

CONSENT TO SUBLEASE AGREEMENT

The City of San Diego (CITY), as LESSOR under that certain Lease Agreement (Master Lease) with

Retirement Fund Trust of Plumbing, Heating & Piping Industry

Successor in Interest to High Fliers, Ltd., (LESSEE) and filed in the office of the City Clerk as Document 759240 on July 25, 1977, hereby consents to that certain Sublease Agreement between the above LESSEE and

Jason Peltier, dba: RANCH CATERING .

(SUBLESSEE). Said Sublease shall be subordinate to the Master Lease in all respects. The City is merely approving the SUBLESSEE and the proposed use, and all terms and conditions of the Master Lease shall control and supersede any inconsistent or contrary provisions of the Sublease. The City is not bound by any term or condition in the Sublease which in any way conflicts with or is additional to the provisions of the Master Lease.

This consent to Sublease is granted on the following conditions:

1. The Parties hereto acknowledge that the property is on dedicated Park Land, and may only be used for approved park purposes.
2. Accounting for all business transactions shall be in a form that is verifiable by the City Auditor, using cash registers that automatically total daily receipts, or sequentially numbered invoices.

(Signature page 2 follows)

SIGNATURES

THE CITY OF SAN DIEGO

Dated

June 6, 1995

By

Mary Ann [Signature]
Supervising Asset Manager

APPROVED AS TO FORM:

Dated

6/5/95

By

[Signature]
Deputy City Attorney

Address:

c/o General Manager
1842 Quivera Way
San Diego, Ca. 92109

RETIREMENT FUND TRUST OF
PLUMBING HEATING & PIPING
INDUSTRY OF SOUTHERN CALIFORNIA

Dated

6/19/95

By

[Signature]

RANCH CATERING

By

[Signature] 6/23/95

By

[Signature] 6/23/95

SUBLEASE AGREEMENT

This Sublease Agreement is entered into effective February 1, 1995, in San Diego, California, by and between THE RETIREMENT FUND TRUST OF THE PLUMBING-HEATING AND PIPING INDUSTRY OF SOUTHERN CALIFORNIA, hereinafter referred to as "Sublessor", and JASON PELTIER d. b.a. RANCH CATERING, hereinafter referred to as "Sublessee." Both Sublessor and Sublessee are sometimes collectively referred to hereinafter as the "Parties" and individually referred to hereinafter as a "Party."

RECITALS:

A. Sublessor is the successor in interest to all the right, title and interest of the lessee in and under that certain Lease Agreement dated February 16, 1977 by and between the City of San Diego, a municipal corporation ("City"), as Lessor, and High Fliers, Ltd., a California limited partnership, as Lessee, filed in the Office of the City Clerk as Document 759240 (the "Master Lease") and recorded July 25, 1977, at File No. 77-296337, Official Records of the County Recorder of the County of San Diego, State of California, covering premises more particularly described therein (the "Property"), a portion of which constitutes the "Premises" as defined in Section 1 below.

B. Sublessee desires to rent from Sublessor premises located at Marina Village for establishment of a catering kitchen to operate at Marina Village.

IN CONSIDERATION FOR THE MUTUAL PROMISES AND AGREEMENTS AMONG THE PARTIES set forth hereinbelow, and with reference to the Recitals set forth above, the Parties hereby agree as follows:

1. Sublease of Premises.

Sublessor hereby subleases to Sublessee and Sublessee hereby hires from Sublessor the premises located at Marina Village on Mission Bay, 1904 Quivira Way, San Diego, California, approximately 2,000 square feet of building space identified as the kitchen area of the Baja Room, excluding the dining areas and connecting courtyards, all as depicted in attached Exhibit "A" (herein referred to as the "Premises"). Sublessor shall obtain the written consent of the City (acting by and through its City Manager) to this Sublease required under Section (D) 21 of the Master Lease.

2. Term.

The term of this Sublease shall be for a period of three (3) years commencing February 1, 1995, and ending January 31, 1998. Sublessor and Sublessee retain the right to cancel this sublease upon ninety (90) days written notice. In the event that Sublessor cancels this agreement prior to Sublessee's recovery of authorized Sublessee improvement expenses, Sublessor will reimburse Sublessee the cost of subject expenses that exceed previous rent concessions provided by Sublessor.

3. Base Rent.

Sublessee hereby agrees to pay, without abatement, deduction or offset, Base Rent in the amount of two thousand dollars (\$2,000) per month due in advance on or before the tenth of each month, with the first months rent due and payable upon the execution of this sublease agreement.

Sublessor agrees to provide Sublessee rent concessions, in an amount not to exceed \$45,000, for authorized tenant improvements to the entry, dining and patio areas of the Baja Room, exclusive of the kitchen area which is subleased in an 'as is' condition. Tenant improvements are subject to written approval in accordance with paragraph 6 of this agreement. These improvements include, but are not necessarily limited to, renovations to the carpet, paint, bathrooms, seating and bar areas as well as improvements required to separate the kitchen sublease area from the dining areas. Sublessee agrees to complete these improvements within 90 days of execution of this sublease agreement. Sublessee hereby acknowledges that authorized tenant improvements become the property of the Sublessor.

4. Percentage Rent

In addition to Base Rent, Sublessee shall pay to Sublessor, as additional rent, Percentage Rent monthly for each lease month during the term of the sublease. Percentage Rent shall equal five percent (5%) of Sublessee's gross income, as defined by paragraph 3 of the Master Lease, exclusive of income which is contracted through the Marina Village Conference Center by separate agreement.

In addition to Base Rent and Percentage Rent, Sublessee shall pay to Sublessor any items of City Percentage Rent on gross income under Section (C) 2(a) through 2(1) of the Master Lease applicable to Sublessee's use of and operations of the Premises. Percentage Rent and City Percentage Rent will be paid in monthly installments within 15 days after the end of each calendar month of the term of the Sublease.

Upon Sublessee's receipt of written request from Sublessor to do so, Sublessee shall provide to Sublessor within a reasonable time summary financial data concerning Sublessee and its use of and operations of the Premises. Sublessee shall maintain acceptable accounting records of transactions in a form that is verifiable by the City auditor, using cash registers that automatically total daily receipts, or sequentially numbered invoices complying with all provisions of paragraph D(1) of the Master Lease, Exhibit 'B'. In the event that Sublessee is delinquent in paying rents as defined in paragraph C(4) of the Master Lease, Sublessee will pay subject penalties as defined by the Master Lease.

5. Security Deposit.

On execution of this Sublease, Sublessee shall deposit with Sublessor the sum of Two Thousand Dollars (\$2,000) as a security deposit for the performance by Sublessee of the provisions of this Sublease. If the Sublessee fails to occupy Premises then deposit and all payments to date will be forfeited. If Sublessee makes any improvements, alterations or additions to the Premises, then the amount of the security deposit may be increased in Sublessor's reasonable discretion based on the actual cost to restore the Premises to their original condition on the termination or expiration of the Sublease. If Sublessee is in default, Sublessor may use the security deposit, or any portion of it, to cure the default or to compensate Sublessor for all damage sustained by Sublessor resulting from Sublessee's default. Sublessee shall immediately on demand pay to Sublessor a sum equal to the portion of the security deposit expended or applied by Sublessor as provided in this Section 4 so as to maintain the security deposit in the sum initially deposited with Sublessor. If Sublessee is not in default at the termination or expiration of this Sublease, Sublessor shall return the security deposit to Sublessee. Sublessor's obligations with respect to the security deposit are those of a debtor and not a trustee. Sublessor may maintain the security deposit separate and apart from Sublessor's general funds or may commingle the security deposit with Sublessor's general and other funds. Sublessor shall not be required to pay Sublessee interest on the security deposit.

6. Use.

Sublessee shall use the Premises for food and beverage catering both within the Marina Village property and to events that are outside the confines of the property. Sublessee shall have exclusive catering rights to all events conducted in the Baja Room, 1904 Quivira Way. Exclusive catering rights does not apply to events previously negotiated by Marina Village for future events in the Baja Room. Sublessee shall not use premises for any other purposes without prior written consent by the Sublessor and the City. Sublessee shall not use the Premises in any manner that will constitute waste, nuisance or unreasonable annoyance, nor do any act or thing which may disturb the quiet enjoyment of any person, including Sublessor, other Sublessees or occupants of adjacent properties. Sublessee shall not do, bring, keep or permit anything in or about the Premises that will cause a cancellation of any insurance covering the Premises. Sublessee agrees to use the Premises in compliance with all laws, ordinances and governmental regulations and any applicable board of fire underwriters in effect during the term hereof, including, but not limited to, environmental laws, ordinances and regulations. Sublessee shall be responsible for the cost of and for obtaining all necessary governmental permits for its use of the Premises. Sublessor may from time to time establish, maintain and enforce rules and regulations regarding the use and occupancy of the premises and for the safety, care, cleanliness, and preservation of the good order of the premises, the common facilities and Marina Village generally. Such rules and regulations shall be applicable to all Sublessees of Marina Village. Sublessees and Sublessee's employees, agents, and invitees shall comply with all rules and regulations. Any violation by Sublessee or Sublessee's employees, agents, and invitees of any rule or regulation shall constitute default under this sublease. Sublessor shall give notice to Sublessee of the rules and regulations as they may exist

from time to time, and Sublessee will not be bound thereby until given a copy of same. Pursuant to paragraph 10 of this sublease, Sublessee shall indemnify and hold Sublessor harmless from all claims and liabilities for Sublessee's breach of rule and regulations. If there is conflict between any rules and regulations and any of the provisions of this sublease, this sublease shall prevail.

Sublessee shall be responsible for any California state sales tax associated with its retail operations on the Premises.

With respect to Sublessee's trade fixtures, furnishings, equipment and all other personal property located in the Premises, and any improvements made to the premises in excess of Sublessor's building standard Sublessee improvement, (i) Sublessee shall be liable for and pay at least ten (10) days prior to delinquency all taxes assessed against or levied thereon, and (ii) when possible, Sublessee shall cause same to be assessed and billed separately from the Property; but if same shall be assessed and taxed with the Property, Sublessee shall pay same to Sublessor within ten (10) days after Sublessor's delivery to Sublessee of a statement in writing setting forth the amount of such taxes applicable to Sublessee's personal property.

7. Improvements, Alternations, and Additions.

Sublessee shall make no improvements, alternations and/or additions to the Premises without the prior written consent of Sublessor and City, which shall not be unreasonably withheld by Sublessor. Sublessee shall keep the premises free and clear of mechanics', materialmen's and any and all other liens of any type or character arising out of or in any way connected with the alteration or improvement of the Premises, the cost of which shall be Sublessee's sole responsibility. Any improvement, alternations or additions made to the Premises by Sublessee shall be removed by Sublessee from the Premises on or before the expiration or termination of the term, and Sublessee shall restore at Sublessee's cost the Premises to their condition before the commencement of the term, or at the option of Sublessor, Sublessor and Sublessee shall negotiate in good faith to determine the amount necessary to so restore the Premises, which sum Sublessee shall then pay to Sublessor.

8. Utilities.

Sublessee shall pay for all charges for utilities and services furnished to or used by it, including but not limited to heat, gas, electricity, lights, power, telephone, trash and water.

Regardless of whether caused by riot, strike, lockout, labor disputes, breakage, breakdowns, accidents, repairs, governmental regulations or moratorium, any act or omission of Sublessee or its employees, agents, invitees, licensees, customers or visitors or any other cause whatsoever, Sublessor shall under no circumstances be liable in damages or otherwise for any failure or interruption of, or reduction in any utility or other service being furnished to the Premises by Sublessor or otherwise and no such failure, interruption or reduction shall under any circumstances entitle Sublessee to withhold, reduce or abate any rent or terminate this Sublease

9.

Insurance.

This Sublease is made on the express condition that Sublessor and the City shall be and remain free from all liability and claims for damages by reason of any injury to any person or persons, including Sublessee, or property of any kind whatsoever or to whomever belonging, including Sublessee, from any cause or causes whatsoever while in, upon or in any way connected with the leased Premises during the term of this Sublease or any extension hereof or any occupancy hereunder. Without limiting the foregoing, Sublessee hereby agrees to protect, defend, indemnify and hold Sublessor and the City harmless from all such liability, loss, costs and obligations on account of or arising out of any such injuries or losses, however, occurring. Sublessee shall purchase and keep in force during the term hereof, a Sublessee's expense, public liability and property damage insurance, in the amount of not less than One Million Dollars (\$1,000,000) in single limits coverage, with deductibles not exceeding Five Thousand Dollars (\$5,000), and in forms reasonably acceptable to Sublessor, insuring against all liability of Sublessee and its authorized representatives, arising out of and in connection with Sublessee's use and/or occupancy of the Premises, with companies reasonably approved by Sublessor. These policies shall insure the contingent liability of Sublessor and the City as additional named insured and shall be lodged with Sublessor during the term of this Sublease. All insurance coverage required to be maintained by Sublessee shall have an occurrence claims form, and may not be cancelled without 30 days prior written notice to City, a copy of the policy must be provided to the City.

Sublessee, at its sole cost and expense, shall maintain a policy of fire and extended coverage insurance with vandalism and malicious mischief endorsements on Sublessee's inventory, improvements, and other personal property, for the full replacement value thereof during the term hereof. Sublessee further agrees to purchase and maintain in full force and effect such policy of worker's compensation insurance as may be required to cover any employees of Sublessee during the term of this Sublease in forms and in amounts reasonably acceptable to Sublessor.

All policies under this section shall be in forms and amounts reasonably acceptable to Sublessor and shall be lodged with Sublessor during the term of this Sublease.

Each Party hereby waives and shall obtain a similar waiver from its insurers any and all rights to recover against the other or against the officers, employees, agents, representatives, customers or business visitors of such other party for damage to such waiving Party or loss of its property or the property of others under its control arising from any cause to the extent insured against under any policy of insurance carried by such waiving Party.

10.

Indemnification and Waiver.

- a. Indemnification. Sublessee shall indemnify, defend and hold Sublessor and City and its officers, employees, agents, lenders, and representatives and their respective successors and assigns harmless from and against any and all claims, damages, costs, losses, penalties, taxes or other liability arising from or relating to:

(i) any death, injury or damage to any person or property whatsoever (a) occurring in, on or about the Premises or any part thereof, or (b) occurring in, on or about the Property or any portion thereof, when such injury or damage shall be caused in part or in whole by the act, neglect, fault or omission of any duty with respect to the Property by Sublessee and/or Sublessee's agents, employees, invitees or representatives ("Sublessee's Parties"); excluded from the foregoing any injury or damage caused by or resulting from the negligence or willful misconduct of the Sublessor;

(ii) unpermitted liens;

(iii) the presence or suspected presence of any hazardous or toxic substances in, on, under or about the Premises or the Property and/or other properties due to Sublessee's and/or Sublessee's Parties activities, or failure to act, on or about the Property;

(iv) the conduct or management of any work, alteration, addition, improvement or thing whatsoever done by Sublessee in or about the Premises or arising from transactions of Sublessee concerning the Premises; and

(v) from and against all costs, reasonable attorney's fees, expenses and liabilities incurred in connection with any such claim or action or proceeding brought relating to any of the foregoing.

In case any action or proceeding be brought against Sublessor or the Premises by reason of any such claim, Sublessor may require Sublessee, upon notice from Sublessor to defend the same at Sublessee's sole cost with counsel satisfactory to Sublessor.

- b. Assumption of Risk and Waiver of Claims. Sublessee hereby assumes all risks of damage to property or injury to person in, upon or about the Premises from any cause whatsoever, and Sublessee hereby waives all claims in respect thereof against Sublessor and City. Sublessor shall not be liable for any latent or patent defect in the Premises or Common Areas.

11. Condemnation.

If during the term of this Sublease the Premises are totally taken by any public or quasi-public authority under the power of eminent domain or sold under the threat of the exercise of the power of eminent domain, the Sublease shall terminate as of the date of such taking or sale. In the event a part of the Premises are taken by right of eminent domain, which materially adversely impacts Sublessee, either Party may elect to terminate this Sublease. If a part of the Premises are taken by right of eminent domain and the Parties do not elect to terminate this Sublease, the rent shall be decreased proportionately according to the value of the part of the Premises taken.

12. Assignment by Sublessee.

Any attempt on the part of Sublessee to assign or sublet all of the leased Premises without first obtaining the prior written consent of Sublessor and City shall be void and of no effect. The consent of Sublessor and City to any such assignment or subleases shall not be deemed a waiver on the part of Sublessor of Sublessor's right hereunder to require such written consent to any subsequent assignment and/or sublease.

13. Surrender End of Term.

Sublessee shall, upon the last day of the term of this Sublease, or on sooner termination thereof, peaceably and quietly surrender the leased Premises to Sublessor, broom clean and in as good condition and repair as at the commencement of the term and as of the date of any improvement or repair.

14. Holding Over by Sublessee.

Any holding over after the expiration of the term of this Sublease by Sublessee requires Sublessor and City written approval. Without the written consent of the Sublessor will be construed to be a Marina Village Conference Center rental agreement at two times the then existing market rate for daily room rentals, and shall otherwise be on the same terms and conditions as herein provided insofar as applicable.

15. Default Defined.

The occurrence of any one or more of the following events shall constitute a default and breach of this Sublease:

- a. Abandonment, vacating or surrender of the Premises or of the leasehold estate by Sublessee.

- b. Failure by Sublessee to make any payment of rent or any other payment required to be made by Sublessee hereunder as and when due.
- c. The failure or refusal of Sublessee to perform within fifteen (15) days, as required or conditioned, any covenant or condition of this Sublease deemed to be substantive and material.
- d. The subjection of any right or interest of Sublessee in the Premises, or any subSublessee, to attachment, execution or other levy, or seizure under legal process, if not released within thirty (30) days.
- e. The appointment of a receiver and/or trustee to take possession of the Premises or improvements either of Sublessee or any subSublessee, or of Sublessee's interest in the leasehold estate, or of Sublessee's operations on the Premises for any reason, including but not limited to, assignment for the benefit of creditors, voluntary or involuntary proceedings commenced by or against Sublessee under the bankruptcy laws of the United States of America as the same shall exist now or may be amended or modified in the future during the term of this Sublease. Included, without limitation, within the reference to a proceeding commenced under the United States Bankruptcy Law, are all proceedings for the purpose of adjudicating Sublessee a bankrupt, for extending time of payment adjustment or satisfaction of Sublessee's liabilities to its creditors and/or for reorganization, dissolution or arrangement on account of or to prevent a bankruptcy or insolvency.
- f. Any attempted assignment and/or sublease by Sublessee of all of the demised Premises to a third party without prior written consent of Sublessor and City.

Sublessee shall have the right to cure non-monetary defaults hereunder and be relieved from the effects thereof if, in the case of non-monetary defaults, Sublessee cures the default within thirty (30) days from Sublessee's receipt of notice from Sublessor, or such other time as is reasonable if Sublessee has commenced efforts to cure the default within thirty (30) days and diligently pursue such efforts to completion.

16. Remedies of Sublessor.

If any default by Sublessee continues uncured following notice of default as required by Section 14 of this Sublease and is not cured within the grace period provided in Section 14, Sublessor shall have the following remedies in addition to all others and remedies provided by law or equity to which Sublessor may resort, cumulatively or in the alternative:

- a. After expiration of the applicable time for curing a particular default, or before the expiration of that time in the event of emergency, Sublessor may, at Sublessor's

election, but is not obligated to do so, make any payment required of Sublessee under this Sublease or under any note or other document pertaining to the financing of improvements or fixtures on the Premises, or perform or comply with any covenant or condition imposed on Sublessee under this Sublease or any such note or document, and the amount so paid plus the reasonable cost of any performance or compliance (including without limitation attorneys fees and costs actually paid by Sublessor), plus interest at the rate of ten percent (10%) per annum from the date of payment, performance or compliance shall be deemed to be added to and become additional rent payable by Sublessee with the next succeeding installment of rent. No such act shall constitute a waiver of default or any remedy for default or render Sublessor liable for any loss or damage resulting from such act.

- b. Sublessor may, at its election, terminate this Sublease by giving Sublessee written notice of termination. Promptly after notice of termination, Sublessee shall surrender and vacate the Premises and all improvements in broom-clean condition, and Sublessor may reenter and take possession of the Premises and all remaining improvements and eject all parties in possession, or eject some but not others, or eject none. Termination under this paragraph shall not relieve Sublessee from the payment of any sum then due to Sublessor or from any claim for damages previously accrued or then accruing against Sublessee. No act by Sublessor other than giving written notice to Sublessee shall terminate this Sublease.
- c. Sublessor may, at its election, continue this Sublease in full force and effect, and the Sublease will continue in effect as long as Sublessor does not terminate Sublessee's right to possession; and Sublessor shall have the right to collect rent when due. After Sublessee's default and for as long as Sublessor does not terminate Sublessee's right to possession of the Premises, if Sublessee obtains Sublessor's consent, Sublessee shall have the right to assign or sublet its interest in this Sublease, but Sublessee shall not be released from liability. Sublessor's consent to a proposed assignment or subletting under this paragraph shall not be unreasonably withheld.

During the period Sublessee is in default, Sublessor can reenter the Premises and, without terminating this Sublease at any time and from time to time, relet the Premises and improvements or any part or parts of them for the account and in the name of Sublessee or otherwise. Reletting can be for a period shorter or longer than the remaining term of this Sublease. Sublessor may, at its election, eject all persons, or eject some and not others, or eject none. Sublessor shall apply all rents for such reletting to the rent becoming due from Sublessee under the terms of the Sublease. Sublessor may execute any leases made under this provision, in the Sublessor's name, and shall be entitled to all rents from the use, operation or occupancy of the Premises or improvements, or both. Sublessee shall, nevertheless, pay to Sublessor on the due date specified in this Sublease the equivalent of all sums required of Sublessee under

this Sublease plus Sublessor's expenses (including, without limitation, actual attorneys fees and legal costs) less the net proceeds of any reletting or attornment. No act by or on behalf of Sublessor under this provision shall constitute a termination of this Sublease unless Sublessor gives Sublessee written notice of such termination.

- d. Sublessor may, at its election, use Sublessee's personal property and trade fixtures, or any of such property and fixtures, which are not removed from or remain upon the leased Premises, without compensation and without liability for use or damage, or store them for the account and at the cost of Sublessee.
- e. Sublessor shall be entitled, at its election, to each installment of rent or to any combination of installments of rent and other monetary payments due for any period before termination, plus interest at the rate of ten percent (10%) per annum from the date each installment shall have fallen due. Net proceeds of any reletting or attorned sub-rents collected by Sublessor pursuant to any remedy permitted under this Section 14, when received shall be applied first to any back rents and other monetary sums not paid by Sublessee for which Sublessee is obligated by the terms of this sublease, then to the current rents due from Sublessee, with any remaining proceeds after payment of the foregoing sums payable to Sublessee.
- f. Sublessor shall be entitled, at this election, to damages in the following sums: (1) The worth at the time of award in any court action of unpaid rent which had been earned and due and payable to Sublessor as of the termination of this sublease; (2) The worth at the time of award in any court action of the amount by which the unpaid rent which would have been earned after termination of the Sublease until the time of award exceeds the amount of such rental loss that Sublessee proves could have been reasonably avoided; (3) The worth at the time of award at any court proceeding to recover it of an amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Sublessee proves could reasonably have been avoided; (4) Any other amount necessary to compensate Sublessor for all detriment approximately caused by Sublessee's failure to perform its obligations under this Sublease or which in the ordinary course of things would be likely to result therefrom. The phrase "worth at the time of award" with respect to unpaid rent which shall have been earned at the time of termination and with respect to unpaid rent which shall have been earned after termination through the time of award, shall be computed by adding to each of said sums interest at the rate of ten percent (10%) per annum from the respective due dates for each increment of such rent. The phrase "worth at the time of award" used in respect to rent for the balance of the term following the time of award shall be computed by discounting such rent at the discount rate of the Federal Reserve Bank of San Francisco at the time of award, plus one percent (1%).

No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition. No waiver, benefit, privilege or service voluntarily given or performed by either party shall give the other any contractual right by customs, estoppel or otherwise to receive the same at any other time. The subsequent acceptance of rent pursuant to this Sublease all not constitute a waiver of any preceding default by Sublessee other than default in the payment of the particular rental payment so accepted, regardless of Sublessor's knowledge of the preceding breach at the time of accepting the rent; not shall acceptance of rent or any other payment after termination constitute a reinstatement, extension or renewal of the Sublease or revocation of any notice or any other act previously given or done by Sublessor.

Sublessee hereby assigns to Sublessor all sub-rents and other sums falling due from any subSublessees (whose tenancy has been previously approved in writing by Sublessor pursuant to this Sublease), licensees and concessionaires (hereinafter collectively referred to as subSublessees) during any period in which Sublessor has the right under this Sublease, whether exercised or not, to reenter the Premises for Sublessee's default. Sublessee shall not have any right to such sums during this period. Any collection of such sums during any such period by Sublessee shall be held in trust for Sublessor and shall be paid over to Sublessor immediately upon demand therefor. Sublessor may, at its election reenter the Premises and improvements without or with process of law without terminating this Sublease and either or both collect these sums or bring action for recovery of these sums directly from the subSublessees.

17. Notices.

All notices required or permitted to be given hereunder shall be writing and be either served personally or by United States Mail, postage prepaid, certified or registered, return receipt requested, addressed to the Parties at the addresses setforth by their names on the signature page, with a copy to Sublessee served at or mailed to the Premises.

18. Attorney's Fees.

In the event any action or proceeding brought by either Party against the other under this Sublease, the prevailing Party shall be entitled to recover all costs and expenses, including the fees of its attorneys, in such action or proceeding, in such amount as the court may deem reasonable.

19. Entry by Sublessor.

Sublessee shall permit Sublessor and Sublessor's agents to enter into and upon the Premises at the reasonable times, or at any time in the case of emergency, for the purpose of inspecting the same or for the purpose of posting notices of non-liability for alterations, additions or repairs, or for the purpose of placing upon said Premises any usual or ordinary "For Rent" signs, or for any other lawful purpose, without any rebate of rent and without any liability to Sublessee for any loss of occupation or quiet enjoyment of the Premises thereby occasioned. Sublessee shall permit Sublessor, at any time within

sixty (60) days prior to the expiration of this Sublease, to place upon said Premises any usual or ordinary "For Rent" or "To Lease" signs.

20. Assignment and Encumbrances by Sublessor.

This Sublease is subject to and subordinate to all mortgages and deeds of trust which may now or hereafter affect the real property of which the Premises are a part, and to all renewals, modifications, replacements and extensions thereof.

Nothing contained in this Sublease shall prevent Sublessor from:

- a. Transferring Sublessor's interest to third parties in whole or in fractional sales;
- b. Sublessor's leasehold estate in the Premises; and/or
- c. Assigning any or all rent due hereunder

Any such encumbrance or assignment shall be superior to this Sublease. Sublessee agrees to execute any recordable subordination agreement required by the lender as evidence of the priority of such lender's lien over this Sublease.

21. Maintenance.

Except as set forth in Section 21, Sublessor agrees to maintain in good condition and repair the structural parts of the existing building and other improvements that are a part of the Premises, and the existing unexposed electrical, plumbing, sewage, heating and ventilating system on the Premises. Sublessee shall at its cost maintain in good condition and repair the remainder of the Premises, including, without limitation, the interior of the Premises, all of Sublessee's personal property, signs, storefront, plate glass and windows. Sublessee shall repair at its sole cost any damage to the Premises resulting from the acts or omissions of Sublessee or its authorized representatives or business invitees.

Sublessor shall not be liable for any failure to make repairs or to perform any maintenance unless such failure shall persist for an unreasonable time after written notice of the need for such repairs or maintenance is given to Sublessor by Sublessee. Sublessee waives the right to make repairs at Sublessor's expense under Section 1942 of the California Civil Code.

22. Destruction .

If, during the term hereof, the Premises are totally or partially destroyed from any cause, rendering the Premises totally or partially inaccessible or unusable, Sublessor shall have the option of terminating this Sublease or restoring the Premises to substantially the same condition as they were in immediately before destruction. If Sublessor does not elect to terminate this Sublease and if restoration cannot be

made within ninety (90) working days after the date of destruction, then within ten (10) days after the Parties determine that the restoration cannot be made in the time stated, Sublessee can elect to terminate this Sublease immediately by giving written notice to Sublessor. If Sublessee fails to terminate this Sublease and if restoration is permitted under the existing laws, Sublessor, at its election, can restore the Premises within a reasonable time and this Sublease shall continue in full force and effect. If the existing laws do not permit the restoration, either Party can terminate this Sublease immediately by giving notice to the other Party. With respect to any damage which Sublessor elects to repair, Sublessee waives the provisions of Sections 1932 (Section 2) and 1933 (Section 4) of the California Civil Code. In the event Sublessor elects to restore the Premises, Sublessee shall be entitled to a proportionate reduction of rent while such repairs are being made based on the extent to which the destruction shall interfere with the business carried on by Sublessee on the Premises.

23. Covenant of Quiet Enjoyment.

Sublessor represents that the Master Lease is in full force and effect and that there are no defaults on Sublessor's part under it as of the commencement of the term of this Sublease. Subject to this Sublease terminating as provided in Section 23 below, Sublessor represents that, if Sublessee performs all the provision in this Sublease to be performed by Sublessee, Sublessee shall have and enjoy throughout the term of this Sublease the quiet and undisturbed possession of the Premises.

24. Master Lease.

This Sublease is subject to all the provisions of the Master Lease, and Sublessee shall not permit any act or omission to act that will violate any of the provision of the Master Lease. If the Master Lease terminates, this Sublease shall terminate and the Parties shall be relieved from all liabilities and obligations under this Sublease; except that if this Sublease terminates as a result of a default of one of the Parties under this Sublease or the Master Lease, or both, the defaulting Party shall be liable to the nondefaulting Party for all damage suffered by the nondefaulting Party as result of termination.

25. Miscellaneous Provisions.

- a. Time is of the essence in the performance of each and every term, covenant and condition contained in this Sublease.
- b. This Sublease shall be governed by, construed and enforced in accordance with the laws of the State of California.
- c. Any rent or other payments required to be made by Sublessee hereunder shall bear interest at the rate of ten percent (10%) per annum from the date due to the date of payment.

- d. Subject to the provisions of this Sublease on assignment and subletting, each and all of the covenants and conditions of this Sublease shall be binding upon and shall inure to the benefit of the heirs, successors, executors, and personal representatives and assigns of the respective parties.
- e. The captions and headings contained in this Sublease are inserted only as a matter of convenience and for reference and in no way define or limit or describe the scope or intent of the Parties nor in any way affect this agreement.
- f. This Sublease contains the entire agreement between the Parties and cannot be changed or terminated orally. All prior understandings, terms or conditions are deemed merged into this Sublease.
- g. All provisions, whether covenants or conditions are the part of Sublessee and Sublessor, shall be deemed as both covenants and conditions hereunder.
- h. No waiver by Sublessor of any provision of this sublease shall be deemed to be a waiver of any other provision hereof or of any subsequent breach by Sublessee or the same in any other provision. No delay on the part of Sublessor in exercising any of its rights hereunder shall operate as a waiver of such rights or of any other right of Sublessor, nor shall any delay, omission or waiver on any one occasion be deemed a waiver of the same or any other right on any other occasion, nor shall Sublessor's receipt from Sublessee of any sum with knowledge of any breach by Sublessee of any of its covenants hereunder be deemed to be a waiver of such breach. Neither Sublessor's failure to bill Sublessee for any rent or other sum payable hereunder as it becomes due hereunder, nor its error in such billing or failure to provide any other documentation in connection therewith, shall operate as a waiver of Sublessor's right to collect any such rent or other sum payable hereunder which may have at any time become due hereunder in the full amount to which Sublessor is entitled pursuant to the terms and provisions hereof.

Sublessor's consent to or approval of any act by Sublessee requiring Sublessor's consent or approval, shall not be deemed to render unnecessary the obtaining

Sublessor's consent to or approval of any subsequent act of Sublessee whether or not similar to the act so consented to or approved of.

- I. This Sublease and any exhibits attached hereto constitute the entire agreement between the parties hereto with respect to the subject matter hereof and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Sublease may be amended or supplemented except by an agreement in writing signed by the party or parties to be bound thereby.

IN WITNESS WHEREOF, the Parties hereto have executed this Sublease effective as of the date first written above.

SUBLESSOR

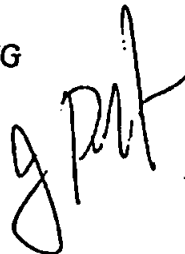
Address: c/o General Manager
Marina Village
1842 Quivira Way
San Diego, CA 92109

THE RETIREMENT FUND TRUST OF
THE PLUMBING-HEATING AND PIPING
INDUSTRY OF SOUTHERN CALIFORNIA

By: 

SUBLESSEE

Address: Jason Peltier, d.b.a. RANCH CATERING

By: 

CONSENT OF CITY

The City of San Diego hereby consents to the foregoing Sublease without waiver of the restriction in the Master Lease concerning further subletting.

CITY:

THE CITY OF SAN DIEGO, a municipal

By:

Jack W. McGrory, City Manager

FIRST AMENDMENT OF SUBLEASE

This First Amendment of Sublease ("First Amendment") to Marina Village Sublease is made by and between The Retirement Fund Trust of the Plumbing-Heating and Piping Industry of Southern California (Sublessor) and Jason Peltier d.b.a. Ranch Catering (Sublessee) effective this 16th day of February, 1995.

RECITALS

1. Sublessor and Sublessee entered into a written agreement dated February 1, 1995, ("Sublease"), for the sublease for certain space identified as "Premises" consisting of a portion of Marina Village more particularly described in Exhibits "A" of Sublease.
2. The Sublease is presently in full force and effect.
3. Sublessee is in possession of the subject premises.
4. To the best of the knowledge of Sublessee as of the date hereof, there exist no offsets, counterclaims or defenses of Sublessee under the Sublease against Sublessor and there exists no events that would constitute a basis for any such offsets, counterclaims or defenses upon the lapse of time or the giving of notice, or both.
5. The Sublease constitutes the entire present agreement between Sublessor and Sublessee with respect to the premises and the rights and obligations of the Sublessor and Sublessee in connection with the premises.
6. The Sublessor and Sublessee wish to amend the Sublease.

TERMS OF AMENDMENT

Now, therefor, in consideration of mutual covenants and conditions set forth herein, the Sublessor and Sublessee agree as follows:

- A. Recitals: All of the Recitals set forth hereinabove are incorporated herein by this reference and made a part of this First Amendment. Paragraph B, C, D and E of this amendment apply only to the additional premises rented as a part of this Amendment.
- B. Sublease of Premises: Sublessor hereby subleases to Sublessee and Sublessee hereby hires from Sublessor additional premises located at Marina Village on Mission Bay,

1842 Quivira Way, San Diego, California, the entry, dining and patio areas of Building 1904 (Baja Room). Sublessor shall obtain written consent of the City (acting by and through its City Manager) to this Sublease Amendment required under Section (D) 21 of the Master Lease.

C. Term: The term of the First Amendment to Sublease for the additional premises is February 16, 1995 through May 19, 1995.

D. Rent: For the additional premises, Sublessee hereby agrees to pay, in addition to rents outlined in the Sublease Agreement, without abatement, deduction or offset other than as specified in this paragraph, rent in the amount of Twenty Five Thousand Dollars (\$25,000) pro-rated monthly, in advance, on or before the tenth (10th) day of each month, with the first months rent due and payable upon execution of this Amendment. Rent concessions of up to \$5,000 will be allowed for authorized Sublessee improvements in establishing an America's Cup decor for the Baja Room dining areas. Sublessee improvements must be approved in writing by Sublessor. Sublessee acknowledges that sublessee improvements hereby become the property of the Sublessor.

E. Use: Sublessee shall use the premises, Building 1904, for the purposes of restaurant and bar operations and are subject to the provisions of the Sublease and Master Lease.

F. Consent of Lessor: The efficacy of this First Amendment of Sublease is expressly conditioned upon the parties obtaining written approval of the City of San Diego as Lessor to the contents hereof. A true and correct copy of such approval shall be attached to this First Amendment when obtained.

This First Amendment contains all of the agreements of the parties hereto with respect to the matters contained herein and no prior agreement, arrangement or understanding pertaining to any such matters shall be effective for any purpose. Nothing in this First Amendment shall be deemed to waive or modify any of the provisions of the Sublease except as expressly stated herein.

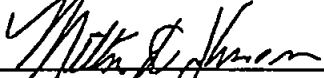
The provisions of the First Amendment shall bind and inure to the benefits of the heirs, representatives, successors and assigns of the parties hereto.

This First Amendment may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same First Amendment.

IN WITNESS WHEREOF, this First Amendment is entered into by parties as the day and year first written above.

SUBLESSOR:

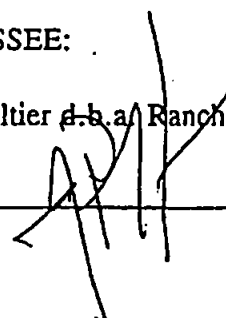
The Retirement Fund Trust of the Plumbing-Heating
and Pipe Industry of Southern California

By: 

Its: ADMINISTRATOR

SUBLESSEE:

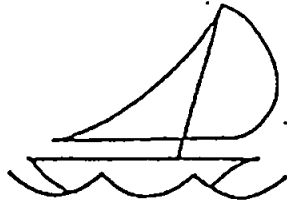
Jason Peltier d.b.a. Ranch Catering

By: 

Marina Village

Special Events & Conference Center

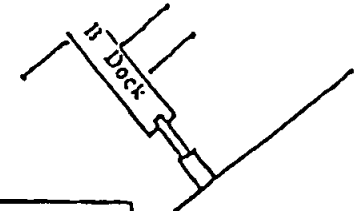
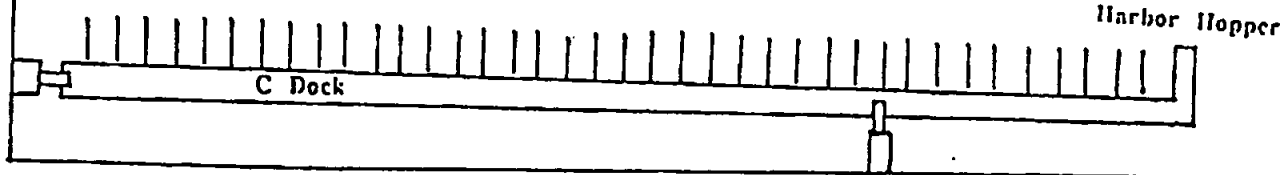
1936 Quivira Way San Diego, Ca 92109
(619) 222-1620



MISSION BAY



1840-1842



Sunset Room 1935

Bldg A 1925

Captains Room Rest Rooms

1845

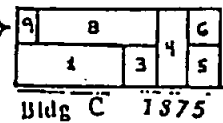
2

1

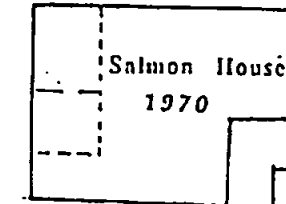
Coral

Courtyard

Snack Shack



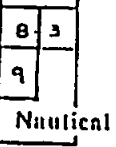
Bldg C 1975



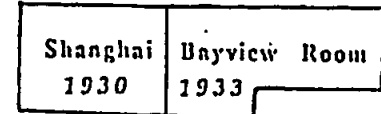
Salmon House 1970

Bldg F 1950

Dockside

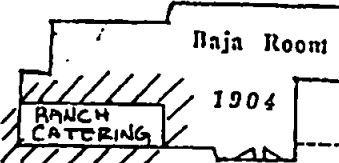


Nautical



Shanghai 1930

Bayview Room 1933



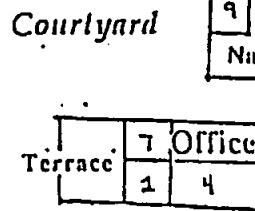
Raja Room 1904

RANCH CATERING



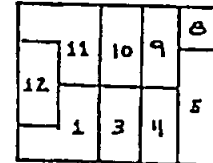
Starboard 1920

Restrooms

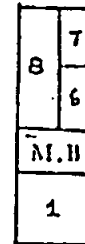


Terrace 7 Office

Bldg G 1936



Bldg E 1960



Bldg D 1945

M.H.L.A.

Conference Center Office 1936

PARKING

PARKING

QUIVIRA WAY

QUIVIRA ROAD

EXHIBIT "A"