

COPY

SECOND AMENDMENT TO LEASE AGREEMENT

This Second Amendment to Lease Agreement is executed by and between THE CITY OF SAN DIEGO ("CITY") and the HOUSE OF HOSPITALITY ASSOCIATION, INC. ("LESSEE").

WHEREAS, the parties entered into that certain lease agreement dated September 8, 1997, and filed as Document RR-289141 in the Office of the City Clerk, as amended by First Amendment to Lease Agreement dated January 20, 1998, and filed as Document RR-289653 in the Office of the City Clerk.

WHEREAS, the House of Hospitality building opened on September 13, 1997, but the restaurant has not opened.

WHEREAS, LESSEE manages and operates the building providing a valuable service to CITY and its citizens.

WHEREAS, LESSEE relies upon rental payments from the restaurant sublessee to fund the management and operation of the building.

WHEREAS, the restaurant sublessee has ceased paying rent to LESSEE.

NOW, THEREFORE, CITY and LESSEE hereby agree:

1. The following paragraphs are added to Section 3.8, Reserve Account:

- a. Notwithstanding the foregoing, commencing on the effective date of this Second Amendment, CITY agrees to advance operating expenses to LESSEE in the sum of \$11,667 per month for building management services until such time as a new restaurant sublessee is selected and begins paying rent or the rent is brought current by the existing sublessee.
- b. CITY agrees to allow LESSEE to defer payment of all rent due from LESSEE to CITY under Section 3.2, Rent, hereof until such time as rental payments from the restaurant sublessee resume.
- c. The total amount of operating expenses advanced shall not exceed \$100,000.
- d. LESSEE shall repay all such advances and deferred rent to CITY in the following manner:
 - (1) If a new restaurant sublessee is selected, LESSEE will obtain advance payments from said new sublessee to repay CITY to the extent possible in negotiating the sublease.

DOCUMENT NO. 289973

FILED APR 20 1998
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

COPY

- (2) the existing sublessee brings the current, said rental payments will be used to repay CITY for the amount advanced.
- (3) If any repayments to CITY pursuant to Subsections d.(1) or d.(2) hereof do not fully cover the total amount advanced, commencing with the first month rent is received from the restaurant sublessee, LESSEE will pay CITY additional rent (in addition to all other rental amounts specified in Section 3.2, Rent, hereof) equal to any and all revenues received by LESSEE in excess of that amount needed to cover LESSEE'S operating expenses, until the total amount advanced is fully repaid to CITY.
- (4) If upon the fifth anniversary of the resumption of rent from the restaurant sublessee, the total amount advanced has not been repaid to CITY, LESSEE will make a balloon payment to CITY equal to the outstanding balance on said fifth anniversary.
2. Nothing contained herein is intended to alter or amend any other covenant or condition of said lease agreement.
3. This amendment shall be effective upon the date of execution hereof by CITY and LESSEE.

THE CITY OF SAN DIEGO

Date 4/27/98

By R. J. Collins
Real Estate Assets Department
Manager

LESSEE: HOUSE OF HOSPITALITY
ASSOCIATION, INC., a California
nonprofit corporation

Date 4/10/98

By Roger L. Conlee
Roger L. Conlee, President

Approved as to form and legality:

CASEY GWINN, City Attorney

Date 4/28/98

By Casey Gwin
Deputy City Attorney

PTC:csn-j

I:\WPO\1998\CRAWFORD\ISA-TO-LA.

R. 289973

P. Crawford
(R-98-1072) 517

RESOLUTION NUMBER R- 289973

ADOPTED ON APR 20 1998

BE IT RESOLVED, by the Council of The City of San Diego, that the House of Hospitality Association is hereby authorized to identify a potential new restaurant sublessee, with assistance from City staff, and to return with a sublease agreement for City Council approval.

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to execute a second amendment to lease agreement with the House of Hospitality Association, a copy of which is on file in the office of the City Clerk as Document No. RR- 289973, in order to provide an advance of operating expenses not to exceed \$100,000 for building management services until a new restaurant sublessee can be selected or the rent is brought current by the existing sublessee.

BE IT FURTHER RESOLVED, that the City Auditor is hereby authorized to expend an amount not to exceed \$100,000 from Balboa Park/Mission Bay Park Fund No. 102240 for the purpose of providing an advance of operating expenses for the House of Hospitality.

APPROVED: CASEY GWINN, City Attorney

By


William T. Griffith
Deputy City Attorney

WTG:cdk
04/02/98
Job:220325
Or.Dept:REA
R-98-1072

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

AC 9801128
 ORIGINATING DEPT. NO.: 070

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount _____ Fund _____

Purpose _____

Date _____ By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE ☐

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed \$ 100,000.00

Vendor House of Hospitality

Purpose To authorize the expenditure of funds for an operating advance to the House of Hospitality.

Date 4/8/98 By: Rauenfink

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA

ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1	0	102240			9544					\$100,000.00
TOTAL AMOUNT										\$100,000.00

FUND OVERRIDE ☐

DUPLICATE

FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Lease Agreement is executed by and between THE CITY OF SAN DIEGO ("CITY") and the HOUSE OF HOSPITALITY ASSOCIATION, INC. ("LESSEE").

WHEREAS, the parties entered into that certain lease agreement dated September 8, 1997, and filed as Document RR-289141 in the Office of the City Clerk.

WHEREAS, the parties wish to amend said lease agreement to temporarily assign the Lumen Hospitality, LLC., sublease (City Clerk Document 00-18342) to the City.

NOW, THEREFORE, CITY and LESSEE hereby agree:

1. The last paragraph only of Section 4.2, Assignment and Subletting, is deleted in its entirety and the following paragraph is added:

CITY accepts from LESSEE the temporary assignment of the Lumen Hospitality, LLC., sublease (City Clerk Document 00-18342) so that CITY may enforce the terms of Lumen's lease to effect the timely opening of the restaurant. This assignment shall end upon the opening of the restaurant by Lumen Hospitality, LLC., at which time Lumen's lease will become a sublease of LESSEE, or upon termination of Lumen's lease, whichever event occurs first. During the period of the temporary assignment, LESSEE shall invoice Lumen Hospitality, LLC., for all rents due under Lumen's lease and retain such rents collected to help cover operation and maintenance of the premises. LESSEE shall also continue the day-to-day administration of Lumen's lease, and, upon reasonable request by CITY, cooperate with CITY in its enforcement of Lumen's lease.

2. Nothing contained herein is intended to alter or amend any other covenant or condition of said lease agreement.
3. This amendment shall be effective upon the date of execution hereof by CITY and LESSEE.

THE CITY OF SAN DIEGO

Date JAN 20 1998

By Robert J. Collins
Real Estate Assets Department
Manager

LESSEE: HOUSE OF HOSPITALITY
ASSOCIATION, INC., a California
nonprofit corporation

Date 1/14/98

By Roger Z. Corlee

Approved as to form and legality:

CASEY GWINN, City Attorney

Date 1/27/98

By [Signature]
Deputy City Attorney

PTC:vms-n

I:\WPO\1998\CRAWFORD\FA-TO-LA

DOCUMENT NO. RR-289653

FILED JAN 20 1998

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

DUPLICATE

RECEIVED

98 JAN 14 PM 2: 23

CITY CLERKS OFFICE
SAN DIEGO, CA

OFFICE OF THE CITY CLERK
CITY OF SAN DIEGO
JAN 14 1998
CITY CLERKS OFFICE

JAN 14 1998

RECEIVED

(R-98-731)

RESOLUTION NUMBER R- 289653

ADOPTED ON JAN 20 1998

WHEREAS, The City of San Diego entered into a 21-year lease with the House of Hospitality Association on October 1, 1997, which includes a sublease with Lumen Hospitality LLC for the Terrace on the Prado restaurant; and

WHEREAS, the House of Hospitality Association Board of Directors has requested the City to accept a temporary assignment of the Terrace on the Prado sublease so that the City may enforce the terms of the lease to expedite the timely opening of the restaurant; NOW, THEREFORE,

BE IT RESOLVED, that the City Manager be and is hereby authorized to execute a First Amendment to Lease, on file in the office of the City Clerk as Document No. RR- 289653, accepting the temporary assignment of Terrace on the Prado sublease, as more particularly described in the First Amendment to Lease.

APPROVED: CASEY GWINN, City Attorney

By



William T. Griffith
Deputy City Attorney

WTG:cdk
01/05/98
Job:220325
Or.Dept:REA
R-98-731

Passed and adopted by the Council of San Diego on

JAN 20 1998

by the following vote:

YEAS: Mathis, Wear, Kehoe, Stevens, Warden, Stallings, McCarty,
Vargas, Mayor Golding.

NAYS: _____

NOT PRESENT: _____

AUTHENTICATED BY:

SUSAN GOLDING
Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(Seal)

By: MARY A. CEPEDA, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of RESOLUTION NO. R- 289653,
passed and adopted by the Council of The City of San Diego,
California on **JAN 20 1998**.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(SEAL)

By: *Mary A. Cepeda*, Deputy