearing a representative of said Arena Consultant shall be present. Upon the facts and evidence presented at such hearing, or at such hearing as it may be continued from time to time, the Council shall find and determine whether the taking of the steps mentioned in the notice referred to in the foregoing paragraph 2 would or might compete with the Project to such an extent as to impair the ability of the Project to produce enough money to pay principal of and interest on bonds or any other indebtedness authorized by the Indenture issued by Lessee.

4. The decision of the Council shall be final and conclusive; provided, however, that Lessee or Operator shall not be prejudiced to contest said finding in a court of competent jurisdiction in the event said Council has acted arbitrarily or unreasonably.

5. It is expressly agreed between City and Lessee that the facilities of the existing community concourse and the proposed multi-purpose stadium are not competitive facilities as contemplated by the provisions of this Article XXIX.

ARTICLE XXX. Article Headings, Severability. The Article headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this Lease.

If any Article, section, subsection, paragraph, subparagraph, sentence, clause or phrase of this Lease, or the application thereof, to either party, or any other person or circumstance is for any reason held invalid, it shall be deemed severable and the validity of the remainder of the Lease or the application of such provision to the other party, or to any person or circumstance shall not be affected thereby.

IN WITNESS WHEREOF, City has executed the foregoing Lease Agreement, acting by and through the City Manager of said City, under and pursuant to Resolution No. 18434, authorizing such execution; and Lessee has executed this Lease Agreement, on the day and year first hereinabove written.

THE CITY OF SAN DIEGO

By *[Signature]*  
Assistant to the City Manager

LESSEE

THE SAN DIEGO ARENA LEASE COMPANY,

*[Signature]*  
*James B. Cunningham*

I HEREBY APPROVE the form and legality of the foregoing Lease Agreement, this 10<sup>th</sup> day of August, 1965.

\_\_\_\_\_, City Attorney

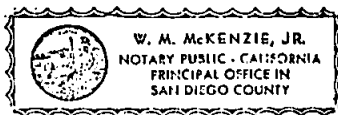
By *[Signature]*

STATE OF CALIFORNIA }  
COUNTY OF SAN DIEGO } ss

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On November 8, 1965, before me, the undersigned, a Notary Public in and for said State, personally appeared C. E. Larsen, known to me to be the President, and Howard B. Turrentine, known to me to be Secretary of the corporation that executed the within Ground Lease Agreement, known to me to be the persons who executed the within Ground Lease Agreement on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within Ground Lease Agreement pursuant to its bylaws or a resolution of its board of directors.

WITNESS my hand and official seal.



*W. M. McKenzie, Jr.*  
Notary Public

W. M. McKENZIE, JR.  
My Commission Expires April 14, 1968

**PROPERTY DESCRIPTION FORM**

This description was prepared by

**Title Insurance and Trust Company**

228 "A" STREET, SAN DIEGO, CALIFORNIA 92101, TELEPHONE 233-4001

from information furnished to this Company and  
should be approved by all interested parties.

Description by Ron. Johnson

Reference Pueblo Lots  
San Diego International  
Sports Arena

Date 7/13/65 1060

DETACH THIS PORTION

Pueblo Lot 338, portions of 241, 242, 259, 276, 311, 312, 313, 314 and 337 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe, a copy of which said Map was filed in the office of the County Recorder of said County, and known as Miscellaneous Map No. 36, together with a portion of Cass and McElwee Subdivision, according to Map thereof No. 1581, filed in the office of the County Recorder of said San Diego County, also together with Lot "A" and a portion of Lot "B" of Pueblo Lot 339, according to the Partition Map thereof on file in the office of the County Clerk of said County, in an Action entitled "Steele vs. Steele", Superior Court, Case No. 5620, described as follows:

Beginning at the point of intersection of the Southeasterly line of Pueblo Lot 312 with the Northerly line of Frontier Street as described in deed to Frontier Enterprises, Inc., recorded March 5, 1941 in Book 1143, page 320 of Official Records of San Diego County; thence along said Northerly line North 77°57'40" West 918.94 feet; thence North 12°02'20" East 718.21 feet; thence North 36°01' East 559.40 feet to a point in the Northwesterly prolongation of a line which is parallel with and 7 feet Southwesterly from the Northeasterly line of Pueblo Lot 339; thence South 53°59' East along said prolongation 786.16 feet to the Northwesterly line of Pueblo Lot 339; thence along the Northwesterly line thereof South 36°04'10" West 301.33 feet to a point in the Northwest line of said Lot "B" which is distant South 36°04'10" West 308.33 feet from the most Northerly corner of said Pueblo Lot 339; thence South 53°58'30" East 233.41 feet to a point on the Northwesterly line of said Lot "A" which is distant North 36°05' East 158.40 feet from the most Westerly corner of said Lot "A"; thence North 36°05' East along the Northwesterly line of said Lot "A" a distance of 74.98 feet to the most Northerly corner of said Lot "A"; thence South 53°58'45" East along the Northeasterly line of said Lot "A" a distance of 233.43 feet to the most Easterly corner thereof, being also a point in the Northwesterly line of Pueblo Lot 338 of said Pueblo Lands of San Diego; thence North 36°05'50" East along said Northwesterly line of said Pueblo Lot 338 a distance of 233.40 feet to the most Northerly corner thereof; thence South 53°59' East along the Northeasterly line of said Pueblo Lot 338 a distance of 466.64 feet to the Easterly corner of said Pueblo Lot 338, being also the Northerly corner of Pueblo Lot 337; thence South 53°58'40" East along the Northeasterly line of said Pueblo Lot 337 a distance of 463.68 feet to the most Easterly

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page 2  
Pueblo Lots  
S.D. Internat'l  
Sports Arena

1061

corner of said Pueblo Lot 337; thence South  $35^{\circ}56'45''$  West along the Southeasterly line of said Pueblo Lot 337, a distance of 419.32 feet to its intersection with a curve concave to the Southwest whose radial point bears South  $27^{\circ}03'55''$  West a distance of 1004.93 feet from said point of intersection, being a point on said Northerly line of Frontier Street as described in Book 1143, page 320 of Official Records; thence Northwesterly along said curve through an arc whose central angle is  $14^{\circ}59'10''$  and whose length is 262.85 feet to the end of said curve; thence North  $77^{\circ}55'15''$  West a distance of 876.48 feet to the point of beginning.

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7/28/65

1063

EXHIBIT III

**THE SAN DIEGO SPORTS ARENA**

**OPERATING SUBLEASE**

This Sublease, made as of the date of execution hereof by and between the SAN DIEGO ARENA LEASE COMPANY, a nonprofit corporation organized under the laws of the State of California, (hereinafter sometimes referred to as "Lessee"), and the ..... a private corporation organized under the general corporation law of the State of California (hereinafter sometimes referred to as "Operator"),

**WITNESSETH:**

WHEREAS, City of San Diego (hereinafter sometimes referred to as "City") is the owner of certain real property in the City of San Diego, located in the City of San Diego, County of San Diego, State of California (hereinafter sometimes referred to as the "Site"), more particularly described in Exhibit "I" attached to The San Diego Sports Arena Ground Lease Agreement hereinafter referred to; and

WHEREAS, City has entered into a lease entitled:

**THE SAN DIEGO SPORTS ARENA**

**GROUND LEASE AGREEMENT**

(hereinafter sometimes referred to as "Ground Lease") under the provisions of which an indoor sports arena and parking facility and related facilities (hereinafter sometimes referred to as "facilities") as constructed on said Site will be leased to Operator, and

WHEREAS, City has approved plans and specifications for the construction of said facilities on said Site (said facilities and said Site being hereinafter sometimes referred to as "Project");

WHEREAS, it is the intention of the City that the Project be operated so that the citizens of the City shall have the benefit of the finest of athletic contests, conventions, exhibits and other types of performances and events essential to the educational, recreational, commercial and cultural development of the community; and

WHEREAS, the operation and management of the Project in a manner which will produce the desired results present unusual and difficult problems demanding extraordinary knowledge and experience and the Board of Directors of Operator is composed of persons having experience in corporate management and special experience, competence and knowledge in the management of corporations engaged in the operation and management of the activities contemplated hereunder.

NOW, THEREFORE, in consideration of the payment of rental and the performance of the mutual promises herein contained at the time and in the manner specified, the parties hereto agree as follows:

**Section 1. The Project**

The Project, subleased hereunder, consists of the Site as improved by the construction of said facilities.

**Section 2. Sublease of The Project**

Lessee hereby subleases to Operator and Operator hereby accepts and rents from Lessee said Project. Operator hereby agrees to use the Project for the public purposes for which the same were or

7/28/65

1064

are to be built, to wit: as a sports arena, convention center, exhibit hall or other type of center. Such use shall include, without limitation thereto, the presentation of athletic contests, conventions, exhibits and other types of similar performances and all other incidental and related uses including off-street parking for motor vehicles. The term of this Sublease shall commence on the date of the commencement of the Ground Lease as provided in Article II thereof. The term of this Sublease shall be fifty (50) years.

"Date of occupancy of project" or "date of occupancy" shall mean the date the Project is completed and ready for occupancy and written notice thereof has been served on Operator.

Lessee shall, at its sole cost and expense, construct the facilities on the Site in accordance with the plans and specifications referred to herein. Lessee shall use reasonable diligence to have the facilities substantially completed on or before March 1, 1967. Construction shall be diligently prosecuted to completion, excepting only delays covered by Article II of the Ground Lease and other delays consented to by Operator. In the event that the facilities have not been substantially completed in accordance with the provisions of Article II of the Ground Lease, Operator may, at its option, terminate and cancel this Sublease.

On the completion of the facilities or during such period of time prior to the completion of the facilities, as the contractor for Lessee for the construction of the facilities may advise the Operator that the installation of fixtures and/or equipment and furniture will not unduly interfere with his work, Operator may install its fixtures and/or equipment and furniture provided this is done without interference with other work being done on the Project. The Operator's entry on the Project prior to the completion of the Project shall be subject to all the provisions of this Lease other than the requirement for the payment of rental, which shall not commence until the date of occupancy of Project provided for herein.

When the Project is completed and ready for occupancy, the said contractor, or the Lessee personally, shall file a notice of completion within the time prescribed by law and shall give notice to Operator of such filing as provided in Section 12 herein.

Lessee at its option may terminate and cancel this Operating Sublease if, within ninety (90) days after the completion and occupancy of the Project by Operator, it has not been opened and used for a prescheduled and previously advertised sports or public event attended by five hundred (500) persons or more; provided that Operator has been given fifteen (15) days' written notice of the Lessee's intent to exercise said option to terminate, and during that fifteen (15) day period has been given the opportunity to schedule a sports or public event and use the Project for that purpose. Nothing contained in this paragraph shall be construed to in any way diminish rights granted to mortgagees, beneficiaries or obligees of deeds of trust, mortgages or security devices as granted in Article XXII of the Ground Lease.

### Section 3. Title to Property

Title to the Site and the facilities shall be controlled by the Ground Lease as it presently exists or is hereafter amended. Title to all personal property placed in the Project by Operator shall remain in Operator. Title to all personal property and fixtures placed in the Project by Lessee shall remain in Lessee. Title to all fixtures placed in the Project by Operator shall remain in Operator unless such fixtures replace fixtures owned by Lessee or City, in which event they shall belong to Lessee or City. Title to personal property and fixtures placed in the Project by Operator's sublessees or concessionaires shall be controlled by the sublease to Operator's sublessee or by concession contract, as the case may be.

It may become desirable from time to time for Operator to transfer ownership of some of its said personal property and fixtures placed in the Project to City or Lessee. City and/or Lessee agrees to accept said transfer of ownership when tendered by Operator.

7/28/65

1085

Lessee agrees that all fixtures and improvements installed by Operator in accordance with the provisions provided herein, and not being a replacement or repair of or for any improvement or improvements existing and belonging to Lessee or City, shall be and remain the property of Operator. Operator shall have the right to remove said fixtures and improvements prior to the termination of this agreement at Operator's own expense, provided that any damage to Project shall be repaired and the Project left in as good order and condition as when Operator took possession of the Project. In the event Operator does not so remove said fixtures and improvements prior to the expiration of this agreement, Lessee may remove, or sell, or destroy the same at the expense of Operator, and Operator shall pay to Lessee the reasonable cost of any such removal, sale or destruction together with the reasonable cost of repair of damages to Project resulting from such removal, sale or destruction. At the option of Lessee, any property, real or personal, not so removed by Operator may be deemed abandoned.

#### Section 4. Management Policy

Lessee and Operator hereby agree that the Project shall be managed so as to furnish the maximum educational, recreational, commercial and cultural benefits to the community without burden to tax-payers of City. City hereby agrees that the controls hereinafter provided for shall not be exercised in such a manner which will prevent Operator from complying with Section 8 hereof, accumulating reasonable reserves and providing a reasonable rate of return to Operator on its investment in the Project.

#### Section 5. Duties of Operator

Operator shall operate and manage the Project for the public purposes for which the same were or are to be built in accordance with the standards and subject to the controls set forth herein.

In the event of destruction of the Project or any part thereof Operator shall have no obligation to repair or replace the same.

The Project will be operated and managed in an efficient and economical manner and maintained and preserved in good repair and working order, including, without limitation, the making of replacements when necessary.

#### Section 6. General Standards of Performance

Operator shall observe and comply with the following separate, distinct and cumulative standards:

(a) Operator shall duly and punctually pay or cause to be paid all of its obligations, including, without limitation those which it has hereunder. Time is of the essence of this Sublease.

(b) Operator shall discharge or provide for the discharge of all claims which it has authorized or incurred for labor, materials and supplies in connection with the Project and pay all taxes, assessments or other governmental charges lawfully levied or assessed upon or in respect of the Project or any part thereof or upon any of the revenues therefrom.

(c) Operator shall operate and manage the facilities without unlawful discrimination as to race, creed or color.

(d) Operator shall enforce the rules and regulations which shall be established governing the use and operation of the facilities.

(e) Operator shall duly observe, conform to and comply with all valid requirements of any governmental authority relative to the Project and shall require all persons using the same or attending events therein to conform to and comply with all such requirements.

(f) All salaries, fees, wages and compensation paid by Operator in connection with the Project shall be reasonable and no more persons shall be employed than are necessary.

7/28/65

1066

(g) All performances and events in the facilities shall be high class in calibre and cast no reflection upon City nor mar the reputation of the facilities.

(h) Operator shall not permit the facilities to be used without making a reasonable rental charge therefor.

**Section 7. Controls to be Exercised by City**

Operator shall observe and comply with the following separate, distinct and cumulative controls:

(a) Any contract or sublease for the presentation of events at the sports arena, which is for a term longer than 3 years which contemplates the presentation of an event 3 years or more from the date of execution thereof shall:

- (1) be filed with City for its approval, and
- (2) shall not be valid unless approved by City, and
- (3) shall not exceed 7 years, and

(4) shall state the prices to be charged the public for admission, which said prices may be stated in general terms by maximums and minimums by reference to prices charged in other cities of equal or larger size, or by any other objective standard.

(b) Any contract or sublease in connection with the Project for a term of more than 3 years, or for a concession, or for restaurant operation, or for parking operation, shall be filed with the City for its approval. No such contract shall be valid unless approved by City.

(c) All contracts or subleases for the presentation of events at the sports arena or for using any of the facilities which do not fall within subsection 7(a) or 7(b) above shall be hereinafter referred to as "short term" subleases: As to such short term subleases Operator shall compile and maintain:

(1) A schedule of the classes and types of events which may be presented. Operator shall not enter into a short term sublease for or otherwise permit the presentation of any class or type of event not included in said schedule.

(2) A schedule of standard short term sublease forms for various types of events and tenants which forms shall be used exclusively.

(3) A schedule of maximum and minimum prices to be charged to the public for admission to the various types of events.

(4) A schedule of maximum and minimum rentals to be charged persons and organizations presenting events at or using any of the facilities.

(5) A schedule of maximum and minimum prices to be charged for non admission services, including, without limitation, meals, refreshments and parking.

(6) A schedule of reasonable rules and regulations governing the operation and use of the facilities.

(d) As used in this Section of this Sublease "schedule" shall mean file, roll, outline, catalogue, inventory or any other appropriate list. Each such schedule shall be filed with the City for its approval. Any change shall be submitted to the City for its approval from time to time as necessary. Lessee shall so conduct its operations as to comply with the limits established by such schedules. The City may order changes in any items set forth in this Section 7 from time to time, but no such change shall affect any sublease, contract or other agreement entered into by Lessee and any third party under a previous contract, sublease or schedule which had been approved by City.

7/28/65

1087

(e) Whenever in this Section the approval of City is required for any proposed contract, sublease or schedule or other proposed document, Lessee shall file the aforesaid with the City Clerk in accordance with Section 12 hereof.

(f) Operator shall keep proper books of records and accounts in which complete and correct entries shall be made of all transactions relating to the Project. Said books of records and accounts shall be available at reasonable times for inspection by City or Lessee and shall be audited at such times and in such manner as City or Lessee shall determine.

(g) Operator may perform any obligations or duties set forth in this Sublease, by itself through its own personnel, or by contracting or subleasing for the performance thereof by others. If Operator contracts or subleases for the performance of any or all of the items and duties set forth in this Section by others, each such sublease shall:

(1) be submitted to City for its approval and shall not be valid unless and until approved by City.

(2) require at least the same standards and preserve to the City at least the same controls that Operator would be required to observe and comply with, plus any others that the City may require as a condition of its approval.

(h) Any contract or sublease approved by the City prior to or concurrent with the execution hereof shall be excepted from this Section 7.

#### Section 8. Rates and Charges

The Operator shall and hereby covenants that commencing with the date of occupancy it shall prescribe, revise and collect such rates, rents and charges for the use of the facilities which, after making allowances for contingencies and error in the estimates, shall be at least sufficient to pay the following amounts:

(a) The interest on, sinking account payments for, and any other obligations (including Reserve Fund payments) created by the outstanding bonds of Lessee as set forth in the Indenture securing said bonds including any payments required under Section 4 of the Deficiency and Subordination Agreement attached thereto as they become due and payable;

(b) All payments required to pay the following expenses of Lessee:

(1) all taxes chargeable to Lessee of any nature whatsoever, including, but not limited to, excise taxes, ad valorem taxes and gross receipts taxes levied upon Site or upon said facilities or upon Lessee's interest therein, or upon the operation thereof or the rental income derived therefrom excepting State and Federal income taxes;

(2) ad valorem and specific lien special assessments, if any; and

(3) administrative expenses including insurance premiums and fees and expenses of the Trustee as budgeted yearly by the Lessee;

(c) All payments required to meet any obligations of the Operator which are charges, liens, encumbrances upon or payable from the revenues of the facilities including the moneys payable to City under Section 9(b) hereof;

(d) All current expenses for the necessary and reasonable maintenance and operation costs of the facilities.

(e) All expenses necessary for the enforcement of the Sublease by Lessee or Trustee.

Provided that to the extent that on said date of occupancy there are moneys in the Rental Revenue Fund representing a transfer of surplus construction funds under said Indenture, said moneys may be considered as satisfying the applicable obligations imposed by the foregoing terms of this section.

(f) Without limiting Operator's obligations to make the charges prescribed under the provisions of subsections (a) through (e), above, Operator further covenants that such rates, rents

7/28/65

1068

and charges to be prescribed, revised and collected by it shall be at least equal to 125% of the amounts required under subsection (a). A failure on the part of Operator to prescribe, revise and collect rates, rents and charges sufficient to equal 125% of the amounts required under subsection (a) shall not constitute a default under this sublease.

#### Section 9. Rent

Operator shall pay the following rents commencing with the date of occupancy:

(a) The rent which Operator shall pay the Lessee (except for the first year) shall be a sum sufficient to pay the items specified in Section 8(a), (b) and (c) above; provided, however, the rent to be paid Operator for the first year shall be one-half of the net income for said year. ("Net income" in the foregoing sentence shall mean the gross income less necessary and reasonable maintenance and operation costs including without limitation reasonable salaries and reasonable advertising costs and rent to the City under Section 9(b) hereof.)

(b) The rent which Operator shall pay to City as required by Article III, subsection 2 of the Ground Lease, and which shall be paid at the office of the Treasurer of The City of San Diego for that portion of the leased premises utilized as and for a parking lot, as monthly rent shall be a sum computed as follows:

(1) During the first twenty-five (25) year period of this Sublease, commencing on the commencement date of the term of this Sublease as herein set forth, the sum of Sixty-Five Dollars (\$65.00) per month per acre times the total acreage utilized for a parking lot (hereinafter sometimes called "minimum rental") or fifty per cent (50%) of the gross income derived from the operation of the parking lot, whichever of the aforementioned two sums is the greater, payable monthly in arrears.

(2) From the twenty-sixth (26th) year through the thirty-fifth (35th) year, the basic monthly rent for the parking area shall be redetermined in the manner provided in subsection (b)(5) hereof, and the rent shall be that sum as redetermined or fifty per cent (50%) of the gross income derived from the operation of the parking lot, whichever amount is greater, payable monthly in arrears.

(3) From the thirty-sixth (36th) year through the fiftieth (50th) year, the basic monthly rent shall be again redetermined in the manner provided in subsection (b)(5) hereof, and the rent shall be that sum as redetermined or fifty per cent (50%) of the gross income derived from the operation of the parking lot, whichever amount is greater, payable monthly in arrears.

(4) Gross income as used in this Sublease to determine rent payable to City shall include all income resulting from automobile parking operations. Gross income, however, shall not include federal, state or municipal taxes collected from the consumer as such taxes (regardless of whether the amount thereof is stated to the consumer as a separate charge) and paid over periodically by Operator 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 requested to be maintained. Whenever the rent hereunder is dependent on percentage calculation of gross income accruing from Operator, Operator shall keep or cause to be kept true, accurate and complete records from which City and Lessee can at all times determine the nature and amounts of income subject to rental percentage from the operation of the Project. Operator shall issue serially numbered tickets or other mutually acceptable accounting system for each paid parking charge and shall keep adequate records of said serial numbers issued and of those unused. Not later than the fifteenth (15th) day of each month, Operator shall render to City and Lessee a detailed statement as to the source of the receipt 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 and Lessee shall, through its duly authorized agents or

7/28/65

1089

representatives, have the right to at any and all reasonable times examine and audit said records for the purpose of redetermining the accuracy thereof.

(5) The method that shall be utilized to redetermine the rent due the City at the end of the twenty-fifth (25th) and thirty-fifth (35th) years shall be as follows:

Each party hereto shall select a real property appraiser, and the two appraisers shall then select a third appraiser. City and Lessee shall constitute one party and Operator the other party. If City and Lessee are unable to agree upon an appraiser the selection of the City shall be controlling. All appraisers shall be qualified independent fee appraisers who have been awarded the professional designation "M.A.I.," or its equivalent, if the M.A.I. designation is no longer in existence. The appraisers shall make one appraisal of the fair market value of the land as vacant land within an "M-1" zone classification, taking into account the utilization thereof as of the time of the appraisal. The yearly rent for the acreage utilized for parking lot purposes shall be one and two-tenths per cent (1.2%) per annum of the fair market value as determined by the single appraisal of the three independent fee appraisers. The cost of the appraisal shall be shared equally between the parties hereto.

City, acting through its City Manager, and Operator may, as an alternative to the foregoing, mutually agree on the fair market value of the land as aforesaid so as to avoid the necessity of incurring the expense of said appraisal, but in the absence of their voluntary agreement, the provisions of the first paragraph of this article shall be applicable.

(c) It is recognized that Lessee has made the Ground Lease and this Sublease on the assumption that no taxes will be payable by Lessee. City agrees that in the event any ad valorem tax is levied upon the Lessee's interest (possessory or otherwise) in either the Site or facilities, the Operator shall deduct the amount of said tax from the amount due City under subsection (b) hereof in excess of the minimum rental; provided that, if said tax exceeds the amount due City under said subsection (b), in excess of the minimum rental, Operator shall pay said excess.

If requested by Operator, City and Lessee will cooperate in any lawful means of resisting or contesting such taxes which Operator is agreeing to pay hereunder or of recovering the same after payment thereof by Operator.

(d) In the event that Operator shall not have sufficient income, after providing for reasonable expenses of operation and maintenance, from which to pay as rent to Lessee an amount equal to the interest on and/or the sinking fund payment for the Bonds, as required by the terms of the Indenture, Operator shall deduct such amount from the amount due the City under subsection (b) hereof in excess of the minimum rental.

(e) In case of failure by Operator to make payment of the rent, in excess of the minimum rental, due under subsection (b) hereof the payment of which has been excused pursuant to subsection (c) or (d), Operator shall, provided that this Sublease has not been terminated, reimburse the City for such amount prior to the distribution of any dividends, bonuses, profits or assets or the making of any other similar payments, either directly or indirectly, to the officers, directors or shareholders of Operator or others.

In no event shall the City receive less than the minimum rental provided for in subsection (b) hereof, and the failure of Operator to pay the minimum rental shall constitute a default by Operator.

**Section 10. Insurance Risks.** Operator shall not use, or permit the Project, or any part thereof, to be used, for any purpose or purposes other than the purpose or purposes for which the said Project is hereby leased. Unless included within the said purposes or necessarily incident thereto, no use shall be made or permitted to be made of the Project, nor acts done, which will increase the existing rate of insurance upon the facilities, or cause a cancellation of any insurance policy covering said facilities, 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 facilities. Commencing upon the

7/28/65

1070

date of occupancy of the Project by Operator, Operator shall, at his sole cost and expense comply with any and all requirements, pertaining to facilities, of any insurance organization or company, necessary for the maintenance of reasonable fire and public liability insurance, covering said buildings and appurtenances, and shall cause and perform the obligations of Lessee imposed by Article VII of the Ground Lease.

**Section 11. Assignment**

Operator shall not assign this Sublease without written consent of City and Lessee.

**Section 12. Notices, City Approval**

Any notice required to be given shall be served in the following manner: Upon City by serving the City Clerk of the City personally or by registered mail addressed to the City Clerk of the City, City Hall, San Diego, California, or such other place as may hereafter be designated in writing by City, and upon Operator by serving the Secretary thereof (or such other officer as Operator may direct) personally or by registered mail addressed to said Secretary (or other officer) at such place as Operator shall hereafter designate in writing.

Wherever in this Sublease the approval of City is required for any proposed sublease, contract or schedule provided for in or required by Section 7 hereof or for any other proposed document under this Sublease Lessee shall file the aforesaid with the City Council with notice of the action proposed to be taken in connection therewith, and unless said City Council disapproves the aforesaid within thirty days of the filing thereof the same shall be deemed approved; provided, however, that said Council may approve a shorter time within which to so disapprove.

**Section 13. Operating Memoranda**

It is recognized that the Project, including, without limitation, all buildings and structures constituting a part thereof, will be new and that a close degree of cooperation will be required so that management, operation, maintenance and repair can be well conducted. It is further realized that experience will demonstrate changes that will be required in the methods of management, operation, maintenance and repair and that a certain degree of flexibility will be required; and it is to preserve such flexibility that certain items have been covered in this Sublease in general terms only with the understanding that details were to be set forth in "operating memoranda" or have been referred to in this Sublease as being set forth in an "operating memorandum". Each operating memorandum which relates to matter of control in Section 7 hereof shall be approved by City and shall be attached hereto as an addendum and become a part hereof and may be changed and amended from time to time as necessary with further approval by the City. Any other Operating memorandum may be entered into by the Lessee (or the Trustee in place of the Lessee if applicable) and Operator without the consent of City.

**Section 14. Remedies of Lessee.** In the event (a) that Operator shall default in the performance or fulfillment of any covenant or conditions herein contained on its part to be performed or fulfilled and shall fail to cure such default within twenty-five (25) days following the service on it of a written notice from Lessee specifying the default or defaults complained of and the date on which its rights hereunder will be terminated as hereinafter provided if such default or defaults is or are not cured, or (b) that Operator shall file a voluntary petition in bankruptcy, or (c) that Operator shall be adjudicated a bankrupt, or (d) that Operator shall make a general assignment for the benefit of creditors, then and in either or any of said events, Lessee may, at its option, without further notice or demand upon Operator or upon any person or persons claiming by, through or under Operator, immediately cancel and terminate this Sublease and terminate each, every and all of the rights of Operator and of any and all persons claiming by, through or under Operator in or to the Project and in or to the further possession thereof, and may thereupon enter into and upon the Project and repossess the same and expel Operator and any and all persons claiming by, through or under Operator. The rights and remedies of Lessee as hereinabove set forth are cumulative only and shall in no wise be deemed to limit any of the other provisions of this Sublease or otherwise to deny to Lessee any right or remedy at law or in equity which Lessee may have or assert against Operator under any law in effect at the date hereof or which may

7/28/65

1071

hereafter be enacted or become effective, it being the intent hereof that the rights and remedies of Lessee, as hereinabove set forth, shall supplement or be in addition to or in aid of the other provisions of this Sublease and of any right or remedy at law or in equity which Lessee may have against said Operator.

Section 15. Miscellaneous

The paragraph headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this Sublease.

If any section, subsection, sentence, clause or phrase of this Sublease, or the application thereof, to either party, or any other person or circumstance is for any reason held invalid, it shall be deemed severable and the validity of the remainder of the Sublease or the application of such provision to the other party, or to any person or circumstance shall not be affected thereby.

To the extent not otherwise provided in the Ground Lease or the Operating Sublease Operator shall be subject to all of the provisions in connection with operation of the Project contained in the Ground Lease.

IN WITNESS WHEREOF, Lessee has caused this Sublease to be executed by its officers and Operator has caused this Sublease to be executed by its officers as below set forth.

Dated 10 day of Aug 1965

SAN DIEGO ARENA LEASE COMPANY

By \_\_\_\_\_

(Seal)

By \_\_\_\_\_

By \_\_\_\_\_

(Seal)

By \_\_\_\_\_

APPROVED:

CITY OF SAN DIEGO

By \_\_\_\_\_

Mayor  
ASSISTANT TO THE CITY MANAGER

ATTEST:

By \_\_\_\_\_

City Clerk

Date of execution

..... day of ..... 19.....

Approved as to form and legality

\_\_\_\_\_  
City Attorney

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AUG 10 1965

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For Information  
only

ORIGINAL

ASSIGNMENT AGREEMENT

This Assignment Agreement is entered into between ROBERT BREITBARD, an individual (Breitbard), and SAN DIEGO ARENA LEASE COMPANY, a California nonprofit corporation (Arena Lease Company), on July 14, 1965, at San Diego, California.

1. Facts. Breitbard presently holds an Agreement Reviving Option Agreement between himself and the City of San Diego, California, dated March 11, 1965, which, together with the associated Option Agreement between Breitbard and the City of San Diego, California, dated July 23, 1963, gives Breitbard the right to lease certain real property owned by the City of San Diego, subject to certain conditions. Subsequent to the execution of these agreements it has been determined that it would be beneficial to the City of San Diego to have the sports arena constructed and owned by a nonprofit corporation whose assets are, after payment of the costs of construction of the sports arena, and other associated charges, dedicated to the City of San Diego.

2. Assignment. Breitbard hereby assigns all his right, title and interest, under the provisions of paragraph 2 of the Option Agreement, in and to his option to lease the real property described on Exhibit A to this Assignment Agreement. That portion of the option to lease real property assigned under the provisions of this Assignment Agreement covers approximately 38 acres and is located substantially as shown in blue on Exhibit B attached to this Assignment Agreement. Breitbard agrees that all option payments subsequent to the date of this Assignment Agreement shall be made by him. Arena Lease Company shall have no liability therefor, nor shall any payments made or caused to be made by Arena Lease Company as rental for said 38 acres be credited toward option payments to be made by Breitbard, the provisions of Section 8 of the Option Agreement to the contrary notwithstanding.

3. Reservations. Breitbard expressly reserves all rights under the option not specifically granted to Arena Lease Company by this Assignment Agreement, expressly including all rights to lease the area outlined in red on Exhibit B.

4. Binding Effect of Assignment. This Assignment Agreement shall be binding on the heirs, successors and assigns of the parties.

SAN DIEGO ARENA LEASE COMPANY

By: A. A. Hansen

Robert Breitbard  
ROBERT BREITBARD

CONSENT TO ASSIGNMENT

The City of San Diego hereby consents to the foregoing assignment ~~of the site for the sports arena.~~ 187

THE CITY OF SAN DIEGO

By: [Signature]

Assistant to the City Manager

I hereby approve the form and legality of the foregoing assignment and Consent to Assignment this 10<sup>th</sup> day of Aug, 1965.

Edward T. Butler  
EDWARD T. BUTLER, City Attorney  
by ROBERT S. TEAZE

Form of

DUPLICATE ORIGINAL

AGREEMENT REVIVING OPTION AGREEMENT

THIS AGREEMENT is made and effective as of this \_\_\_\_\_ day of March, 1965, by and between THE CITY OF SAN DIEGO, a municipal corporation, hereinafter called "City," and ROBERT BREITBARD, an individual, hereinafter called "Optionee."

R E C I T A L S

1. City and Optionee heretofore on July 23, 1963, entered into an Option Agreement, which said Option Agreement is on file in the office of the City Clerk as Document No. 658695 and heretofore on July 21, 1964, the dates in said Option Agreement were extended by an Extension of Option Agreement, which Extension of Option Agreement is on file in the office of the City Clerk as Document No. 673967. Said agreements have now lapsed.

2. City and Optionee desire, for their mutual benefit, to enter into a new option agreement under similar terms and conditions as the former upon a new and further consideration.

A G R E E M E N T

1. The terms, covenants and conditions of said Option Agreement are incorporated herein by this reference and made a part hereof, except as hereinafter provided.

2. Recitals 1, 2 and 3 of said Option Agreement at page 1 are deleted in their entirety and the following single recital is substituted in place thereof:

"City owns that real property in "Exhibit B" totaling 55.55 acres, more or less, "Exhibit C" totaling 17.4 acres, more or less, and "Exhibit D" totaling 7.12 acres, more or less, which said exhibits are attached hereto and by this reference made a part hereof. Said three (3) described parcels of property are outlined in red, blue and green respectively on "Exhibit A," which is attached hereto and by this reference made a part hereof."

3. All other relevant dates set forth in the Option Agreement, with the exception of those specifically described in this paragraph, shall be amended by substituting in place therefor, a date which would reflect the addition of twelve (12) calendar months. The period of time during which Optionee shall be able to exercise this option, as provided in paragraph 2 of the Option Agreement shall be extended to July 15, 1965. The construction completion date for the sports arena and the alternative commencement date for the beginning of the lease, as set forth in Article II, Term, of "Exhibit E" to the Option Agreement, shall be March 1, 1967.

4. Subparagraph A and B of Paragraph 8 at page 4 and 5 are deleted in their entirety and the following single subparagraph is substituted in place thereof:

"Concurrently with the execution by City of this Agreement Reviving Option Agreement, Optionee shall pay to City the sum of Twenty-Six Thousand Dollars (\$26,000.00) for the period from July 15, 1964 to March 14, 1965 and for each succeeding month until the exercise of the option herein granted, Optionee shall pay to City the sum of Three Thousand Two Hundred Fifty Dollars (\$3,250.00) for each additional month for a total consideration of Thirty-Nine Thousand Dollars (\$39,000.00) for the option herein granted.

5. Paragraph 9 of said Option Agreement at page 6 is deleted in its entirety and the following is substituted in place thereof:

"That property described in "Exhibit D" was acquired by the City pursuant to that Contract of Sale a form of which is on file in the office of the City Clerk as Document No. 673506. Except for that building being presently used as the Instructional Aids Distribution Center under said Contract of Sale, City shall be required to deliver to Optionee, upon exercise of the option granted

herein insofar as said property is affected, the real property outlined in green on "Exhibit A" and described in "Exhibit D" physically cleared of all buildings which may be located thereon as of the date of this agreement, to the end that at the time the option shall be exercised as to said property, no removal of buildings by Optionee shall be required. Said building being presently used as the Instructional Aid Distribution Center shall be razed by City and the land cleared thereof no later than July 30, 1965 in the event the option herein granted shall be exercised in the manner herein before provided. In every other respect Optionee shall accept all property herein described as is."

6. The first sentence of Article VI, Lease Encumbrance, of "Exhibit E" to the Option Agreement is deleted in its entirety and the following sentence is substituted in place thereof:

"City does hereby consent and agree that Lessee may encumber this Lease, leasehold estate, and the improvements thereon, by deed of trust, mortgage, bond of non-profit organization, or other security-type instrument to assure the payment of a promissory note or notes in accordance with the financial plan approved in writing by the City Manager, upon the following express conditions:

- (1) That the net proceeds of such loan or loans received by Lessee be devoted exclusively to direct costs of labor, materials, engineering and architect's fees for developing the leased premises and for the primary purpose of constructing the facilities in accordance with Article XXIII of this Agreement and/or the permanent financing thereof; and (2) that the beneficiary, mortgagee, or other obligee under any such deed of trust, mortgage,

bond of nonprofit organization, or other security-type instrument shall first be approved in writing by the City Manager."

IN WITNESS WHEREOF, this Agreement Reviving Option Agreement is executed by The City of San Diego, acting by and through the City Manager of said City, under and pursuant to Resolution No. 183077 authorizing such execution, and by Optionee, the day and year hereinabove written.

THE CITY OF SAN DIEGO

By \_\_\_\_\_  
City Manager

Robert Breitbard  
Robert Breitbard

I HEREBY APPROVE the form and legality of the foregoing Agreement Reviving Option Agreement, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

EDWARD T. BUTLER, City Attorney

By \_\_\_\_\_  
Robert S. Teaze, Chief Deputy

ORIGINAL  
OPTION AGREEMENT

THIS OPTION AGREEMENT is executed on July 23, 1963, by and between THE CITY OF SAN DIEGO, a municipal corporation, hereinafter called "City," and ROBERT BREITBARD, an individual, hereinafter called "Optionee."

RECITALS

1. City now owns the real property described on Exhibit "B," attached hereto and by this reference made a part hereof (totaling 62.67 acres, more or less), which said real property is outlined in red on Exhibit "A" attached hereto and by this reference made a part hereof.

2. City now also owns the real property described on Exhibit "C," attached hereto and by this reference made a part hereof (totaling 17.4 acres, more or less), which said real property is outlined in blue on Exhibit "A." The lease by City of said real property is subject to certain conditions contained in that deed of the United States to City recorded on June 7, 1956, in Book 6131, Page 129, Official Records, in the office of the Recorder of San Diego County.

3. City anticipates that it shall within the foreseeable future own the real property described on Exhibit "D," attached hereto and by this reference made a part hereof (totaling 7.12 acres, more or less), which said real property is outlined in green on Exhibit "A."

4. Optionee desires to lease at least forty-five (45) acres of the real property outlined on Exhibit "A" for the purpose of constructing, operating and maintaining on not more than five (5) acres thereof an indoor sports arena with seating capacity for not less than ten thousand (10,000) persons, together with a parking area of not less than forty (40) acres reasonably adjacent thereto.

5. Optionee also desires to enter into or obtain one or

more leases for the development of the remaining property outlined on Exhibit "A" and described on Exhibits "B," "C" and "D" in a manner complementing the adjoining Mission Bay aquatic park and bolstering the economic base of the San Diego community.

AGREEMENT

The parties hereto agree as follows:

1. City, for the consideration set forth in Paragraph 8A, and in consideration of Optionee's execution of this option agreement, and for valuable consideration, hereby grants to Optionee or his assignees, the option to lease in accordance with terms and conditions hereinafter set forth the real property described on Exhibit "B" and on Exhibit "C," <sup>and on Exhibit "D"</sup> respectively. *ms*

2. City hereby grants to Optionee the option, exercisable on or before June 15, 1964, to lease not more than five (5) acres of the real property outlined on Exhibit "A" for the purpose of constructing thereon an indoor sports arena seating not less than ten thousand (10,000) persons, together with forty (40) acres or more to be used for parking facilities in connection therewith. Said lease shall be in form and substance as set forth on Exhibit "E" attached hereto and by this reference made a part hereof. As a condition precedent to the exercise of the option set forth in this numbered paragraph, Optionee shall submit to the City Manager, on or before June 15, 1964, a development plan and financial plan satisfactory to the City Manager. The development plan shall indicate the area and location of the sports arena and the adjoining forty (40) acre parking lot. The financial plan shall set forth Optionee's method of financing the proposed development, the amount of equity capital to be invested, and the amount of borrowed capital to be acquired and the sources of said borrowed capital. Said financial statement shall further show the estimated amount of investment, improvements and furnishings, a schedule of such expenditures, and the

amount of capital available for operating on the commencement of operations on the leased premises. The development plan and financial plan shall be submitted for the reasonable approval of the City Manager, and upon his approval thereof, this condition precedent shall be satisfied and forthwith thereafter the exercise of option be completed, and the parties shall execute a lease agreement as set forth herein within fifteen (15) business days thereafter.

3. As to the remainder of the property with which this option is concerned, Optionee is granted the option to lease any portion or portions of the real property therein described, as he may elect from time to time, during the term of this option agreement; provided that Optionee must have exercised the option set forth in Paragraph 2 either prior to or concurrently with the exercise of the option set forth in this numbered paragraph.

4. The term of the option set forth in Paragraph 3 hereof shall be five (5) years from the date hereof; provided, however, that in the event the parties hereto shall not execute a lease in form and substance as set forth on Exhibit "E" in accordance with the provisions of Paragraph 2 hereof, then the option set forth in Paragraph 3 shall be of no further force or effect.

5. Optionee or his assignees shall exercise the option under Paragraph 3 from time to time in the following manner: He shall deliver to the City Manager, attention: Property Supervisor, Property Division, San Diego 1, California, a document in form as set forth on Exhibit "F" attached hereto and by this reference made a part hereof, together with a legal description and a plat of the real property as to which said option shall be exercised, and the parties shall, within fifteen (15) business days after City's receipt of said exercise

of option, execute a lease substantially in the form of lease set forth on Exhibit "G" attached hereto and by this reference made a part hereof. Said leases executed by the parties by reason of the exercise of this option as to any portion of the real property described on Exhibits "B" and/or "C" and/or "D" shall be modified from the form set forth on Exhibit "G" only to the extent necessary or required in order to fulfill the particular requirements of the lease in question, and to permit the reappraisal of the real property covered thereby to be made at the same time as the reappraisals required by Article III of the lease agreement to be executed between the parties hereto and concerning the real property upon which the indoor sports arena and parking facilities are to be constructed.

6. On the fifth anniversary date of the execution of this option agreement, Optionee shall be deemed to have exercised the option as to all of the remaining real property with which this option agreement is concerned and as to which he has not heretofore exercised his option. The parties shall, within fifteen (15) business days after said date, execute a lease agreement or lease agreements (describing such remaining property in as many parcels as Optionee shall select) in form substantially in compliance with the provisions set forth on Exhibit "G" concerning all of the real property described on Exhibits "B," "C" and "D" as to which the option agreement has not theretofore been exercised.

7. All of the real property described on Exhibits "B," "C" and "D" as to which this option is concerned shall be considered as one lot, and no subdivision map shall be required to be filed on any portion or portions of said real property.

8. Optionee shall, during the term of this option agreement, pay the following sums to City:

A. Concurrently with the execution of this option

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agreement, Optionee shall pay to City the sum of Ten Thousand Dollars (\$10,000.00). In the event Optionee shall comply with the terms and conditions hereof so as to require City to execute a lease agreement in form and substance as set forth on Exhibit "E" attached hereto and by this reference made a part hereof, and in the further event that Optionee shall complete the indoor sports arena and parking facilities required thereby not later than January 1, 1966, then said Ten Thousand Dollars (\$10,000.00) shall be applied toward the first rental payments required to be paid by Optionee to City pursuant to the lease agreement to be executed by the parties hereto as set forth on Exhibit "E." In the event Optionee shall not comply with said terms and conditions, then City shall retain said Ten Thousand Dollars (\$10,000.00) as consideration for its execution of this option agreement, and all other rights and duties of the parties arising herefrom, or otherwise, shall immediately terminate and this agreement shall be of no further force or effect.

B. For the period of July 15, 1963, to July 14, 1964, Optionee shall not be required to make additional payments other than that specified in subparagraph A above.

C. During the period July 15, 1964, to July 14, 1965, Optionee shall be required to pay to City on the fifteenth (15th) day of each calendar month, commencing July 15, 1964, the sum of Three Thousand Two Hundred Fifty Dollars (\$3,250.00) per month.

D. During the period July 15, 1965, to July 14, 1966, Optionee shall be required to pay to City on the fifteenth (15th) day of each calendar month, commencing July 15, 1965, the sum of Six Thousand Five Hundred Dollars (\$6,500.00) per month.

E. During the period July 15, 1966, to July 14, 1967, Optionee shall be required to pay to City on the fifteenth (15th) day of each calendar month, commencing July 15, 1966, the sum

of Nine Thousand Seven Hundred Fifty Dollars (\$9,750.00) per month.

F. During the period July 15, 1967, to the expiration of the term of this option agreement, Optionee shall be required to pay to City on the fifteenth (15th) day of each calendar month, commencing July 15, 1967, the sum of Thirteen Thousand Dollars (\$13,000.00) per month.

It is anticipated by the parties hereto that Optionee shall, during the period of this option, and from time to time, exercise this option as to one or more portions of the real property described on Exhibits "B" and "C," <sup>and ("D")</sup> other than that to be utilized for the indoor sports arena and parking facilities hereinabove referred to, and Optionee shall be entitled to receive full credit for all rental payments actually made during the annual periods of time for which option payments are required, as set forth in subparagraphs C through F above, pursuant to leases executed between City as lessor, and Optionee or his assignees, as lessees, to the end that all rental payments made pursuant to and under such leases shall also be applied toward the monthly option payments required by the terms of this numbered paragraph.

9. In the event City shall be unable, for reasons beyond its control, to lease to Optionee all of the real property outlined in green on Exhibit "A" by June 15, 1964, then this option agreement is and shall be terminated, at the option of Optionee, and Optionee shall be entitled to the return of the Ten Thousand Dollars (\$10,000.00) deposited with City pursuant to Paragraph 8 above. In the event City is unable to lease to Optionee the real property outlined in blue on Exhibit "A," then City shall be required to utilize its best efforts to furnish additional parking facilities for the benefit of the indoor sports arena to be constructed by Optionee

in accordance with the provisions of Paragraph 2, and the lease agreement attached hereto as Exhibit "E," to the end that at least forty (40) acres of parking facilities shall be available for the use of the general public in attending events at the indoor sports arena. City shall be required to deliver to Optionee, upon the exercise of the option granted herein insofar as said property is affected, the real property outlined in green on Exhibit "A" physically cleared of all buildings which may be located thereon as of the date of this agreement, to the end that at the time the option shall be exercised as to said property, no removal of buildings by Optionee shall be required. In every other respect Optionee shall accept all property as is.

10. The parties acknowledge that the real property outlined in blue on Exhibit "A" attached hereto may not be leased except with the approval of the Secretary of the Interior of the United States of America. City covenants to undertake with diligence and all due speed to obtain said approval.

11. Optionee contemplates the formation of a corporation and the assignment of the rights granted herein to said corporation. Consent to such assignment shall be given by City, provided the City Manager shall have first approved in writing those persons to whom the stock of said corporation shall be issued. Upon the assuming by said corporation of all the obligations of Optionee pursuant to this option agreement, Optionee shall be relieved of personal liability arising from this option agreement. No other assignment of the rights accruing to Optionee hereunder shall be permissible without the prior written consent of City.

IN WITNESS WHEREOF, City has executed the foregoing option agreement acting by and through the City Manager of said City, under and pursuant to Resolution No. 76,616 authorizing

such execution; and Optionee has executed the option agreement,  
the day and year first hereinabove written.

THE CITY OF SAN DIEGO

By *Wm F. Litch*  
City Manager

*Robert Brettbard*  
ROBERT BRETTBARD, Optionee

I HEREBY APPROVE the form and legality of the foregoing  
Option Agreement, this 19<sup>th</sup> day of July, 1963.

ALAN M. FIRESTONE, City Attorney

By *Robert Stearns*  
Chief Deputy City Attorney

RST:rjt  
7/16/63

176616

JUL 23 1963

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EXHIBIT B

Those portions of Pueblo Lots 241, 242, 243, 259, 276, 311, 312, 313, 314, 337, 338, 339 and that portion of the Cass & McElwee Subdivision according to Map thereof No. 1581 as conveyed to the City of San Diego by deed recorded January 31, 1955 in Book 5514, page 182 of Official Records. EXCEPTING THEREFROM, all that portion lying Southerly of the Northerly line of Frontier Street. ALSO EXCEPTING THEREFROM, all those portions of Pueblo Lots 242, 359, 311, 312 and that portion of said Cass & McElwee Subdivision as conveyed by deeds to the San Diego Unified School District and recorded in Book 3987, page 327, on February 23, 1951; Book 4732, page 41, on January 29, 1953; and in Book 5279, page 259 on June 23, 1954, all in Official Records.

R.R.

EXHIBIT C

All those portions of Pueblo Lots 243 and 259 as conveyed to the City of San Diego by the United States of America by deed recorded on June 7, 1956, in Book 6131, page 129, of Official Records.

Excepting therefrom that portion thereof lying northerly of a line drawn between the Southwesterly corner of Pueblo Lot 259 and a point on the Southeasterly line of Pueblo Lot 259 which is a common corner to Pueblo Lots 275 and 276.

R.R.

EXHIBIT D

All those portions of Pueblo Lots 242, 359, 311, 312 and that portion of Cass and McElwae Subdivision according to Map thereof No. 158, as conveyed to the San Diego Unified School District by deeds recorded in Book 3987, page 327, on February 23, 1951; Book 4732, page 41, On January 29, 1953; and in Book 5279, page 259, on June 23, 1954, all in Official Records.

R.B.

RESOLUTION No. 176616

ADOPTED ON JUL 23 1963

BE IT RESOLVED by the Council of The City of San Diego as follows:

That the City Manager be, and he is hereby authorized and empowered to execute, for and on behalf of said City, an option agreement with Robert Breitbard to lease from The City of San Diego, for a term of 50 years, approximately 87 acres of property in the Frontier-Midway area, for the purpose of constructing thereon an indoor sports arena with seating capacity for at least 10,000 persons, together with an adjacent parking area of not less than 40 acres, and for other complementing uses, under the terms and conditions set forth in the form of Option Agreement on file in the office of the City Clerk as Document No. 658492.

Presented by \_\_\_\_\_

APPROVED: ALAN M. FIRESTONE, City Attorney

By \_\_\_\_\_  
Chief Deputy City Attorney

RST:rjt  
7/15/63

Passed and adopted by the Council of The City of San Diego on  
July 23, 1963, by the following vote:

AYES --- Councilmen: Cobb, De Kirby, Scheide, Hitch, Curran,  
Aronson, Marco Dill.  
NAYS --- Councilmen: None.  
Absent --- Councilmen: None.

X

AUTHENTICATED BY:

CHARLES C. DALL,  
Mayor of The City of San Diego, California.

PHILLIP ACKER,  
City Clerk of The City of San Diego, California.

SEAL By DONNA K. DILL Deputy.

HEREBY CERTIFY that the above and foregoing is a full, true  
and correct copy of RESOLUTION NO: 176616 passed and adopted  
by the Council of The City of San Diego, California, July 23, 1963.

PHILLIP ACKER,  
City Clerk of The City of San Diego, California.

SEAL By Donna K. Dill Deputy.

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