



October 7, 2008

Mr. Geoff Dolan, City Manager
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, California 90266

Dear Mr. Dolan,

Enclosed is the fully executed Amendment No.1 to the Operating Agreement between the City of Manhattan Beach and the Department of Parks and Recreation (DPR) for the operation, care, custodial maintenance, and control of Manhattan State Beach Pier. This Amendment provides a twenty-year extension, and updates and clarifies the Operating Agreement language.

Also, enclosed is the Contract's Exhibit F, Annual Revenue and Expenditure Statement for Operating Agreements. The Statement must be filed annually (by September 30) with the Department of Parks and Recreation, Angeles District.

You need to contact the Angeles District to schedule a meeting to review the Contract. Ron Schafer's office may be reached at (818) 880-0350.

Thank you for your cooperation on this Amendment. We look forward to continuing to work with you. If you have any questions, please call Diana Salter, Concessions Specialist at (916) 653-8939 or e-mail her at dsalt@parks.ca.gov.

Sincerely,

James A. Luscutoff, Chief
Concessions, Reservations, and Fees Division

Enclosures

cc (w/o enclosures): Ron Schafer, Angeles District Superintendent

RECEIVED
CITY OF MANHATTAN BEACH
OCT 10 2008

1 AMENDMENT NO. 1

2
3 OPERATING AGREEMENT FOR THE
4 OPERATION OF THE MANHATTAN STATE BEACH PIER
5 LOCATED IN MANHATTAN STATE BEACH
6

7 THIS AMENDMENT is made and entered into by and between the STATE OF
8 CALIFORNIA, acting through the Department of Parks and Recreation, hereinafter called
9 "State", and the City of Manhattan Beach, a municipal corporation of the State of California,
10 California, hereinafter called "City".
11

12 WITNESSETH:
13

14 WHEREAS, an Operating Agreement was entered into on the 1st day of August,
15 1988 for a 20-year term, by and between the State and City for the operation of the
16 Manhattan State Beach Pier, with an additional twenty-year extension at the City's option,
17 and
18

19 WHEREAS, the parties hereto wish to amend said operation agreement to
20 extend twenty-years; and
21

22 WHEREAS, both parties wish to amend the Operating Agreement to update
23 and clarify language of the Operating Agreement; and
24

25 WHEREAS, the Concessionaire wishes to replace Paragraph 1, 5, 10, and
26 15 of the Operating Agreement, and add Paragraphs 19 through 47 to the
27 Operating Agreement;
28

29 NOW, THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN THE
30 PARTIES AS FOLLOWS:
31
32

1 In the Operating Agreement, remove "Paragraph 1" and replace with "Revised
2 Paragraph 1". All references to "Paragraph 1" in the Operating Agreement shall henceforth
3 refer to the Revised Paragraph 1. Revised Paragraph 1 reads:

4 1. **TERM**: The term of this Agreement shall be for a period of twenty (20)
5 years and shall commence on August 1, 2008 and end on July 31, 2028.

6 However, this Agreement shall not be effective until the first of the month following
7 approval by the State of California, Department of General Services. Should the
8 City hold-over after the expiration of the term of this contract with the express or
9 implied consent of the State, such holding-over shall be deemed to be a tenancy
10 from month-to-month at the herein stated prescribed rent as set forth in this
11 contract subject otherwise to all the terms and conditions of this contract.

12
13 In the Operating Agreement, remove "Paragraph 5" and replace with "Revised
14 Paragraph 5". All references to "Paragraph 5" in the Operating Agreement shall henceforth
15 refer to the Revised Paragraph 5. Revised paragraph 5 reads:

16 5. **RECORDS AND ACCOUNT**: At all times during the term of this
17 Agreement, City shall keep separate, true, and complete books, records, and
18 accounts of all income and fees received and all expenditures made by City in
19 relation to concessions, events, special services, and all other matters incident to
20 the development, control, and operation of the Premises. City shall report said
21 income and expenditures to State in accordance with Exhibit F Annual Revenue
22 and Expenditure Report, or in a similar format acceptable to State on an annual
23 basis, which annual report shall be submitted for the period commencing July 1st
24 and ending June 30th of each reporting year, and shall be filed with State no later
25 than the following September 30th. In addition, within forty-five (45) days of the
26 expiration or termination of this Agreement, City shall submit to State a statement
27 of income and expenditures for the period of operation not previously reported,
28 prepared as set forth above. The Annual Report shall include a reasonable
29 estimate of the number of visitors and vehicles to the Park Unit and the basis by
30 which the City makes such estimate.

31 The books, records, and accounts applying to the operation of the Premises
32 and kept by City shall be open for audit or inspection by State at all reasonable

1 times. All records shall be kept by City for a period of at least four (4) years. City
2 shall be subject to State's audit requirements and remedies as set forth herein.

3
4 In the Operating Agreement, remove "Paragraph 10" and replace with "Revised
5 Paragraph 10". All references to "Paragraph 10" in the Operating Agreement shall
6 henceforth refer to the Revised Paragraph 10. Revised Paragraph 10 reads:

7 **10. HOLD HARMLESS AGREEMENT:** City shall indemnify, hold
8 harmless, and defend State, its officers, agents, and employees against any and
9 all claims, demands, damages, costs, expenses, or liability costs, (including but
10 not limited to attorneys fees, experts fees, and costs of suit), arising indirectly or
11 directly out of the development, operation, or maintenance of the Premises by
12 City, or in any way related to the performance of this Agreement by City, by reason
13 of its acts or omissions relating to the Premises and/or its obligation pursuant to
14 this Agreement and/or by reason of injury, death, property damage, or any claim
15 arising from the alleged violations of any state or federal law, statute, or
16 regulations, including but not limited to the Americans with Disabilities Act of 1990
17 Titles I, II and III ["ADA"], however caused or alleged to have been caused,
18 provided, however, in no event shall City be obligated to defend or indemnify State
19 with respect to the sole negligence or willful misconduct of State, its employees, or
20 agents (excluding City herein, or any of its concessionaires).

21 In the event State is named as co-defendant in a legal action under the
22 provisions of the Government Code Section 810 et seq., and served with process
23 of such legal action, State shall immediately notify City of such fact and City shall
24 represent State in such legal action as provided herein unless State undertakes to
25 represent itself as co-defendant in such legal action, in which event State shall
26 bear its own litigation costs, expenses, and attorney's fees.

27 In the event judgment is entered against State and City because of the
28 concurrent negligence of State and City, their officers, agents, or employees, an
29 apportionment of the liability to pay such judgment shall be made by a court of
30 competent jurisdiction. Neither party shall request a jury apportionment.

31

1 In the Operating Agreement, remove "Paragraph 13" and replace with "Revised
2 Paragraph 13". All references to "Paragraph 13" in the Operating Agreement shall
3 henceforth refer to the Revised Paragraph 13. Revised Paragraph 13 reads:

4 **13. TERMINATION**

5 A. Notwithstanding the provisions of Paragraph 25, DEFAULTS AND
6 REMEDIES, either party may terminate this Agreement for any reason. The party
7 who wishes to terminate the Agreement shall give written notice of its intention no
8 later than three hundred and sixty five (365) days before the scheduled termination
9 date. Such notice shall be given in writing and shall be effective on the date given
10 in the notice as the scheduled date for the termination of the Agreement.

11 B. In the event that the State is the party choosing to terminate the
12 Agreement, the State shall pay to City on the termination date a sum of money
13 equal to the depreciated cost of the improvements installed or constructed upon
14 the Premises by the City with the following exceptions, (a) improvements erected
15 with funds realized through income from the Premises, and (b) improvements the
16 cost of which City has been paid or reimbursed by State through grants or other
17 sources. It is expressly understood that the reimbursement provisions are not
18 applicable where State terminates this Agreement for any breach on the part of
19 City. In the event of breach, bankruptcy, insolvency, abandonment, or termination
20 of Agreement upon City's request, the reimbursement provisions shall not apply
21 and shall not be considered an obligation of the State.

22 C. State may not commence termination proceedings until such time as
23 the funds required for such termination and reimbursement have been obtained
24 through appropriations by the Legislature and through the normal budgeting
25 process of the State.

26 D. If the Premises ownership is transferred from the State to the City,
27 this Operating Agreement will be terminated once the property transfer is
28 complete.

29
30
31 In the Operating Agreement, remove "Paragraph 15" and replace with "Revised
32 Paragraph 15". All references to "Paragraph 15" in the Operating Agreement shall
33 henceforth refer to the Revised Paragraph 15. Revised Paragraph 15 reads:

1 **15. NONDISCRIMINATION**: Pursuant to Public Resources Code Section
2 5080.34, this Agreement and every contract on lands that are subject to this
3 Agreement shall expressly prohibit discrimination against any person because of
4 sex, sexual orientation, race, color, religious creed, marital status, ancestry,
5 national origin, medical condition, age (40 and above), and disability (mental and
6 physical) including HIV and AIDS.

7 City shall comply with the provisions of the Fair Employment and Housing
8 Act (Gov. Code, §12900 et seq.) and the applicable regulations promulgated
9 thereunder (Cal. Code Regs, tit. 2, §7285.0 et seq.). The applicable regulations of
10 the Fair Employment and Housing Commission implementing Government Code,
11 §12990 (a)-(f), are incorporated into this Agreement by reference and made a part
12 hereof as if set forth in full (Cal. Code Regs, tit. 2, §7285.0 et seq.). City shall give
13 written notice of their obligations under this clause to labor organizations with
14 which they have a collective bargaining or other Agreement. City shall include the
15 non-discrimination and compliance provisions of this clause in all contracts to
16 perform work under and/or in connection with this Agreement.

17 In the event of violation of this paragraph, State will have the right to
18 terminate this Agreement, and any loss of revenue sustained by the State by
19 reason thereof shall be borne and paid for by City.
20

1 In Operating Agreement, add the following Paragraphs 19 through 45:
2

3 19. **CONSIDERATIONS**: In consideration of the services to be performed
4 by City pursuant to this Agreement, State hereby authorizes the use of the
5 Premises by City "rent-free basis on the condition that City exert a good faith effort
6 in performing the terms and conditions of this Agreement". In the event that City
7 fails to perform in good faith, the Premises shall revert back to the State, at State's
8 option, and State shall have the right to pursue any other remedies available under
9 this Agreement and/or otherwise available by law.

10 Any income to City derived from its control and operation of Premises for
11 services, benefits, or accommodation to the general public, or otherwise, shall be
12 used only for the maintenance, operation, administration, improvement, or
13 development of lands and/or facilities located within Manhattan State Beach, as
14 described in Exhibit A, Premises. The City is entitled to use income derived from
15 its control and operation of Premises for funding the direct costs of utilities,
16 maintenance and operation of the facilities including salaries, benefits and
17 administrative overhead not to exceed eight percent (8%) of the annual gross
18 income for that year. In the event the administrative overhead exceeds eight
19 percent (8%), the State and City agree to review the limitation. The City agrees to
20 submit a listing of these direct costs, with the City's Annual Report, for the State's
21 approval, which shall not be unreasonably withheld. Any such portion of income
22 as may exceed costs and expenses to maintain and operate Premises as
23 described within this Agreement may be retained for capital improvement projects
24 on the Premises as determined by the City Council of the City of Manhattan
25 Beach. Such capital projects shall be submitted to the State with the City's Annual
26 Report and Capital Improvement Plan documents. The State shall have thirty (30)
27 days to review the proposed projects, after which time approval shall be
28 automatically granted. Excess funds retained by the City at the final termination of
29 this Agreement, including any subsequent extensions, shall be remitted to State in
30 accordance with Section 5080.32 (b)(2) of the California Public Resource Code.

31
32 20. **MAINTENANCE OBLIGATION OF CITY**: During the term of this Agreement
33 and at City's own cost and expense, City shall maintain and operate the Premises

1 including equipment, personal property, and Alterations or improvements of any
2 kind that may be erected, installed, or placed thereon in a clean, safe, wholesome,
3 and sanitary condition free of trash, garbage, or obstructions of any kind. All
4 construction, operation, and maintenance shall be in accordance with all laws,
5 codes, regulations, ordinances, and generally accepted industry standards
6 pertaining to such work.

7 Should City fail, neglect, or refuse to undertake and complete any required
8 maintenance, State shall have the right to perform such maintenance or repairs for
9 the City. In this event, City shall promptly reimburse State for the cost thereof,
10 provided, however, that State shall first give City ten (10) days written notice of its
11 intention to perform such maintenance or repairs. State shall not be obligated to
12 make any repairs to or maintain any improvement on the Premises. City hereby
13 expressly waives the right to make repairs at the expense of the State and the
14 benefit of Sections 1941 and 1942 of the California Civil Code relating thereto, if
15 there be any. State has made no representations respecting the condition of the
16 Premises, except as specifically set forth in this Agreement.

17 State reserves the right to enter the Premises for inspection and work
18 related to its care and maintenance during the term hereof, provided that State
19 shall give City reasonable written notice of its intention to do any of the work
20 herein mentioned before such work is undertaken.

21

22 21. **TAXES:** City, by signing this Agreement, acknowledges that occupancy
23 interest and rights to do business on State property may create a possessory
24 interest as that term is defined in Revenue and Taxation Code Section 107.6,
25 which possessory interest may subject a concessionaire to liability for the payment
26 of property taxes levied on such possessory interest. City and/or any
27 concessionaire engaged by City shall pay all lawful taxes, assessments, or
28 charges that may be levied by the State, County, City, or any tax or assessment
29 levying body at any time upon any interest in or created by this Agreement, or any
30 possessory right that City and/or any concessionaire may have in or to the
31 Premises covered hereby or the improvements thereon, by reason of City and/or
32 any concessionaire's use or occupancy thereof or otherwise, as well as all taxes,
33 assessments, and charges on goods, merchandise, fixtures, appliances,

1 equipment, and property owned by City and/or any concessionaire in or about the
2 Premises.

3
4 **22. UTILITIES AND SERVICES:** City shall be responsible for all expenses
5 resulting from utilities supplied to the Premises. City shall be responsible for
6 distribution systems and all related expenses within the Premises.

7
8 **23. INSURANCE:**

9 A. Liability Insurance: At its sole expense, City agrees to maintain in
10 force during the term of this Agreement comprehensive general liability
11 insurance, insuring against claims for injuries to persons or property
12 occurring in, upon, or about Premises. The insurance shall have limits of
13 not less ONE MILLION DOLLARS (\$1,000,000) for injuries to person or
14 persons; not less than ONE MILLION DOLLARS (\$1,000,000) for property
15 damage.

16 B. State agrees that City, at City's option, may self-insure the coverages
17 required by this Paragraph.

18 C. Each policy of liability insurance shall contain an endorsement,
19 including the State through its Department of Parks and Recreation, as
20 additional insured as follows:

21 1) State of California, its officers, employees, and servants are
22 included as additional insured but only insofar as operations and
23 facilities under this Agreement are concerned;

24 2) The insurer will not cancel or reduce the insured's coverage
25 without thirty (30) days prior written notice to State.

26 D. The insurance requirements in this Paragraph apply to all contracts,
27 including concession operations, entered into by the City as they
28 relate to the Premises.

29 E. No cancellation provision in any insurance policy shall diminish the
30 responsibility of the City to furnish continuous insurance throughout the
31 term of the Agreement. Each policy shall be underwritten to the satisfaction
32 of the State. A signed Certificate of Insurance, with each endorsement
33 required, including but not limited to State's additional insured
34 endorsement, shall be submitted to State at the time this Agreement is

1 executed, showing that the required insurance has been obtained. Further,
2 at least thirty (30) days prior to the expiration of any such policy, City shall
3 submit to State a signed and completed Certificate of Insurance, with all
4 endorsements required by this paragraph, showing, to the satisfaction of
5 State, that such insurance coverage has been renewed or extended.
6 Within fifteen (15) days of State's request, City shall furnish State with a
7 signed and complete copy of the required policy and/or evidence of self-
8 insurance.

9 F. City agrees to impose the foregoing insurance requirements on any
10 and all concessionaires and shall require that State be named as an
11 additional insured on all policies. Failure to provide any of the required
12 insurance and/or endorsements shall constitute a material breach of this
13 Agreement.

14
15 **24. PROHIBITIONS AGAINST ASSIGNING, SUBLETTING:**

16 This Agreement and/or any interest therein or thereunder shall not be
17 assigned, delegated, mortgaged, hypothecated, or transferred by City without
18 obtaining the prior written consent of State, which shall not be unreasonably
19 withheld.

20
21 **25. DEFAULTS AND REMEDIES:**

22 Any failure by a party to this Agreement to observe or perform a provision of
23 this Agreement, where such failure continues for thirty (30) days after written
24 notice of such failure, shall constitute a default and breach of this Agreement.
25 However, if the nature of the default is such that it cannot be reasonably cured
26 within the thirty (30) day period, the offending party shall not be deemed to be in
27 default if an effective cure is commenced within the thirty (30) day period and
28 thereafter diligently prosecuted to completion. Upon an event of default by State,
29 City shall have the right to terminate this Agreement by providing written notice to
30 State.

31 Upon an event of default by City, State shall have the right to terminate this
32 Agreement and obtain immediate possession of the Premises at any time by
33 written notice to City. In such event, State shall be entitled to all rights and
34 remedies at law and/or in equity, including but not limited to, costs and expenses

1 incurred by State in recovering possession of and/or restoring the Premises, and
2 compensation for all detriment proximately caused by City's failure to perform its
3 obligations under this Agreement.

4
5 **26. SURRENDER OF THE PREMISES; HOLDING OVER:**

6 **Surrender:** On expiration or within thirty (30) days after earlier termination
7 of this Agreement, City shall surrender the Premises to State with all fixtures,
8 improvements, and Alterations in good condition, except for fixtures,
9 improvements, and Alterations that City is obligated to remove. City shall remove
10 all of its personal property and shall perform all restoration required by the terms of
11 this Agreement within the above stated time unless otherwise agreed to in writing.

12 If City fails to surrender the Premises to State on the expiration,
13 assignment, or within thirty (30) days after earlier termination of the term as
14 required by this Paragraph, City shall hold State harmless for all damages
15 resulting from City's failure to surrender the Premises.

16 **Holding Over:** After the expiration or earlier termination of the term and if
17 City remains in possession of the Premises with State's express consent, such
18 possession by City shall be deemed to be a temporary tenancy terminable on
19 thirty (30) days written notice given at any time by either party. All provisions of
20 this Agreement except those pertaining to the term shall apply to the temporary
21 tenancy.

22
23 **27. COMPLIANCE WITH LAWS, RULES, REGULATIONS, AND POLICIES:**

24 City shall comply with all applicable laws, rules, regulations, and orders
25 existing during the term of this Agreement, including obtaining and maintaining all
26 necessary permits and licenses. City acknowledges and warrants that it is, or will
27 make itself, through its responsible managers, knowledgeable of all pertinent laws,
28 rules, ordinances, regulations, or other requirements having the force of law
29 affecting the operation of the Premises, including but not limited to laws affecting
30 health and safety, hazardous materials, pest control activities, historical
31 preservation, environmental impacts, and building standards.

32

1 **28. DISABILITY ACCESS LAWS:**

2 With regard to all operations and activities that are the responsibility of City
3 under this Agreement, and without limiting City's responsibility under this
4 Agreement for compliance with all laws, City shall be solely responsible for
5 complying with the requirements of the Americans with Disabilities Act of 1990
6 (ADA) (Public Law 101-336, commencing at Section 12101 of Title 42, United
7 States Code, including Titles I, II, and III of that law), the Rehabilitation Act of
8 1973, and all related regulations, guidelines, and amendments to both laws.

9 With regard to facilities for which City is responsible for operation,
10 maintenance, construction, restoration, or renovation under this Agreement, City
11 also shall be responsible for compliance with Government Code Section 4450, et
12 seq., Access to Public Buildings by Physically Handicapped Persons, and
13 Government Code Section 7250, et seq., Facilities for Handicapped Persons, and
14 any other applicable laws, regulations, guidelines and successor statutes. Such
15 compliance shall be at City's sole cost and expense. Written approval from State
16 is required prior to implementation of any plans to comply with accessibility
17 requirements.

18
19 **29. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:**

20 By signing this Agreement, City does hereby swear, under penalty of
21 perjury, that no more than one final, unappealable finding of contempt of court by a
22 federal court has been issued against City within the two-year period immediately
23 preceding the date of this Agreement because of City's failure to comply with a
24 federal court order that City shall comply with an order of the National Labor
25 Relations Board.

26
27 **30. DRUG-FREE WORKPLACE:**

28 City agrees to comply with Government Code Section 8355 in matters
29 relating to the provision of a drug-free workplace. This compliance is evidenced
30 by the executed Standard Form 21, Drug-Free Workplace Certification, attached
31 hereto as **Exhibit G** and made a part of this Agreement.

32

1 **31. ENVIRONMENTAL AWARENESS AND RESOURCE PROTECTION:**

2 City shall comply with State's resource management and preservation
3 mandates in the conduct of all activities that impact cultural, natural, or scenic
4 resources. These mandates include the California Public Resources Code
5 Sections 5024 and 5097 et seq., State's Resource Management Directives, and
6 the United States Secretary of the Interior's Guidelines for Historic Preservation.

7
8 **32. HAZARDOUS SUBSTANCES:**

9 A. On the Premises City shall not:

- 10 1) keep, store, or sell any goods, merchandise, or materials that
11 are in any way explosive or hazardous;
12 2) carry on any offensive or dangerous trade, business, or
13 occupation;
14 3) use or operate any machinery or apparatus that shall injure
15 the Premises or adjacent buildings in any way; or
16 4) do anything other than is provided for in this Agreement.

17 B. Nothing in this paragraph shall preclude City from bringing, keeping,
18 or using on or about said Premises such materials, supplies, equipment,
19 and machinery as is appropriate or customary in the care, maintenance,
20 administration, and control of parklands. Gasoline, oils, and all other
21 materials considered under law or otherwise to be hazardous to health and
22 safety shall be stored, handled, and dispensed as required by present or
23 future regulations and laws.

24 C. City shall comply with all laws, federal, state, or local, existing during
25 the term of this Agreement pertaining to the use, storage, transportation,
26 and disposal of any hazardous substance, as that term is defined in such
27 applicable law. In the event the State or any of its affiliates, successors,
28 principals, employees, or agents should incur any liability, cost, or expense,
29 including attorney's fees and costs, as a result of the City's illegal use,
30 storage, transportation, or disposal of any hazardous substance, including
31 any petroleum derivative, City shall protect, indemnify, defend, and hold
32 harmless any of these individuals against such liability. Where City is found
33 to be in breach of this provision due to the issuance of a government order

1 directing City to cease and desist any illegal action in connection with a
2 hazardous substance, or to remediate a contaminated condition directly
3 caused by City or any person acting under City's direct control or authority,
4 City shall be responsible for all costs and expenses of complying with such
5 order including any and all expenses imposed on or incurred by the State in
6 connection with or in response to such government order.

7 D. Notwithstanding the foregoing, in the event a government order is
8 issued naming City, or City incurs any liability during or after the term of the
9 Agreement in connection with contamination that preexisted the City's
10 obligations and occupancy under this Agreement, or prior agreements or
11 that were not directly caused by City, the State shall be solely responsible
12 as between City and State for all expenses and efforts in connection
13 therewith, and State shall reimburse City for all reasonable expenses
14 actually incurred by City therewith.

15 E. All pest control activities, chemical and non-chemical, shall be
16 approved by State prior to action by the City. City or the pest control
17 business acting on behalf of City shall submit a DPR 191, Pest Control
18 Recommendation, or equivalent to State for approval. State has fourteen
19 (14) days to approve or deny the request. State review and approval shall
20 be solely for compliance with State's policies and in no way shall relieve
21 City or its contractors, employees, agents, or representatives from
22 compliance with all laws and regulations concerning such activities, nor
23 from carrying out the work in a workmanlike manner.

24 City or the pest control business acting on behalf of City shall submit
25 a report of completed work for each pest management action to the State
26 no later than seven (7) days after performance of the work. The report may
27 be submitted on a DPR 191, Pest Control Recommendation, or equivalent.

28
29 **33. SIGNS AND ADVERTISING:**

30 No signs, logos, names, placards, or advertising matter shall be inscribed,
31 painted, or affixed upon Premises, or circulated or published without prior written
32 approval of the State. Approval will be granted only when said signs or advertising
33 is consistent with the purposes of this Agreement.

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34. INTELLECTUAL PROPERTY RIGHTS:

Any names, logos, trademarks, and/or copyrights developed during and/or pursuant to this Agreement that in any way associate, identify, or implicate an affiliation with California State Parks shall be approved by State for use, shall belong to State upon creation, and shall continue in State's exclusive ownership upon termination of this Agreement.

35. PARTICIPATION IN STATE PARK MARKETING PROGRAMS:

City acknowledges that State has an established advertising and marketing program designed to promote additional revenue for the State and to deliver a consistent and positive image to the public. City agrees to cooperate in this program in the manner by giving reasonable consideration of advertising materials submitted by the State consistent with State advertising at similar park units throughout the State.

A. City agrees to place on the Premises any advertising that the approved under this program. Any advertising approved under this program will be placed at State's expense.

B. City agrees to rent or sell, along with all other items of merchandise that are part of the City's normal and customary inventory, any item of merchandise that the State approves under this program, provided that City is authorized to sell or rent it under the terms of the Agreement, and the City receives reasonable compensation for its sale.

36. CHILD SUPPORT COMPLIANCE ACT:

City recognizes the importance of child and family support relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as obligations and shall fully comply with all applicable state and federal laws provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code.

To the best of its knowledge City is fully complying with the earnings assignment orders of all employees and is providing the names of all new

1 employees to the New Hire Registry maintained by the California Employment
2 Development Department.

3

4 **37. DISPUTES:**

5 City shall continue with any and all responsibilities under this Agreement
6 during any dispute.

7

8 **38. INSPECTION:**

9 State or its authorized representative shall have the right at all reasonable
10 times to inspect the Premises to determine compliance with the provisions of this
11 Agreement.

12

13 **39. SUCCESSORS IN INTEREST:**

14 Unless otherwise provided in this Agreement, the terms, covenants, and
15 conditions contained herein shall apply to and bind the heirs, successors,
16 executors, administrators, and assigns of all the parties hereto, all of who shall be
17 jointly and severally liable hereunder.

18

19 **40. PARTIAL INVALIDITY:**

20 If any term, covenant, condition, or provision of this Agreement is held by a
21 court of competent jurisdiction to be invalid, void, or unenforceable, the remainder
22 of the provisions hereof shall remain in full force and effect and shall in no way be
23 affected, impaired, or invalidated thereby.

24

25 **41. TIME OF ESSENCE:**

26 Time shall be of the essence in the performance of this Agreement.

27

28 **42. DURATION OF PUBLIC FACILITIES:**

29 By entering into this Agreement, State makes no stipulation as to the type,
30 size, location, or duration of public facilities to be maintained at this unit, or the
31 continuation of State ownership thereof, nor does the State guarantee the
32 accuracy of any financial or other factual representation that may be made
33 regarding the Premises.

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43. WAIVER OF RIGHTS, CLAIMS, AND AGREEMENT TERMS:

Unless otherwise provided by this Agreement, no waiver by either party at any time of any of the terms, conditions, or covenants of this Agreement shall be deemed as a waiver at any time thereafter of the same or of any other term, condition, or covenant herein contained, nor of the strict and prompt performance thereof. No delay, failure, or omission of the State to re-enter the Premises or to exercise any right, power, or privilege, or option arising from any breach, nor any subsequent acceptance of rent then or thereafter accrued shall impair any such right, power, privilege, or option, or be construed as a waiver of such breach or relinquishment of any right or acquiescence therein. No notice to the City shall be required to restore or revive time as of the essence after the waiver by the State of any breach. No option, right, power, remedy, or privilege of the State shall be construed as being exhausted by the exercise thereof in one or more instances. The rights, powers, options, and remedies given to the State by this Agreement shall be deemed cumulative.

44. INTERPRETATION OF AGREEMENT:

This Agreement is made under and is subject to the laws of the State of California in all respects as to interpretation, construction, operation, effect, and performance.

45. INDEPENDENT CONTRACTOR:

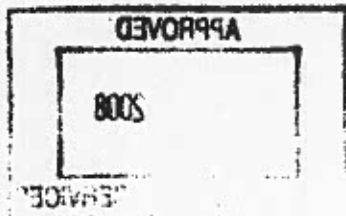
In the performance of this Agreement, City and the agents and employees of City shall act in an independent capacity and not as officers or employees or agents of the State.

46. MODIFICATIONS AND APPROVAL OF AGREEMENT

This Agreement contains and embraces the entire Agreement between the parties hereto and neither it nor any part of it may be changed, altered, modified, limited, or extended orally or by any Agreement between the parties unless such Agreement be expressed in writing, signed, and acknowledged by the State and City or their successors in interest.

1 Notwithstanding any of the provisions of this Agreement, the parties may
2 hereafter, by mutual consent expressed in writing, agree to modifications thereof,
3 additions thereto, or terminations thereof, which are not forbidden by law. This
4 Agreement, amendments, modifications, or termination thereof shall not be
5 effective until approved by State's relevant control agencies.

6
7



1 IN WITNESS WHEREOF, the parties hereto warrant that they respectively have the
2 requisite authority to enter this contract, binding the named parties for which they sign, and
3 have executed this amendment on the dates set forth below.
4
5

6 APPROVED:

7
8 CITY OF MANHATTAN BEACH

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

9
10
11 By: *Geoff Dolan*
12 Name: Geoff Dolan
13 Title: City Manager
14 Date: September 4, 2008
15
16
17

By: *Ruth Coleman*
Name: Ruth Coleman
Director
Title: District Superintendent
Date: 9-12-08

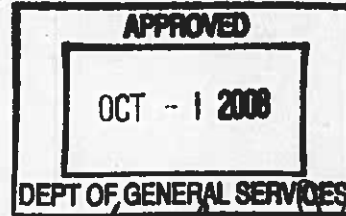
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22
23 ATTORNEY GENERAL:

DEPARTMENT OF GENERAL SERVICES:

24
25 Approved as to legal sufficiency
26 in accordance with the requirements
27 of Sections 5080.02-5080.21 of the
28 Public Resources Code.
29

30 EDMUND G BROWN JR, Attorney General
31 of the State of California

32 *review not required*
33 By: _____
34 Deputy Attorney General
35
36 Dated: _____
37
38
39



[Handwritten signature]

**Annual Revenue and Expenditure Statement
Operating Agreements**

EXHIBIT "F"

Annual Revenue and Expenditure Statement Operating Agreements

Park Unit _____

Operating Agency _____

State's Fiscal Year _____ to _____

	Expenditures	Revenue	Balance
Visitor Entrance Fees			
Separate Parking Fees			
Concession A			
Concession B			
Concession C			
Special Events			
Miscellaneous Revenue			
Total Annual Revenue			
Salaries & Wages			
Maintenance & Housekeeping			
Utilities			
Capital Improvement Projects			
Miscellaneous Expenses			
Total Annual Expenditures			
Balance			

Preparer Name _____ Date _____

Phone Number _____

**Standard Form 21
Drug-Free Workplace Certification**

EXHIBIT "G"

STATE OF CALIFORNIA

DRUG-FREE WORKPLACE CERTIFICATION

STD. 21 (REV. 12-83)

I, the official named below, hereby swear that I am duly authorized legally to bind the contractor or grant recipient to the certification described below. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.

The contractor or grant recipient named above hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The above named contractor or grant recipient will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).

2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b), to inform employees about all of the following:

- (a) The dangers of drug abuse in the workplace,
- (b) The person's or organization's policy of maintaining a drug-free workplace,
- (c) Any available counseling, rehabilitation and employee assistance programs, and
- (d) Penalties that may be imposed upon employees for drug abuse violations.

3. Provide as required by Government Code Section 8355(c), that every employee who works on the proposed contract or grant:

- (a) Will receive a copy of the company's drug-free workplace policy statement, and
- (b) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.

4. At the election of the contractor or grantee, from and after the "Date Executed" and until (NOT TO EXCEED 36 MONTHS), the state will regard this certificate as valid for all contracts or grants entered into between the contractor or grantee and this state agency without requiring the contractor or grantee to provide a new and individual certificate for each contract or grant. If the contractor or grantee elects to fill in the blank date, then the terms and conditions of this certificate shall have the same force, meaning, effect and enforceability as if a certificate were separately, specifically, and individually provided for each contract or grant between the contractor or grantee and this state agency.

Annual Revenue and Expenditure Statement Operating Agreements

Park Unit _____

Operating Agency _____

State's Fiscal Year _____ to _____

	Expenditures	Revenue	Balance
Visitor Entrance Fees			
Separate Parking Fees			
Concession A			
Concession B			
Concession C			
Special Events			
Miscellaneous Revenue			
Total Annual Revenue			
Salaries & Wages			
Maintenance & Housekeeping			
Utilities			
Capital Improvement Projects			
Miscellaneous Expenses			
Total Annual Expenditures			
Balance			

Preparer Name _____ Date _____

Phone Number _____

STATE OF CALIFORNIA
 DEPARTMENT OF PARKS AND RECREATION
 OPERATING AGREEMENT
 MANHATTAN STATE BEACH PIER

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OPERATING AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of August, 1988, by and between the STATE OF CALIFORNIA, acting through the Department of Parks and Recreation, hereinafter called "STATE", and the City of Manhattan Beach, a municipal corporation of the State of California, hereinafter called "CITY";

W I T N E S S E T H

WHEREAS, STATE has acquired for park and recreational purposes certain real property hereinafter described, known as Manhattan State Beach Pier, adjacent parking lots, and comfort station and has jurisdiction thereof; and

Pursuant to the provisions of Section 5080.30 et seq. of the Public Resources Code of the State of California, STATE may enter into contracts with political subdivisions of the State of California for the care, maintenance, and control, for the purposes of the State Park System, of lands under the jurisdiction of STATE; and

STATE and CITY desire to enter into an agreement to provide for such operation, care, custodial maintenance, and control of Manhattan State Beach Pier, the four (4) adjacent parking lots, and the adjacent comfort station, but excluding the Bike Path and Pier's Lifeguard Tower, all as described in Exhibits "A", "B", "C", and "D" and incorporated herein by this reference.

1 NOW, THEREFORE, in consideration of the mutual covenants hereinafter
2 contained, the parties hereto agree as follows:

3

4 1. Term: CITY shall be responsible for a period beginning on the
5 date first above appearing and ending twenty years from said date, with an
6 additional twenty-year extension at the CITY'S option. The CITY may exercise
7 such option not later than one year prior to the end of the initial 20-year
8 term. During said period, CITY shall pay all costs of custodial maintenance,
9 control, and operation of said property for said purposes and STATE shall not,
10 during said period, be liable for the cost of said custodial maintenance,
11 control, or operation. Nothing herein shall preclude CITY from receiving
12 grants for such purposes or for development of said property to the full
13 extent otherwise permitted by law.

14

15 2. Use of Premises: While this agreement is in force and effect,
16 said property shall be accessible and subject to the use and enjoyment of all
17 citizens of the State of California, and all other persons entitled to use and
18 enjoy the same, subject, however, in the manner of such use and enjoyment to
19 the control of CITY in conformity with this agreement. CITY may adopt rules
20 and regulations, including hours of operation, for the use and enjoyment of
21 said property. Any such rules and regulations adopted by CITY shall conform
22 to and be consistent with the rules and regulations adopted by STATE and
23 generally applicable to the State Park System, including said property. Said
24 property shall not be used for any other purpose than the purposes herein
25 enumerated.

26 ---

27 ---

1 3. Concessions: Subject to prior approval in writing by STATE,
2 CITY may grant concessions in or upon said property consistent with the use by
3 the general public thereof for park and recreational purposes. The rights of
4 the public to the use and enjoyment of said property shall thereupon be
5 limited by such concession agreements. All such concessions shall be granted
6 in substantial compliance with Public Resources Code Section 5080.20, 5080.33
7 and 5080.34, and an applicable State approved general plan for the respective
8 park unit.

9
10 4. Fees: Any charges, fees, or collections made by CITY for
11 services, benefits, or accommodations to the general public shall be limited
12 to actual needs for maintenance, control, operation, and improvements of said
13 property, and that commercialization for profit shall not be engaged in by
14 CITY. Parking citation revenue shall be excluded from this limitation and be
15 retained by CITY. All fees collected from the sale of monthly parking tickets
16 as specified in Exhibit C-2 shall be retained in a special fund.

17
18 5. Annual Reports: All income received and all expenditures made
19 by the CITY in relation to concessions, special services, and all other
20 matters incident to the development, maintenance, control, and operation for
21 the State Beach Pier, adjacent parking lots, and comfort station or portion
22 thereof subject to this agreement shall be deposited in a special fund and
23 reported annually to the STATE. Pursuant to Public Resources Code
24 Section 5080.32, all revenues received from lands subject to this agreement
25 shall be expended only for the care, maintenance, operation, administration,
26 improvement, or development of the subject State property. Such annual

27 ---

1 report shall be made for the annual period commencing on July 1 and
2 terminating June 30 and shall be filed with STATE not later than December 1 of
3 each year.

4

5 The report shall include a reasonable annual estimate of the number
6 of visitors to subject State property or portions thereof described on
7 Exhibits A, B, and C, as well as the number of vehicles.

8

9 "Revenue" herein shall be defined so as not to include indirect
10 revenue such as sales tax, possessory interest tax, business license tax,
11 parking citations, and other similar government exactions.

12

13 The books, records, and accounts kept by CITY applying to the
14 operation of the subject State property shall at all reasonable times be open
15 for audit or inspection by STATE.

16

17 6. Beach Erosion Control: It is further agreed and understood
18 between the parties hereto that any development, beach erosion control, or
19 protection work which may be undertaken by STATE or the United States of
20 America, along or on said property, shall not, in any way, be construed as
21 constituting a termination of this agreement or in any way affecting same.

22

23 STATE shall have the right to enter into agreements for such work
24 during the term hereof and to go upon said property or to authorize any
25 person, firm, or corporation to go upon said property for the purpose of such
26 construction, beach erosion protection or control work, or the doing of other
27 public work for the improvement or development of said property, provided that

1 STATE shall give CITY 90-day written notice of its intention to do any of the
2 work herein mentioned before such work is undertaken.

3

4 7. Construction of Improvements: Subject to State approval, CITY
5 may, by its own forces or by contract, undertake projects for the development,
6 construction, or improvement to said property. Plans and specifications for
7 any such project shall be submitted to STATE for approval. No such project
8 shall be commenced by CITY's own forces or contracts awarded prior to STATE
9 approval.

10

11 STATE has the right to disapprove such plans and specifications and
12 shall notify the CITY of its decision within 90 days of submittal. Such
13 development, construction, or improvement shall be in accordance with
14 Section 5080.31 P.R.C. and with a STATE approved general plan for the
15 respective unit and any amendment thereof shall be subject to prior approval
16 in writing by STATE.

17

18 Pursuant to Public Resources Code Section 5080.31(b), the STATE's
19 general plan for the subject premises shall be prepared by the CITY and shall
20 be approved by the California State Park and Recreation Commission prior to
21 any new development or construction.

22

23 8. TITLE TO IMPROVEMENTS: The CITY hereby acknowledges the title
24 of STATE in and to the premises described in this contract, including real
25 property improvements existing or hereafter erected thereon, by the CITY,
26 STATE, or others and hereby covenants and agrees never to assail, contest, or
27 resist said title. Title to improvements will remain in STATE upon any

1 termination of this contract and no sums whatsoever shall be paid to the CITY
2 or any other person upon termination for default of any terms of this
3 contract.

4
5 At the end of the term of this agreement, and in the event that the STATE
6 deems any CITY constructed improvements to be substandard, the STATE in its
7 discretion may require the CITY to remove such substandard improvements. Any
8 removal authorized shall be made without damage to adjacent property or
9 improvements and if adjacent property or improvements are damaged, CITY shall
10 reimburse STATE therefore or shall repair the damage at the option of STATE.
11 After removal, the premises shall be left free and clear of all debris and in
12 a condition reasonably similar to the present condition of said property.

13
14 CITY shall not without prior written approval of STATE, remove,
15 move, demolish, or alter in any manner, any improvements, natural features, or
16 accretions existing on said property on the effective date of this agreement
17 or subsequently occurring, except when engaged in the protection of public and
18 private lands and waters from storms, floods, high tides, fire (all natural
19 disasters), during a period of natural disaster or emergency declared by the
20 Governor of California or the President of the United States.

21
22 9. Eminent Domain: If said property or portion thereof is taken
23 by proceedings in eminent domain, STATE shall receive the entire award for
24 such taking except that CITY shall receive out of said award the fair market
25 value of any improvements then existing and constructed by CITY (other than
26 improvements erected with funds realized through income from said property or
27 ---

1 State grants) on said property as said fair market value may be determined by
2 said proceedings taking into consideration the terms of this instrument.

3

4 10. Hold Harmless: CITY shall maintain and operate the subject
5 premises in a safe manner and in compliance with all laws and regulations
6 including the applicable safety regulations of the California Occupational
7 Safety and Health Act and applicable rules and regulations of "STATE".

8

9 The STATE will assume liability and defend and hold the CITY
10 harmless from loss, costs, or expenses including costs of defense caused by
11 the negligent or wrongful act or omission of STATE officers, agents, and
12 employees occurring in the performance of agreements between the parties
13 hereto to the extent that such liability is imposed on the CITY by the
14 provisions of Section 895.2 of the Government Code of the State of
15 California. In addition, when liability arises pursuant to Section 830 et
16 seq., of the Government Code, by reason of a dangerous condition of public
17 property of the STATE, the STATE shall assume liability and defend and hold
18 the CITY harmless from loss, costs, or expenses including costs of defense
19 caused thereby. The CITY shall provide warning signage to the public, erect
20 appropriate barriers, and give prompt notice to the STATE of any observed
21 dangerous condition.

22

23 The CITY will assume liability and defend and hold the STATE
24 harmless from loss, costs, or expenses caused by the negligent or wrongful act
25 or omission of CITY officers, agents, and employees occurring in the
26 performance of agreements between the parties hereto to the extent that such

27 ---

1 liability is imposed on the STATE by the provisions of Section 895.2 of the
2 Government Code of the State of California.

3

4 In the event STATE is named as co-defendant under the provisions of
5 the Government Code Sections 895 et seq., the CITY shall notify STATE of such
6 fact and shall represent STATE in such legal action unless STATE undertakes to
7 represent itself as co-defendant in such legal action in which event STATE
8 shall bear its own litigation costs, expenses, and attorney's fees.

9

10 In the event judgment is entered against the STATE and CITY because
11 of the concurrent negligence of STATE and CITY, their officers, agents, or
12 employees, an apportionment of liability to pay such judgment shall be made by
13 a court of competent jurisdiction. Neither party shall request a jury
14 apportionment.

15

16 11. Assignment: This agreement shall not, nor shall any interest
17 therein or thereunder, be assigned, mortgaged, hypothecated, or transferred
18 either by CITY or by operation of law, nor shall CITY let or sublet, or grant
19 any licenses or permits with respect to the use and occupancy of said property
20 or any portion thereof, without the written consent of STATE first had and
21 obtained. Such consent shall not be unreasonably withheld.

22

23 12. Notices: Notices or reports desired or required to be given
24 hereunder or under any law now or hereafter in effect may, at the option of
25 the party giving same, be given by enclosing the same in a sealed envelope
26 addressed to the party for whom intended and by depositing said envelopes,

27 ---

1 with postage prepaid, certified with return receipt requested, in the United
2 States Post Office or any substation thereof.

3

4 In the event such notice is being given to the CITY, such notice and
5 the envelope containing the same shall be addressed to the City Manager of the
6 City of Manhattan Beach, 1400 Highland Avenue, Manhattan Beach,
7 California 90266, or such other place as may hereafter be designated in
8 writing by or on behalf of CITY; and in the event that said notice being sent
9 to STATE, said notice and the envelope containing the same shall be addressed
10 to the Department of Parks and Recreation, P.O. Box 942896, Sacramento, CA
11 94296-0001, with copy to 1333 Camino del Rio South, Suite 200, San Diego,
12 California 92108.

13

14 13. Termination:

15

16 a. STATE reserves the unqualified right to terminate this
17 agreement by giving CITY eighteen (18) months' prior written notice of the
18 effective date of such termination. STATE further may terminate this
19 agreement for material breach by CITY of any of the provisions hereof. The
20 CITY shall be given not less than ninety (90) days to cure any and all
21 breaches hereunder.

22

23 b. CITY reserves the unqualified right to terminate this agreement
24 by giving STATE eighteen (18) months' prior written notice of the effective
25 date of such termination. CITY further may terminate this agreement for
26 breach by STATE of any of the provisions hereof.

27 ---

1 c. Notwithstanding any other provisions in this contract and in
2 addition to any other remedy available to STATE, STATE shall have the option
3 to terminate the contract and to pay CITY the then depreciated cost of the
4 facilities placed, created, or developed by CITY on the premises, except
5 improvements erected with funds realized through income from said property or
6 State grants. Such payment (buy-out) shall apply in the event of termination
7 pursuant to Section 13(a) above.

8
9 d. Upon a determination by a court that a material breach has
10 occurred on the part of the CITY in performance of this contract, and the
11 STATE has elected to terminate the agreement, the provisions of paragraph "c",
12 above, shall not apply.

13
14 e. For the purpose of paragraph "c" such facilities shall be
15 deemed to be the improvements which CITY may construct hereunder or later
16 adds, exclusive of trade fixtures, equipment, and any personal property. The
17 cost of such facilities for the purposes of this paragraph shall be computed
18 in the following manner:

19
20 f. Upon completion of improvements, or within thirty (30) days of
21 opening for public use, whichever is earlier, CITY will submit verified cost
22 statements accompanied by substantiating invoices and bills of labor,
23 material, or any other reasonable construction costs, to STATE. After such
24 statements, invoices, and bills have been examined by STATE, STATE will in its
25 sole discretion establish in a reasonable and fair manner the cost of
26 improvements. In the event costs are not filed by CITY within the period
27 above provided, STATE shall estimate said cost and serve the same on CITY in

1 the manner provided herein. STATE's estimate shall become final
2 thirty (30) days after service thereof.

3

4 g. The amount to be paid as the then depreciated cost of the
5 facilities in the event of termination under paragraph "c" shall be based on a
6 capital recovery schedule determined by dividing the initial investment by the
7 number of whole years remaining in the initial 20-year agreement period or any
8 extension thereof at the time of investment, multiplied by the remaining
9 years. The initial investment shall be the actual cost of all improvements,
10 less any donations, contributions, fees, or State grants received by CITY for
11 the construction of said improvements.

12

13 In the event of breach, bankruptcy, insolvency, abandonment, or the
14 contract is terminated at CITY's request, the buy-out provisions contained
15 herein are not to be considered as an obligation of the STATE.

16

17 The buy-out provisions shall only be operative when funds required
18 by STATE for such buy-out are obtained through appropriation by the
19 Legislature and through the normal budgeting process of the STATE.

20

21 14. Real Property Acquisition: It is understood and agreed by the
22 parties hereto, that all applications for real property rights, appurtenant to
23 the real properties herein described, shall be made in the name of and on
24 behalf of STATE, and shall be subject to the prior approval in writing of
25 STATE.

26 ---

27 ---

1 15. Nondiscrimination: Pursuant to Public Resources Code
2 Section 5080.34, this agreement prohibits, and every contract for a concession
3 on lands that are subject to this operating agreement shall expressly
4 prohibit, discrimination against any person because of race, color, religion,
5 sex, marital status, national origin, or ancestry of that person. Attached
6 Standard Form 17A is incorporated herein as Exhibit "D".

7

8 16. Limitation: This operating agreement is subject to all valid
9 and existing contracts, leases, licenses, encumbrances, and claims of title
10 which may affect said property.

11

12 17. Paragraph Titles: The paragraph titles in this contract are
13 inserted only as a matter of convenience and for reference, and in no way
14 define, limit or describe the scope or intent of this contract or in any way
15 affect this contract.

16

17 18. Contracts in Counterparts: This contract is executed in
18 counterparts each of which shall be deemed an original.

19 ---
20 ---
21 ---
22 ---
23 ---
24 ---
25 ---
26 ---
27 ---

1 IN WITNESS WHEREOF, the parties have executed this instrument upon
2 the date first hereinabove appearing.

3

4

5

6

7

Attest:

8

CITY OF MANHATTAN BEACH

9

Timothy J. Kelly
City Clerk

10

12/11/88
Date

11

12

Sammy Hayatz
Mayor

13

14

Dec. 5, 1988
Date

15

16

Reviewed and Approved:

17

David J. Thompson
City Manager

18

19

Dec. 8, 1988
Date

20

21

Approved as to Form:

[Signature]
City Attorney

22

23

Dec. 9, 1988
Date

24

25

26

27

0-7444X

STATE OF CALIFORNIA
DEPARTMENT OF PARKS AND RECREATION

[Signature]
Director

1-17-89
Date

DEPARTMENT OF GENERAL SERVICES

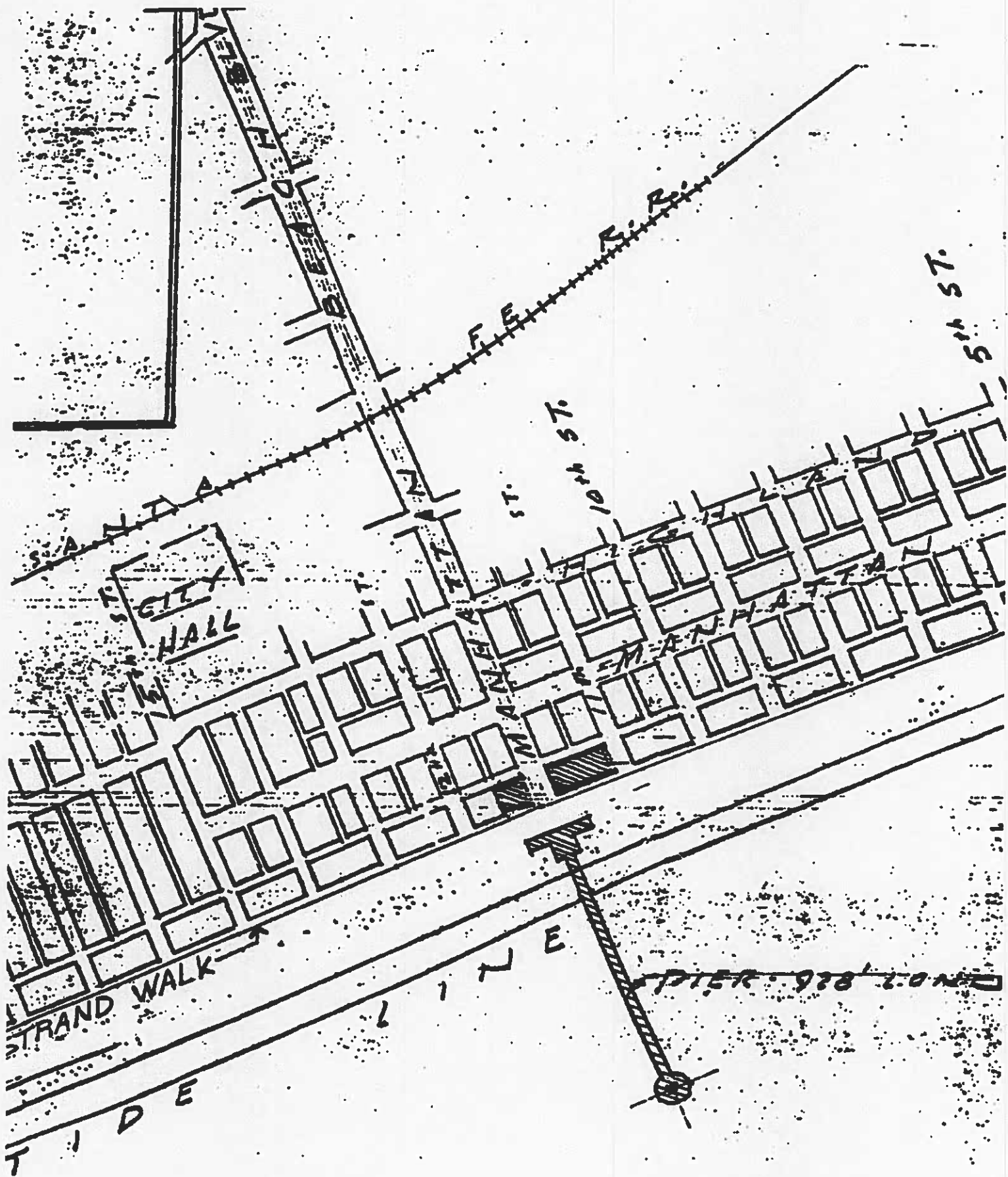
BY _____

Date _____

FORM	POLICY	BUDGET
Department of General Services		
APPROVED		
JAN 20 1989		
ORIGINAL SIGNED BY BY ALAN L. WENDELL		
Asst. Chief Counsel		

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within said State, and within said city, for public beach, park and recreational purposes, and pursuant to the right, power and authority of said City as to the granted and authorized under the provisions of Sections 37350 and 37351 of the Government Code of the State of California, does hereby grant to the STATE OF CALIFORNIA (subject to matters hereinafter set forth) to be used for public beach, park and recreational purposes only, all that certain real property located in the City of Manhattan Beach, County of Los Angeles, State of California, described as follows.

to wit: That certain strip of ground, two hundred feet wide, being one hundred feet on each side of the center line of Manhattan Beach Boulevard (formerly Center Street), produced westerly and extending from the right-of-way of the Pacific Electric Railway Company to the waters of the Pacific Ocean; and that portion of said Manhattan Beach Boulevard (formerly Center Street), one hundred feet wide, beginning at a point in the westerly prolongation of said Manhattan Beach Boulevard (formerly Center Street), said point being one hundred eighty feet westerly from the westerly line of the Strand, the bearing of said prolongation being South 67° 28' West; thence South 22° 32' East a distance of 150 feet; thence South 67° 28' West a distance of 1030 feet; thence North 22° 32' West a distance of 100 feet; thence North 67° 28' East a distance of 1030 feet; thence South 22° 32' East a distance of 50 feet;

ALSO all of the structure upon or adjacent to the above described parcel known as the Manhattan Beach Municipal Pier, which extends in a general westerly direction approximately 3928 feet into the Pacific Ocean, with its appurtenances and all pertaining thereto.

TO HAVE AND TO HOLD the above granted and described real property so hereby conveyed, together with its respective incidents and appurtenances, (subject to matters thereinabove set forth).

IN WITNESS WHEREOF, the said City of Manhattan Beach has hereunto caused its corporate name and seal to be thereunto subscribed and affixed by its proper officers first thereunto duly authorized this 6th day of July, 1958.

CITY OF MANHATTAN BEACH,
a municipal corporation,

By John S. Dean
Mayor of said City

RECORDED IN OFFICIAL RECORDS
LOS ANGELES COUNTY, CALIF.
411 1/2 12 24 12 1958
SEAL & REC. COUNTY RECORDER

WHO REQUESTED BY AND MAIL TO:
City of Manhattan Beach
Secretary
California



Norman R. Brandt
City Clerk

BE IT ENJOINED, that Norman R. Brandt and Everett E. Powell be, and they are each hereby, authorized to execute in writing deeds or grant conveying to the State of California, as Grantor, and either or any person or persons, the purchase of which was authorized by the State Park Commission and thereby approved, (or said or both) of said Grants, to be conveyed as aforesaid in accordance with the provisions of Section 27151 of the Government Code of the State of California.

I HEREBY CERTIFY the foregoing to be a full, true and correct copy of the original as compiled by the California State Park Commission at its meeting held at Los Angeles, California, on July 11, 1958.

John S. Dean
Mayor of said City

In compliance with the foregoing resolution, I, the undersigned, hereby certify the foregoing to be a true and correct copy of the original as compiled by the California State Park Commission at its meeting held at Los Angeles, California, on July 11, 1958.

EXHIBIT A-2

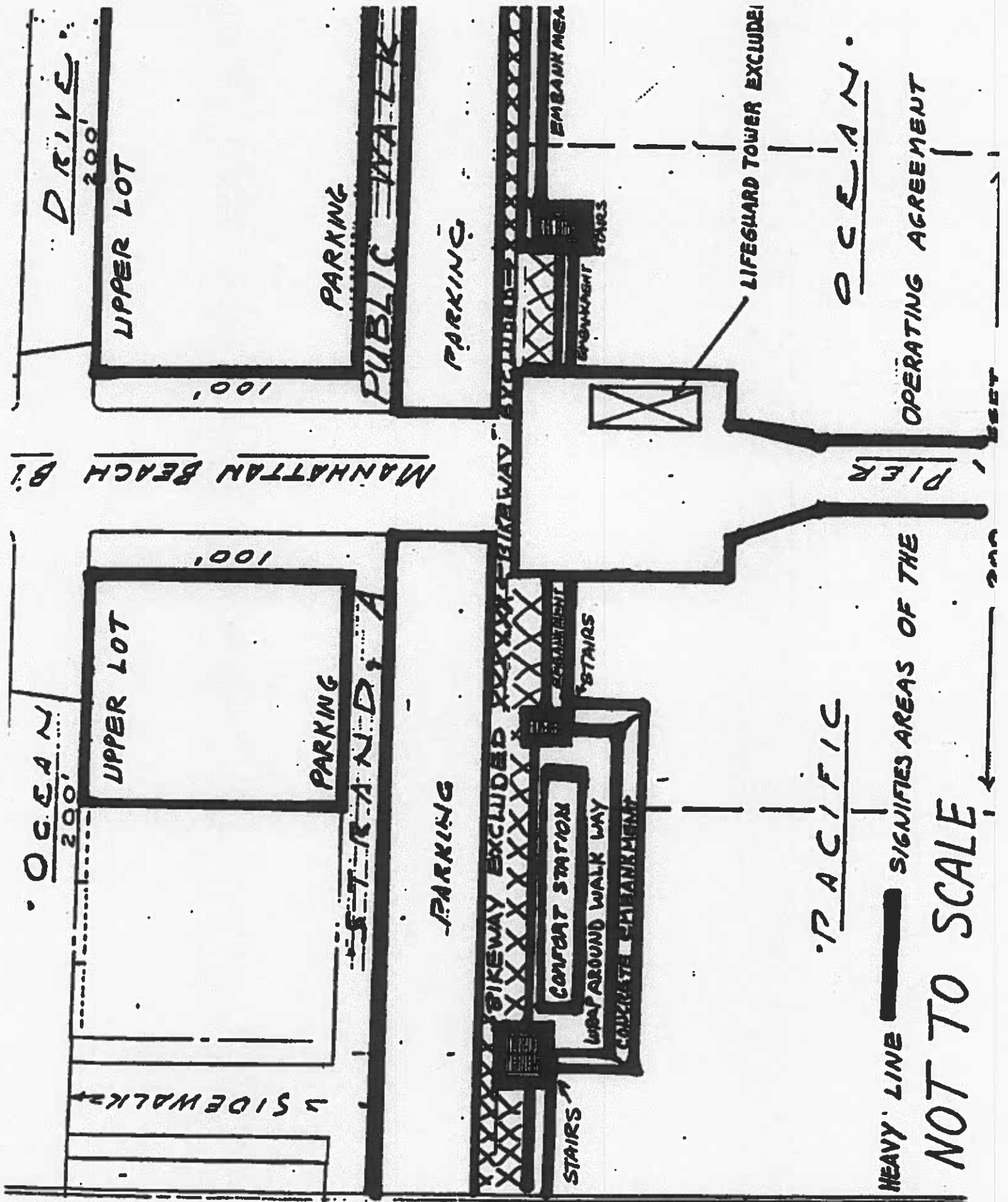
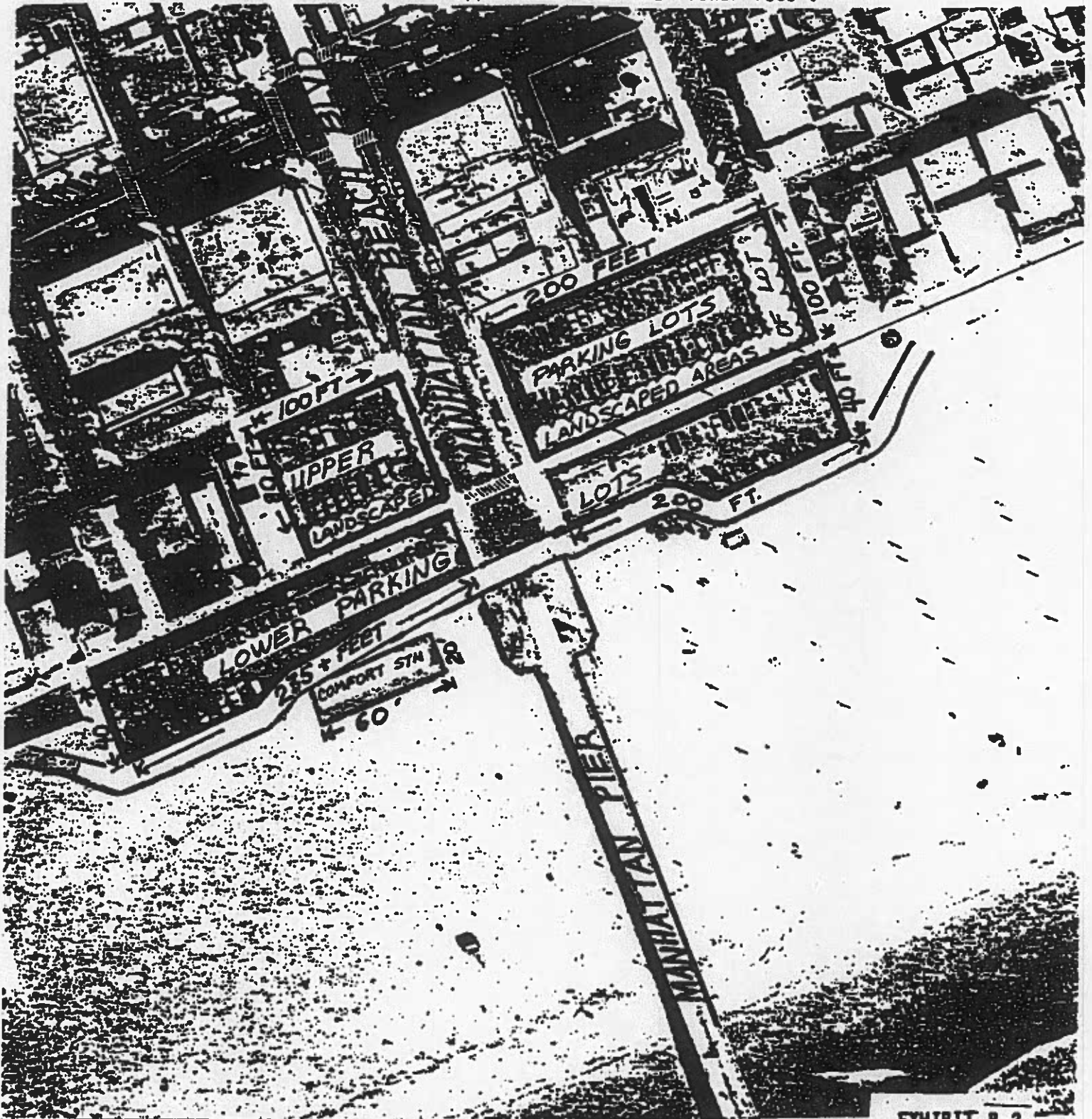


EXHIBIT B-1

HEAVY LINE SIGNIFIES AREAS OF THE
 NOT TO SCALE

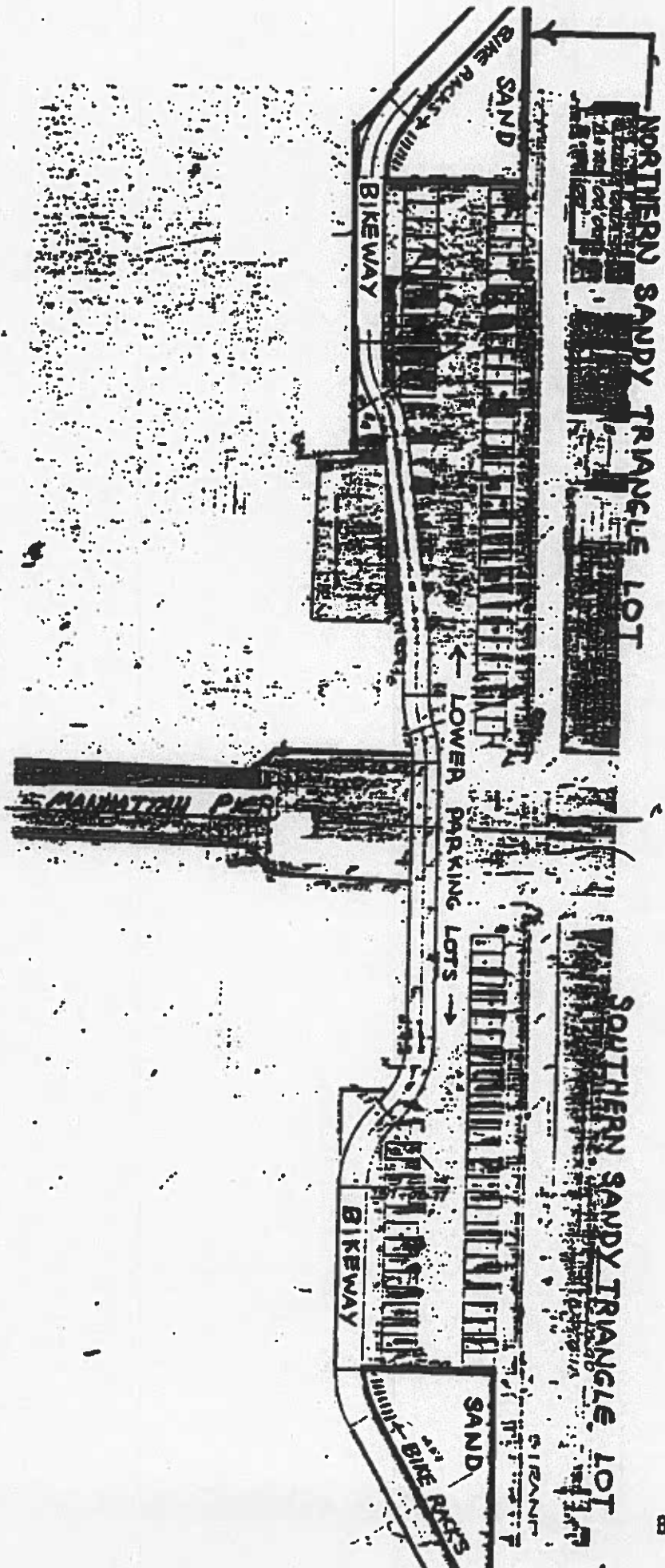
The operating agreement includes the maintenance and operation of the four (4) paved State-owned parking lots adjacent to the Manhattan State Beach Pier. They are located on either side of, and just east of the Pier's entrance and are known as the "upper lots" and the "lower lots".



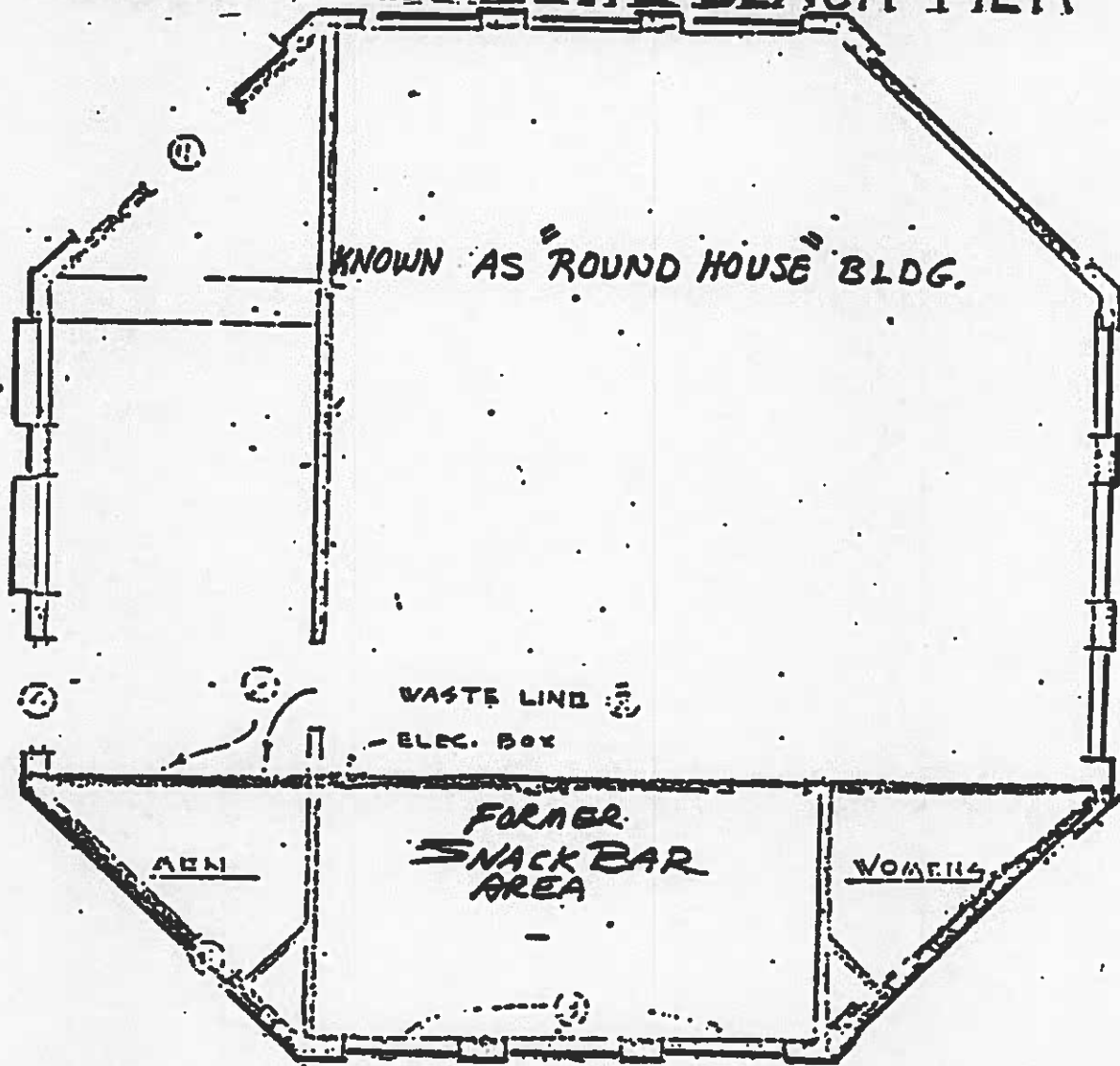
DESCRIPTION OF MANHATTAN STATE BEACH PIER COMFORT STATION

EXHIBIT B-2

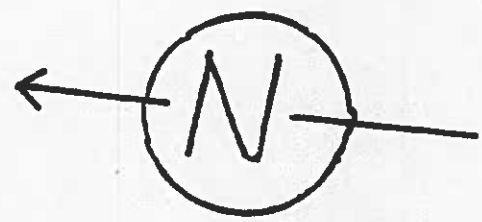
This operating agreement includes the maintenance and operation of the adjacent comfort station. The building is located approximately 50 feet north of the Pier's northern most edge. It lies west along the bikeway/foot path. It is level with the Pier and is surrounded by the raised walkway.



WEST END OF MANHATTAN STATE BEACH PIER



FLOOR PLAN SCALE 1/8" = 1'-0"



SPECIFIC OPERATION RESPONSIBILITIES ON MANHATTAN STATE BEACH PIER

NOTE: The following areas of operation are listed only to serve as a minimum requirement and in no way should be construed to limit overall operation.

PIER:

a. Lifeguard Tower Exclusion

Notwithstanding any other provisions, this contract shall not include for the purposes of this operating agreement, that portion of the State pier known as the two-story lifeguard tower located on the southerly apron of the pier. Said lifeguard tower is to be operated, maintained, and controlled by the County of Los Angeles, Department of Beaches and Harbors, through a separate agreement with the State, which also provides for access and utilities.

b. Bikeway Exclusion

Notwithstanding any other provisions, this contract shall not include for the purposes of this operating agreement, that portion of State property known as the bikeway located between the Manhattan State Beach Pier and the lower parking lots as in Exhibit B-3. Said bikeway is to be operated, maintained, and controlled by the County of Los Angeles, Department of Beaches and Harbors, through a separate agreement with the State.

- c. Gate entrance to Pier.
- d. Electrical and lighting system on Pier.
- e. Drinking fountains.
- f. Fish cleaning areas.
- g. Guard rails.
- h. Planters and landscape.
- i. Safety fence underneath Pier.
- j. Round house building at Pier's end.
- k. Bait building/shack at Pier's end.
- l. Concrete embankments/retaining walls which lead down from the west edge of the bikeway and walkways to the sand, and which run the length of the lower parking lots.
- m. Concrete steps leading up to the raised bikeway, walkways, and Pier.

**SPECIFIC OPERATION RESPONSIBILITIES ON
MANHATTAN STATE BEACH PIER
PARKING LOTS**

PARKING LOTS: The City is responsible for the maintenance and operation of the four (4) parking lots adjacent to Manhattan State Beach Pier as shown in this Exhibit attached hereto and made a part of this contract.

a. The City shall collect, operate, and maintain the parking meters within the State parking lots adjacent to Manhattan Beach (141 spaces).

b. The City shall collect and deposit coins from the parking meters on varying schedules throughout the year which will take into consideration the volume of activity at the Pier lots. Such coins shall be collected and, accordingly, identified in a separate account by the City.

c. The parking fees charged at the parking lot shall be approved by State. The current fee charged is .75 per hour. Notice of any change in fees will be given 90 days in advance of the effective date. City will reset the meters on the effective date.

d. The City shall unjam the meters on a regular basis as necessary in order to keep the meters in operating condition.

e. The City shall maintain and repair the lots' accesses/exits, meters, bumpers, retaining walls, fences, landscaping, and slope sprinkling systems.

f. City may sell parking stickers on a first-come, first-serve basis to persons desiring them on a three-month basis to allow parking between the hours of 6:00 p.m. and 8:00 a.m. for a monthly fee to be set by the City Council and approved by the State. Holders of overnight parking stickers shall be allowed to park on a 24-hour basis on holidays and weekdays between October 1 and April 1 of each year exclusive of the period between the week prior and the week after Easter. The City shall reserve seven (7) spaces within the parking lot for use by persons authorized by State and/or County of Los Angeles - Department of Beaches and Harbors. Revenues from the overnight parking stickers shall be retained by the City and deposited in a special fund pursuant to Section 5080.32 of the Public Resources Code.

g. City shall provide such personnel as may be required to collect and deposit the coins, discourage vandalism, protect the public, enforce parking regulations, and minimize traffic congestion in the parking lot and contiguous streets.

h. City shall pay the cost of all utilities serving the lots.

i. City shall maintain the parking lots in a neat and clean condition.

j. City shall maintain and operate the parking lots and meters in a safe manner and in compliance with all laws and regulations including the

applicable safety regulations of the California Occupation Safety and Health Act and applicable rules and regulations of "State".

k. Sandy Trangle Lots Exclusion

Notwithstanding any other provisions, this contract shall not include for the purposes of this operating agreement, the maintenance of those portions of state property known as the north and south sandy triangle lots which are located at the north and south ends of the lower parking lots, as depicted in Exhibit B-3.

**SPECIFIC OPERATION RESPONSIBILITIES ON
MANHATTAN STATE BEACH
COMFORT STATION**

COMFORT STATION:

- a. Building
- b. Dressing rooms
- c. Toilet and wash areas
- d. Outside showers
- e. Planters and landscape
- f. All systems related to the building
- g. Surrounding raised walkway
- h. Concrete steps

CUSTODIAL MAINTENANCE OBLIGATIONS OF THE CITY

A. UPKEEP

The upkeep that the CITY shall perform on a scheduled basis over the term of this contract shall consist of the following:

1. Buildings: Periodic inspection, mechanical and hand cleaning of the interiors and exteriors of all buildings to assure compliance with County and STATE public health standards.
2. Landscaped Grounds: Periodic inspection, cleaning, cultivating, fertilizing, pruning, and replacement of plants other than turf.
3. Parking Lots, Bumpers, Guardrails, Handrails, Retaining Walls, Concrete Embankments Lot Surfaces, Stairs, and Other Similar Structures: Periodic inspection and mechanical and hand cleaning of the surfaces to remove debris or Graffiti.
4. Garbage Containers: Periodic refuse removal and refuse container cleaning to assure compliance with STATE and County public health standards.
4. Fences: Periodic inspection and cleaning of fences and contiguous areas they stand upon.
7. Lights and Signs: Periodic inspection, replacement of lights, and cleaning of signs to assure legibility.

B. MAINTENANCE

The maintenance that the CITY shall perform over the term of this contract shall consist of the following:

1. Buildings: Periodic and emergency repairs to the interiors and exteriors of all buildings to assure that the buildings serve the function for which they were intended.
2. Landscaped Grounds: Periodic and emergency repairs to lighting and irrigation systems to assure the public's continued enjoyment of the PREMISES.
3. Parking Lots
Periodic and emergency repairs to lighting systems, bumpers, guardrails, handrails, retaining walls, accesses and exits, and the surfaces of the parking lots, and other similar structures, including striping and traffic delineation.
4. Signs: Periodic and emergency repairs, replacement, and installation of all signs.

NONDISCRIMINATION CLAUSE

(OCP - 1)

1. During the performance of this contract, contractor and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40) or sex. Contractors and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. Contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
2. This contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the contract.