

CITY OF GARDEN GROVE

INTER-DEPARTMENT MEMORANDUM

Garden Grove Agency for Community Development

To: Matthew J. Fertal

From: Economic Development

Dept: Director

Dept:

Subject: PUBLIC HEARING: LEASE OF REAL
PROPERTY AT 13501 HARBOR
BOULEVARD (APN 100-122-31)

Date: September 14, 2010

OBJECTIVE

It is requested that the Agency for Community Development (Agency) consider the lease of real property located at 13501 Harbor Boulevard, Garden Grove, to Galaxy Oil Company (A California Corporation), ("Lessee").

BACKGROUND DISCUSSION

The site contains approximately 13,500 square feet of land and improved with a 1,484 square foot structure that was acquired in 2005 as part of a street widening project. The proposed terms of the agreement are as follows:

- Lease Term: The initial term of the lease will be five years, with four additional five-year options. Increases in the base rent shall be based on CPI, with a minimum of 3%, and a maximum of 8%, and adjusted every two years. The base rent shall be reviewed every five years for adjustment to market rent, as determined by market comparables. Further, Lessee agrees to provide annual audited financial statements as a part of lease adjustments over time.

The lease is "triple net" and Lessee will be responsible for any and all costs related to the operation and maintenance of the business and property. The Agency will bear no costs for the ongoing maintenance and operation of the business and property for the term of the lease.

- Consideration: \$7,500 per month, with biannual adjustments to market. A maximum of \$3,500 per month tenant improvement credit is included, up to a maximum of \$200,000 over the life of the lease, with proof provided by Lessee.

- Deposit: A \$15,000 deposit will be required. James Caiopoulos, President of Galaxy Oil Company, is providing a personal guarantee for the lease, immediately behind Galaxy Oil Company.

Galaxy Oil is an established owner and operator of five retail gasoline stations all located in Southern California. One is currently located in Garden Grove, at 13321 Harbor Boulevard. Galaxy is also involved in other petroleum related businesses and consulting services. James Caiopoulos, President of Galaxy Oil, is recognized as an expert in retail service station operations.

A notice of Public Hearing was published on August 26, 2010, and September 2, 2010, as required by Redevelopment Law.

FINANCIAL IMPACT

There are no negative financial impacts associated with this transaction. Positive net revenues are expected.

RECOMMENDATION

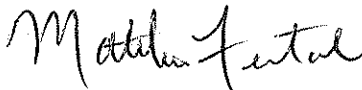
Based on the foregoing, staff recommends that the Agency:

- Conduct the Public Hearing;
- Approve the attached lease agreement with Galaxy Oil Company (A California Corporation), of the real property located at 13501 Harbor Boulevard, Garden Grove; and
- Authorize the Agency Director to execute the Agreement and make minor modifications as needed, on behalf of the Agency.

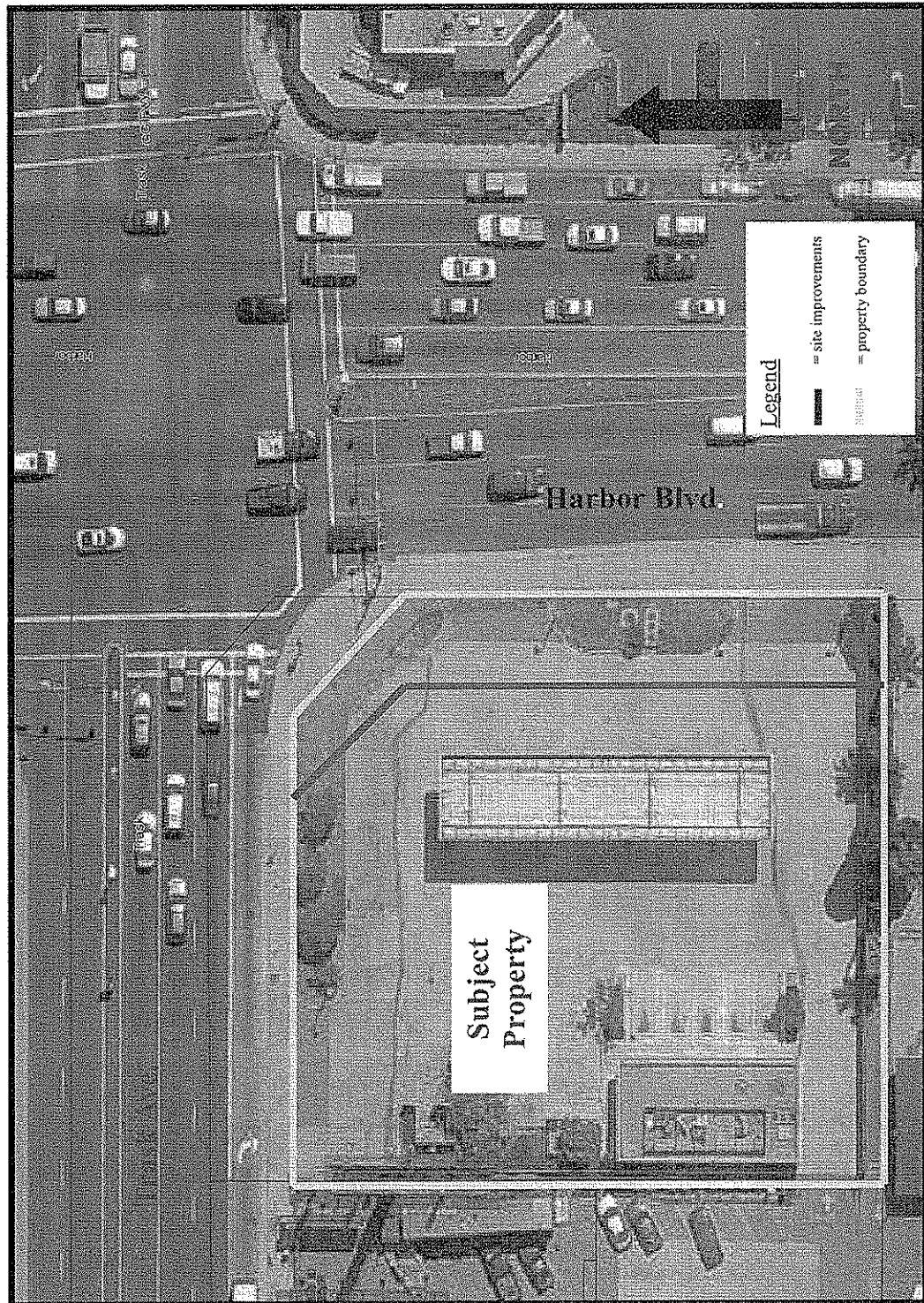

GREG BROWN
Real Property Manager

Attachment 1: Site Map
Attachment 2: Lease Agreement

Approved for Agenda Listing


Matthew Ferial
Director

Gas Station Site



SERVICE STATION LEASE

by and between

**GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT,
a public body, corporate and politic, and**

Landlord,

and

**GALAXY OIL COMPANY,
a California corporation**

Tenant

For Premises Situated In

**13501 Harbor Boulevard
Garden Grove, California (APN 100-122-31)**

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EXHIBITS:

- A. DESCRIPTION OF PREMISES**
- B. GUARANTEE OF LEASE**
- C. ESTOPPEL CERTIFICATE**
- D. MEMORANDUM OF LEASE**
- E. GAS STATION ASSETS**
- F. SCOPE OF DEVELOPMENT**

BASIC LEASE PROVISIONS

1. LANDLORD: Garden Grove Agency for Community Development, a public body, corporate and politic
2. TENANT:
3. TRADE NAME: Galaxy Oil Company, a California corporation
4. PREMISES: 13501 Harbor Boulevard, Garden Grove, California, consisting of approximately 13,000 square feet and containing a building containing approximately 1,500 square feet. (Section 1.1)
5. USE OF PREMISES: The Premises shall be used solely for a retail gasoline service station. Tenant shall also be permitted to operate a convenience store or mini-market incidental to the gasoline service station. Tenant's use of the Premises shall be subject to receipt of all governmental permits and approval therefore and compliance with all applicable private restrictions of record. No other use or purpose other than the foregoing shall be permitted without Landlord's prior written consent, which may be given or withheld in Landlord's sole and absolute discretion.
6. LEASE TERM: Five (5) years plus four (4), five (5) year options (Section 2.1)
7. COMMENCEMENT DATE: The Delivery Date (as defined in Section 1.2).
8. RENTAL COMMENCEMENT DATE: Thirty (30) days after the Commencement Date (Section 3.1)
9. BASE RENT: Base Rent is Ninety Thousand Dollars (\$90,000) per year payable at the rate of Seven Thousand Five Hundred Dollars (\$7,500) per month
10. BROKER (S):
11. ADDRESSES FOR NOTICES AND PAYMENTS:

LANDLORD:

Landlord's Address for Notices, Payments
and Reports:

Garden Grove Agency for
Community Development
11222 Acacia Parkway
Garden Grove, California 92842

12. **GUARANTOR:**

James P. Caiopoulos
12862 Garden Grove Boulevard
Suite 252
Garden Grove, California 92843

TENANT:

Tenant's Address for Notices, Payments
and Reports:

Galaxy Oil Company
12862 Garden Grove Boulevard
Suite 252
Garden Grove, California 92843

SERVICE STATION LEASE

This **SERVICE STATION LEASE** is made as of _____, 2010 ("Date of Lease"), by and between **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic, ("Landlord"), and **GALAXY OIL COMPANY**, a California corporation ("Tenant"), based upon the following Recitals and the following terms and conditions:

RECITALS

A. Landlord is the owner of the Premises described in Section 4 of the Basic Lease Provisions which Premises is currently improved as described in Exhibit F attached hereto and incorporated herein by reference.

B. Landlord desires to lease to Tenant, and Tenant desires to Lease from Landlord, the Premises upon the terms and conditions contained in this Lease.

ARTICLE 1

LEASED PREMISES

SECTION 1.1 PREMISES DEFINED. For and in consideration of the rent to be paid and the covenants and conditions to be kept and performed by Tenant, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, effective as of the "Commencement Date" (as defined in Section 2.1 of this Lease), that certain real property commonly known as 13501 Harbor Boulevard, Garden Grove, California, legally described in Exhibit A attached hereto, and depicted on Exhibit B attached hereto, together with all improvements located thereon at the Term Commencement Date or added after such date by Tenant, together with easements and dedications of record ("Premises"). Located on the Premises are the Gas Station Assets identified on Exhibit E attached hereto which Gas Station Assets Tenant shall have the right to use during the Term of the Lease. However, for purposes of Tenant's maintenance and other obligations under this Lease, the Premises shall be deemed to include the Gas Station Assets and Tenant Improvements as defined in Section 1.4.

SECTION 1.2 DELIVERY OF POSSESSION. The Premises shall be deemed to be delivered in an "as is" condition and Landlord shall have no obligation to perform any improvements in or around the Premises. The Premises shall be deemed delivered on the date (the "Delivery Date"), which Landlord notifies Tenant in writing that all of the "Contingencies" (defined in Section 2.3 below) have been satisfied.

SECTION 1.3 ACCEPTANCE OF POSSESSION BY TENANT. Tenant shall accept possession of the Premises upon the Delivery Date.

SECTION 1.4 TENANCY IMPROVEMENTS. The Tenant shall complete construction of the tenant improvements described in the Scope of Development attached hereto as Exhibit F and incorporated herein by reference (the "Tenant Improvements") by August 15, 2010.

SECTION 1.5 NO REPRESENTATIONS OR WARRANTIES BY LANDLORD. Tenant acknowledges that, except as expressly provided herein, neither Landlord nor Landlord's employees, representatives or agents have made any representations or warranties as to the condition

of the Premises, the improvements located thereon, or the soils located therein, or the existence of any "Hazardous Materials" (as defined in Section 5.1 of this Lease) located thereon, or the suitability of the Premises for the conduct of Tenant's business.

ARTICLE 2

TERM

SECTION 2.1 BASIC TERM. Subject to satisfaction of the Contingencies contained in Section 2.3 below, this Lease shall be effective as of the Date of Lease. The term ("Initial Term") of this Lease shall commence on the Delivery Date ("Commencement Date"), and shall continue for a period of five (5) years thereafter; subject, however, to extension or earlier termination as provided elsewhere in this Lease. For purposes of this lease, the term "Lease Year" shall mean a year of twelve (12) consecutive months commencing on January 1 of each year during the Term; provided, however, that the first Lease Year shall be the period commencing on the Commencement Date and ending on the December 31 next following, and the last Lease Year of the Term shall be the period commencing on January 1 of the last year of the Term and ending on the expiration date of this Lease. The Initial Term as it may be extended pursuant to Section 2.2 is referred to herein as the "Term."

SECTION 2.2 EXTENSION OF INITIAL TERM.

(a) First Extension of Initial Term. Provided Tenant (i) has not committed more than two (2) monetary defaults during or (ii) has not been in default of any material term of this Lease beyond any applicable cure period during the Initial Term, then by giving Landlord written notice not less than one hundred eighty (180) days before the expiration of the Initial Term, Tenant may extend the Initial Term of this Lease for one (1) additional period of five (5) years ("First Extended Term"). The option to extend provided for herein is personal to Tenant and may only be exercised by Tenant and shall not be exercisable by any assignee or transferee of this Lease, unless such exercise has been approved by Landlord in Landlord's sole and absolute discretion. All of the terms and conditions of this Lease, shall apply to the First Extended Term so far as applicable, and reference herein to the "Term" shall be deemed to include the First Extended Term. For the First Extended Term, Tenant shall pay to Landlord the Extended Term Rent set forth in Section 3.2 hereof. If Tenant shall fail to exercise the option to extend provided for herein, this Lease shall terminate as of the expiration of the initial Term.

(b) Second Extension of Term. Provided Tenant (i) has not committed more than two (2) monetary defaults during the First Extended Term, and (ii) has not been in default of any material term of this Lease beyond any applicable cure period during the First Extended Term, then by giving Landlord written notice not less than one hundred eighty (180) days before the expiration of the First Extended Term, Tenant may extend the Term of this Lease for one (1) additional period of five (5) years ("Second Extended Term"). The option to extend provided for herein is personal to Tenant and may only be exercised by Tenant and shall not be exercisable by any assignee or transferee of this Lease, unless such exercise has been approved by Landlord in Landlord's sole and absolute discretion. All of the terms and conditions of this Lease, shall apply to the Second Extended Term so far as applicable, and reference herein to the "Term" shall be deemed to include the Second Extended Term. For the Second Extended Term, Tenant shall pay to Landlord the Extended Term Rents set forth in Section 3.2 hereof. If Tenant shall fail to exercise the option to extend provided for herein, this Lease shall terminate as of the expiration of the First Extended Term.

(c) Third Extension of Term. Provided Tenant (i) has not committed more than two (2) monetary defaults during and the Second Extended Term, and (ii) has not been in default of any material term of this Lease beyond any applicable cure period during the Second Extended Term, then by giving Landlord written notice not less than one hundred eighty (180) days before the expiration of the Second Extended Term, Tenant may extend the Term of this Lease for one (1) additional period of five (5) years ("Third Extended Term"). The option to extend provided for herein is personal to Tenant and may only be exercised by Tenant and shall not be exercisable by any assignee or transferee of this Lease, unless such exercise has been approved by Landlord in Landlord's sole and absolute discretion. All of the terms and conditions of this Lease, shall apply to the Third Extended Term so far as applicable, and reference herein to the "Term" shall be deemed to include the Third Extended Term. For the Third Extended Term, Tenant shall pay to Landlord the Extended Term Rents set forth in Section 3.2 hereof. If Tenant shall fail to exercise the option to extend provided for herein, this Lease shall terminate as of the expiration of the Second Extended Term.

(d) Fourth Extension of Term. Provided Tenant (i) has not committed more than two (2) monetary defaults during the Third Extended Terms, and (ii) has not been in default of any material term of this Lease beyond any applicable cure period during the Third Extended Term, then by giving Landlord written notice not less than one hundred eighty (180) days before the expiration of the Third Extended Term, Tenant may extend the Term of this Lease for one (1) additional period of five (5) years ("Fourth Extended Term"). The option to extend provided for herein is personal to Tenant and may only be exercised by Tenant and shall not be exercisable by any assignee or transferee of this Lease, unless such exercise has been approved by Landlord in Landlord's sole and absolute discretion. All of the terms and conditions of this Lease, shall apply to the Fourth Extended Term so far as applicable, and reference herein to the "Term" shall be deemed to include the Fourth Extended Term. For the Fourth Extended Term, Tenant shall pay to Landlord the Extended Term Rents set forth in Section 3.2 hereof. If Tenant shall fail to exercise the option to extend provided for herein, this Lease shall terminate as of the expiration of the First Extended Term.

SECTION 2.3 CONTINGENCIES. This Lease shall be contingent upon satisfaction of the following ("Contingency") on or before September 14, 2010 ("Contingency Period") unless mutually extended in writing by the parties:

(a) Landlord obtaining sole and exclusive possession of the Premises prior to the expiration of the Contingency Period. Tenant acknowledges that Landlord does not have possession of the Premises as of the Date of Lease, but Landlord shall use reasonable efforts to secure possession of the Premises within the Contingency Period. In the event Landlord has not obtained sole and exclusive possession of the Premises on or before the expiration of the Contingency Period, Landlord or Tenant may terminate this Lease upon written notice to the other. In the event this Lease is terminated as provided above, neither party shall have any liability or obligation to the other arising out of the Lease or the failure to deliver possession of the Premises to Tenant.

In the event that the Contingency is not satisfied or waived by the appropriate party by the expiration of the Contingency Period, then either Landlord or Tenant may terminate this Lease upon written notice to the other. In the event this Lease is so terminated, neither party shall have any liability or obligation to the other arising out of the Lease except for any liability arising under an indemnity from a cause occurring prior to such date of termination.

ARTICLE 3

RENTAL

SECTION 3.1 MANNER OF PAYMENT OF RENTAL. All Base Rent, Extended Period Rents and all other payments required to be made to Landlord hereunder, which other payments shall be deemed to constitute additional rental ("Additional Rental"), shall be paid by Tenant without deduction, offset, abatement or demand, in lawful money of the United States of America, to Landlord at the address set forth in the Basic Lease Provisions or to such other person or entity, or at such other place, as may from time to time be designated by Landlord in writing. Base Rent, Extended Period Rent, and Additional Rental are sometimes hereinafter collectively referred to as "Rent" or "Rental."

SECTION 3.2 RENTAL. Tenant agrees to pay as rental the sums set forth below for the use and occupancy of the Premises during the Term of this Lease, without prior demand and without deduction or offset, at the time and in the manner provided hereunder:

(a) Base Rent. The Base Rent for the Premises shall be the amount per year specified in Item 9 of the Basic Lease Summary, payable monthly, commencing on the Rental Commencement Date, and thereafter payable monthly, in advance, on or before the first day of each succeeding calendar month, which Base Rent shall be subject to adjustment as set forth in Sections 3(b), 3(c) and 3(h) below. In the event the Commencement Date is not the first day of the month, the monthly installment of Base Rent applicable for such partial month shall be prorated in accordance with Section 24.3 hereof from the Commencement Date to the end of such partial month.

(b) Adjustments to Base Rent. In the event Tenant exercises any of its options to extend the Term of this Lease, as provided in Section 2.2 above, the Base Rent shall be increased, commencing as of the first day of the applicable Extension Period, to an amount equal to the then fair market rental value of the Premises, which fair market rental value of the Premises shall be based on the highest and best use of the Premises as if vacant, and on the assumption that the Premises are then made available for sale to the general public, including the value of improvements thereon. The fair market rental value of the Premises shall be as agreed upon between Landlord and Tenant, but if Landlord and Tenant are not able to reach agreement with respect thereto within thirty (30) days of the effective date of the applicable Extension Notice, the fair market rental value shall be determined by appraisal and arbitration in accordance with the provisions of Section 3.2(h) below. After the determination of fair market rental value, Tenant shall have a period of 60 days within which to rescind the exercise of its option to extend by delivery of written notice of such rescission to Landlord before the expiration of such 60-day period. If Tenant delivers such notice to Landlord, Tenant shall pay all costs incurred pursuant to Section 3.2(h) below and Tenant shall be deemed to have rescinded its option to extend and the Lease shall terminate at the expiration of the Term. If Tenant fails to notify Landlord within such 60-day period, Tenant shall be deemed to have conclusively waived its right to rescind the exercise of its option and the Lease shall be extended.

In the event Tenant exercises any of its options to extend the term of this Lease, as provided in Section 2.2 above, the Base Rent shall be increased, commencing as of the first day of the applicable Extension Period, to the fair market rental value of the Premises, as provided above. Such Rent as adjusted is referred to herein as the "Adjusted Base Rent" or the "Extended Term Rent."

(c) CPI Adjustments to Basic Rent During the Term. The Basic Rent shall be subject to adjustment, in the manner hereinafter set forth, with a floor of 3% and a ceiling of 8% every two (2) years, for increases in the index known as United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index, All Urban Consumers, Los Angeles-Anaheim-Riverside Statistical Area Average, All Items, (1982 84=100) ("CPI") or the successor index that most closely approximates the CPI. If the CPI shall be discontinued with no successor or comparable successor index, Landlord and Tenant shall attempt to agree upon a substitute index or formula, but if they are unable to so agree, then the matter shall be determined by arbitration in accordance with the rules of the American Arbitration Association then prevailing in Orange County. Any decision or award resulting from such arbitration shall be final and binding upon Landlord and Tenant and judgment thereon may be entered in any court of competent jurisdiction.

(d) Floor on Adjustments. In no event shall the Adjusted Base Rent, after adjustment under the provisions set forth in subparagraph (b) or (c) above, be less than the amount of Base Rent in effect hereunder immediately prior to such adjustment.

(e) Time of Payment. Landlord shall notify Tenant of the amount of any adjustment under subparagraph (b) or (c) above promptly upon the determination of the same. Pending the final determination of such adjusted Base Rent, Tenant shall continue to pay to Landlord the amount of the Base Rent payable for the preceding period at the time and in the manner provided above. If the adjusted Base Rent as finally so determined should exceed the amount of Base Rent for the previous period, the excess amount then due shall be paid to Landlord by Tenant within thirty (30) days after such final determination, and thereafter such adjusted Base Rent shall be paid at the time and in the manner provided above.

(f) Additional Rental. Tenant shall pay, as "Additional Rental," all sums required to be paid by Tenant to Landlord pursuant to this Lease in addition to Base Rent or Extended Period Rent (including, without limitation, interest, late charges, reimbursement for attorneys' fees, and auditing costs), whether or not the same are designated as "Additional Rental". Landlord shall have the same rights and remedies for the non-payment of Additional Rental as it has with respect to nonpayment of Base Rent. It is the intention of the parties hereto that the Rent to be paid by Tenant hereunder shall be paid to Landlord absolutely net without prior demand and without deduction or offset.

(g) Late Payments. Tenant acknowledges that the continued late payment of installments of Rent under this Lease will cause Landlord to incur certain costs and expenses not contemplated under this Lease, the exact amount of which are extremely difficult or impractical to fix. These costs and expenses will include, without limitation, administrative and collection costs, and processing and accounting expenses. Therefore, if during any Lease Year of the Term any two (2) installments of Rent under this Lease have not been received by Landlord from Tenant within five (5) days after the installment is due, then for each additional installment of Rent not received by Landlord from Tenant within five (5) days after the installment is due during such Lease Year, Tenant shall immediately pay to Landlord a late charge of Two Hundred Fifty Dollars (\$250.00) for each late installment. Landlord and Tenant agree that this late charge represents a reasonable estimate of the costs and expenses Landlord will incur and is fair compensation to Landlord for its loss suffered by such late payment by Tenant.

(h) Appraisal and Arbitration. If, pursuant to the terms of the Lease, arbitration procedures are required to determine the fair market rental value, the same shall be conducted in the following manner:

(i) Within sixty (60) days of the date it is necessary to determine the fair market rental value, Landlord shall appoint in writing a qualified MAI appraiser with at least ten (10) years experience to act as an arbitrator and give written notice thereof to Tenant, and within fifteen (15) days after the service of such notice, Tenant may in like manner appoint such an arbitrator, who shall also be a qualified MAI appraiser with at least ten (10) years experience, and give written notice thereof to Landlord, or in case of the failure of Tenant to do so, Landlord shall have the right to cause its appointed arbitrator to proceed alone to determine such fair market rental value. If two arbitrators are appointed they shall select and appoint in writing a third such arbitrator and give written notice thereof to Landlord and Tenant or, if within ten (10) days after the appointment of said second arbitrator, the two arbitrators shall fail to appoint a third arbitrator, then either party hereto shall have the right to make application to the Superior Court of Orange County to appoint the third arbitrator. Landlord and Tenant shall each be entitled to be present and heard respecting any appointment of the third arbitrator. Landlord and Tenant acknowledges that they may each appoint as an arbitrator an otherwise qualified appraiser who has previously performed appraisals on their respective properties (whether in connection with the Premises or other properties owned by Landlord or Tenant), and agrees and consents to such appraisers acting as arbitrators under this Lease.

(ii) If three arbitrators are appointed they shall promptly fix a convenient time and place in the County of Orange for hearing the matter to be determined and shall give written notice thereof to each party hereto at least five (5)-days prior to the date so fixed, and the arbitrators shall with reasonable diligence hear and determine the matter in accordance with the provisions hereof and of the statutes and judicial decisions of the State of California at the time applicable thereto, and shall execute and acknowledge their determination thereof in writing and cause a copy thereof to be delivered to each of the parties hereto.

(iii) The determination of a majority of the arbitrators (or, if a majority cannot agree as to amount, then the average of the two determinations nearest in amount) shall determine the question, and a judgment may be rendered by the Superior Court confirming such determination, or the same may be vacated, modified or corrected by the Superior Court, at the instance of either of the parties hereto, in accordance with the then existing statutes of the State of California applicable to arbitrations, the provisions of which statutes shall apply hereto as though fully set forth at length herein.

(iv) Each of the parties hereto shall pay for the services of its arbitrators and one-half the fee charged by the third arbitrator and of all other proper costs of reaching a determination, with the exception of attorneys' fees and witness' fees.

(i) Rent Credit for Tenant Improvements. Tenant shall provide Landlord with evidence, reasonably satisfactory to Landlord, of the actual and direct third party construction costs incurred and paid by tenant for Tenant Improvements, including required onsite improvements, building construction, permit and inspection fees charged by any public agency, hazardous materials or mediation, construction loan fees, points and interest. Tenant shall receive a credit against rent at the rate of Three Thousand, Five Hundred Dollars (\$3,500) per month, not to exceed a total credit of Two Hundred Thousand Dollars (\$200,000) for such Tenant Improvement Costs.

SECTION 3.3 SECURITY DEPOSIT. Tenant shall deposit with Landlord upon execution hereof Fifteen Thousand Dollars (\$15,000.00) ("Security Deposit") as security for Tenant's faithful performance of Tenant's obligations hereunder. If Tenant fails to pay any Rental, or otherwise defaults with respect to any provision of this Lease, Landlord may use, apply or retain all or any portion of the Security Deposit for the payment of any Rental or for the payment of any other sum to which Landlord may become obligated by reason of Tenant's default, or to compensate Landlord for any loss or damage which Landlord may suffer thereby. If Landlord so uses or applies all or any portion of the Security Deposit, Tenant shall within ten (10) days after written demand therefor deposit cash with Landlord in an amount sufficient to restore the Security Deposit to the full amount hereinabove stated and Tenant's failure to do so shall be a material breach of this Lease. Landlord shall not be required to keep the Security Deposit separate from its general accounts. If Tenant performs all of Tenant's obligations hereunder, the Security Deposit, or so much thereof as has not theretofore been applied by Landlord, shall be returned, without payment of interest or other increment for its use, to Tenant (or, at Landlord's option, to the last assignee, if any, of Tenant's interest hereunder) at the expiration of the Term hereof, and after Tenant has vacated the Premises. No trust relationship is created herein between Landlord and Tenant with respect to the Security Deposit.

ARTICLE 4

ANTI-DISCRIMINATION

The Tenant herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

Notwithstanding the immediately preceding paragraph, with respect to familial status, the immediately preceding paragraph shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the immediately preceding paragraph shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the immediately preceding paragraph.

ARTICLE 5

ENVIRONMENTAL MATTERS

SECTION 5.1 **DEFINITIONS.** For the purposes of this Lease, unless the context otherwise specifies or requires, the following terms shall have the meanings herein specified:

(a) The term “**Hazardous Materials**” shall mean (i) any “hazardous substance” as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), as amended from time to time, and regulations promulgated thereunder; (ii) any “hazardous substance” as defined by the Carpenter-Presley-Tanner Hazardous Substance Account (California Health and Safety Code Sections 25300 et seq.), as amended from time to time, and regulations promulgated thereunder; (iii) asbestos; (iv) polychlorinated biphenyls; (v) petroleum, oil, gasoline (refined and unrefined) and their respective byproducts and constituents; and (vi) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any “Governmental Requirements” (as defined in Subparagraph (c) of this Section 5.1) either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as “hazardous” or harmful to the environment.

(b) The term “**Hazardous Materials Contamination**” shall mean the contamination of the improvements, facilities, soil, groundwater, air or other elements on, in or under the Premises by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or under the Premises by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or under any other property as a result of Hazardous Materials at any time (whether before or after the Date of Lease) emanating from the Premises.

SECTION 5.2 **UNDERGROUND STORAGE TANKS.**

(a) Maintenance and Repair of Tanks. Throughout the Term, Tenant shall be deemed owner of the tanks and lines and shall maintain, repair and/or replace all existing and new underground storage tanks and oil receptacles, including all associated piping, pumps and other equipment, located on or under the Premises (collectively, “Tanks”). In addition, Tenant shall reline or replace all Tanks as necessary to prevent the emission of Hazardous Materials and as consistent with Governmental Requirements in effect during the Term (including, but not limited to, any requirements of the Fund). Prior to any relining, repair, maintenance, replacement or other modification of any Tank(s), Tenant shall notify Landlord of such work. The Landlord and Tenant agree that with respect to any Hazardous Materials Contamination which occurred prior to the Date of Lease, or during the Term, Tenant shall be entitled to seek reimbursement for any costs and expenses incurred in connection therewith from the Fund. Upon termination of Tenant’s tenancy hereunder, ownership of tanks and lines shall revert back to Landlord; provided however, Tenant shall be responsible for any Hazardous Materials Contamination occurring prior to the Date of the Lease or during the Term.

(b) Testing and Monitoring of Tanks. Tenant shall perform the following testing and monitoring:

(i) Tenant shall conduct a certified leak detection test on each Tank in accordance with Title 23, California Administrative Code, Section 2640 et seq., as amended from

time to time, within thirty (30) days of the Date of Lease. Upon request of Landlord, Tenant shall provide Landlord with a copy of each such test.

(ii) Within one hundred eighty (180) days before each anniversary of the Date of Lease, Tenant shall conduct a certified leak detection test in accordance with the testing methodology set forth in Title 23, California Administrative Code, Sections 2640 et seq., as amended from time to time.

(iii) Tenant shall continuously monitor all Tanks in conformance with the monitoring requirements set forth in Title 23, California Administrative Code, Sections 2640 et seq., as amended from time to time. In addition, Tenant shall maintain daily inventory logs for all Tanks and shall make them available to Landlord for review.

(iv) Tenant shall perform all testing and/or monitoring required by Governmental Requirements.

(c) Leak Detectors. All pressurized piping must have a leak detector. Leak detectors shall be tested at least once a year by an approved contractor, or at such time as required by law, provided that in the event Tenant utilizes its own employees to perform such testing, Tenant may utilize such employees only if they are licensed by any and all agencies having jurisdiction of such testing.

(d) New Tanks. Tenant shall comply with the following when replacing any Tank(s):

(i) Prior to installing a Tank, Tenant shall secure the written approval of Landlord, such approval not to be unreasonably withheld. The request for approval shall include a copy of the design plans for the Tank, showing the proposed location, size and contents of the Tank.

(ii) Tenant shall comply with all Governmental Requirements (including, but not limited to, the requirements of the Fund) relating to the installation, construction and operation of Tanks.

(iii) In addition to the other requirements imposed by this Lease, all new Tanks installed by Tenant shall (i) conform to all Governmental Requirements (including, but not limited to, the requirements of the Fund) and (ii) be manufactured in a manner and of materials which Landlord specifically approves, such approval not to be unreasonably withheld, including but not limited to a daily inventory control/reconciliation system. Tenant shall make available to Landlord all inventory records promptly upon Landlord's request therefor.

(e) Spills and Leaks. With regard to any known or suspected Hazardous Materials contamination or any actual or threatened spill, leak or release of any petroleum or other Hazardous Materials occurring during the Term (collectively a "Release"), Tenant shall comply with the following:

(i) All relevant information regarding a Release on the Premises must be immediately forwarded to Landlord, along with proposed remedial measures. Tenant shall report all Releases (no matter what quantity) to the applicable federal, state and local agencies in accordance

with Governmental Requirements (including, but not limited to, the requirements of the Fund), and a copy of all such reports shall be sent to Landlord.

(ii) The contaminated air, surface and subsurface environment must be cleaned-up both to the level required by all applicable Governmental Requirements (including, but not limited to, the requirements of the Fund) and in accordance with the requirements of this Lease.

(iii) All Tanks that have leaked are to be removed or remediated according to Governmental Requirements (including, but not limited to, the requirements of the Fund) and this Lease. Any replacement of any Tank(s) shall be consistent with the requirements of this Lease for new Tanks and Governmental Requirements (including, but not limited to, the requirements of the Fund).

(f) *Vacating the Premises with Underground Containers.* Prior to vacating the Premises, Tenant shall conduct a leak detection test on all Tanks. If any Tank(s) is found to have leaked, an assessment of the leakage shall be performed at Tenant's expense to determine the scope of the contamination. Prior to vacating the Premises, any contamination and all other Hazardous Materials Contamination occurring during the Term shall be cleaned up by Tenant at Tenant's expense in accordance with all applicable Governmental Requirements and to a standard to enable Landlord to utilize the Premises for any commercial purpose.

SECTION 5.3 DUTY TO PREVENT HAZARDOUS MATERIAL CONTAMINATION. Tenant shall take all necessary precautions to prevent the release of any Hazardous Materials into the environment and the occurrence and spread of all Hazardous Materials Contamination on or from the Premises. Such precautions shall include compliance with this Lease and with all Governmental Requirements (including, but not limited to, the requirements of the Fund) with respect to Hazardous Materials and Hazardous Materials Contamination. In addition, Tenant shall install and utilize such equipment and implement and adhere to such procedures as are consistent with the highest standards generally applied by oil companies in the gasoline service station industry as respects the disclosure, storage, use, handling, transportation, removal and disposal of Hazardous Materials.

SECTION 5.4 OBLIGATION OF TENANT TO REMEDIATE PREMISES. Notwithstanding the obligation of Tenant to indemnify Landlord pursuant to Section 12.2 of this Lease or any other obligation of this Lease, Tenant shall, at Tenant's sole cost and expense, promptly take (i) all actions required by any federal, state or local governmental agency or political subdivision or any Governmental Requirements (including, but not limited to, the requirements of the Fund) and (ii) all actions necessary to make full economic use of the Premises as a gasoline service station, which requirements or necessity arise from the presence upon, about or beneath the Premises of any Hazardous Materials or Hazardous Materials Contamination released during the Term. Such actions shall include, but not be limited to, the investigation of the environmental condition of the Premises, the preparation of any feasibility studies or reports and the performance of any cleanup, remedial, removal or restoration work. Tenant shall take all actions necessary to promptly restore the Premises under applicable Governmental Requirements (including, but not limited to, the requirements of the Fund). Tenant shall nevertheless obtain Landlord's written approval prior to undertaking any activities required by this Section 5.4 during the Term of this Lease, which approval shall not be unreasonably withheld so long as such actions would not adversely affect the Premises or be harmful to any other person or property. Tenant's obligations under this Section 5.4 shall survive the expiration of this Lease.

SECTION 5.5 RIGHT OF ENTRY. Notwithstanding any other terms or provision of this Lease, Tenant shall permit Landlord or Landlord's agents or employees to enter the Premises at any time, upon reasonable notice, except in the event of an emergency, in which event such notice shall not be required, to inspect, monitor and/or, in the event of an emergency, to take emergency remedial action with respect to Hazardous Materials and Hazardous Materials Contamination on or affecting the Premises, or to discharge Tenant's obligations hereunder with respect to such Hazardous Materials and Hazardous Materials Contamination when Tenant has failed to do so as required under this Lease.

SECTION 5.6 ENVIRONMENTAL INQUIRIES. Tenant shall notify Landlord, and provide to Landlord a copy or copies, of the following environmental permits, disclosures, applications, entitlements or inquiries relating to the Premises: notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements and reports filed or applications made pursuant to any Governmental Requirements (including, but not limited to, the requirements of the Fund) relating to Hazardous Materials and underground tanks, and Tenant shall report to Landlord, as soon as possible after each incident, any unusual, potentially important incidents, including but not limited to, the following:

- (a) All required reports of releases of Hazardous Materials, including notices of any release of Hazardous Materials as required by any Governmental Requirements (including, but not limited to, the requirements of the Fund);
- (b) All fires;
- (c) All instances where asbestos has been or may be disturbed by repair work, tenant improvements or other activities in buildings containing asbestos;
- (d) All notices of suspension of any permits;
- (e) All notices of violation from Federal, State or local environmental authorities, including, but not limited to, the Fund;
- (f) All orders under the State Hazardous Waste Control Act and the State Hazardous Substance Account Act and corresponding federal statutes, concerning investigation, compliance schedules, clean up, or other remedial actions;
- (g) All orders under the Porter-Cologne Act, including corrective action orders, cease and desist orders, and clean-up and abatement orders;
- (h) Any notices of violation from OSHA or Cal-OSHA concerning employees' exposure to Hazardous Materials;
- (i) All complaints and other pleadings filed against Tenant and/or Landlord relating to Tenant's storage, use, transportation, handling or disposal of Hazardous Materials on the Premises.

In the event of a Release of any Hazardous Materials into the environment during the Term, Tenant shall, as soon as possible after the release, furnish to Landlord a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon

request of Landlord, Tenant shall furnish to Landlord a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the Premises including, but not limited to, all permit applications, permits and reports including, without limitation, those reports and other matters which may be characterized as confidential.

Landlord agrees to provide Tenant with copies of all documents in Landlord's possession or control concerning any release of Hazardous Materials on the Premises prior to the Term.

SECTION 5.7 ENVIRONMENTAL IMPAIRMENT LIABILITY INSURANCE.

Tenant shall, at its own expense, procure, pay for and keep in full force and effect a policy of environmental impairment liability ("EIL") insurance with minimum aggregate limits of Two Million Dollars (\$2,000,000) written in accordance with the requirements of the State of California and a maximum deductible of Fifty Thousand Dollars (\$50,000). In the event the deductible on the EIL policy exceeds Fifty Thousand Dollars (\$50,000), Tenant shall post a bond on other security reasonably acceptable to Landlord to secure the difference between Fifty Thousand Dollars (\$50,000) and the actual deductible.

SECTION 5.8 SECURITY. If, at some point during the Term, the State of California modifies its requirements and/or such EIL policy is not available, Tenant shall post a bond or other alternative security in accordance with the requirements of California law so as to insure the availability of funds in the amount of a minimum of Two Million Dollars (\$2,000,000) to respond to Hazardous Material Contamination for which Tenant shall have responsibility as provided in this Lease.

ARTICLE 6

USE OF PREMISES

SECTION 6.1 USE. The Premises shall be used solely for the purposes set forth in Section 5 of the Basic Lease Provisions (the "Use"). No other use or purpose other than the foregoing shall be permitted without Landlord's prior written consent, which may be given or withheld in Landlord's sole and absolute discretion.

SECTION 6.2 CONTINUOUS OPERATION. Tenant shall be continuously open for business during at least ten (10) hours per day, but Tenant may operate longer if allowed under any applicable Governmental Requirements and any matter of record recorded as of the Date of Lease.

SECTION 6.3 COMPLIANCE WITH LAW. Tenant shall construct the Tenant Improvements and operate the Premises in accordance with any Governmental Requirements or any covenants, conditions, easements, restrictions or other encumbrances now or hereafter encumbering the Premises.

For purposes of this Lease, "**Governmental Requirements**" means all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the State, the County, the City, or any other political subdivision in which the Site is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over the Commission, the Developer or the Site, including all applicable state labor standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City's Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation

the requirements and regulations of the California Underground Tank Clean-up Fund (the "Fund"), the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., Government Code Section 4450, et seq., Government Code Section 11135, et seq., and the Unruh Civil Rights Act, Civil Code Sections 51, et seq. Developer and its contractors and subcontractors shall comply with all applicable public works requirements, including without limitation the payment of prevailing wages in compliance with Labor Code Section 1770, et seq., keeping of all records required pursuant to Labor Code Section 1776, complying with the maximum hours requirements of Labor Code Sections 1810 through 1815, and complying with all regulations and statutory requirements pertaining thereto.

SECTION 6.4 TENANT'S OPERATIONS. The Premises shall be used by Tenant for the Use specified in this Lease and for no other use or purpose. Tenant shall not itself use or permit any other person or entity to use the Premises or any part thereof for any purposes which may materially damage or harm the Premises or any improvements on or adjacent thereto, or the image or attractiveness thereof, or for any improper, offensive or immoral use or purpose, or in any manner which shall constitute waste, nuisance or public annoyance, and Tenant shall conform to, and cause all persons using or occupying any part of the Premises to comply with all Governmental Requirements from time to time applicable thereto and to all operations thereon.

SECTION 6.5 PARKING AND ACCESS. Tenant's employees shall park solely on the Premises. Tenant shall cause all vehicles accepted by Tenant for repair services to be parked or stored solely on the Premises. Tenant shall not permit any long term parking or storage of vehicles on the Premises.

SECTION 6.6 SIGNAGE. Subject to receipt of Landlord's prior written approval, such approval not to be unreasonably withheld, and compliance with all the applicable Governmental Requirements, all covenants, conditions and restrictions of record, Tenant may install such signs in and on the Premises as may be required or useful in connection with the operation of its business.

ARTICLE 7

BROKERAGE COMMISSIONS

SECTION 7.1 BROKERAGE COMMISSIONS. Landlord and Tenant each represents to the other that to the best knowledge of each, respectively, no brokerage commission, finder's fee or other compensation of any kind is due or owing to any person or entity in connection with this Lease other than Broker (as specified in Section 10 of the Basic Lease Provisions), and Landlord agrees that Landlord shall be solely responsible for the fees and commissions of the Broker pursuant to a separate agreement between Landlord and Broker. Each party agrees to and shall save, protect, defend, indemnify and hold the other free and harmless from and against any and all costs (including all litigation costs and reasonable attorneys' fees), liabilities, claims, demands, causes of action or proceedings which may be instituted by any broker, agent or finder, licenses or otherwise, claiming through, under or by reason of the conduct of the indemnifying party in connection with this Lease.

ARTICLE 8

REQUIREMENTS AS TO IMPROVEMENTS

SECTION 8.1 LANDLORD APPROVAL OF IMPROVEMENTS. Except as to the Tenant Improvements described in Exhibit F, Tenant shall not, without the prior written approval of Landlord, make any additions, alterations, changes or improvements (collectively, "Alterations") to the Premises (which includes the Gas Station Assets), other than nonstructural interior Alterations. Any request for approval of Alterations shall be presented to Landlord in writing accompanied by drawings and specifications. All Alterations shall be made in a workmanlike manner, and in full compliance with all Governmental Requirements applicable thereto. Any and all Alterations shall become a part of the Premises. If Tenant installs new pumps and removes existing pumps, the new pumps shall become part of the Gas Station Assets. Tenant shall furnish Landlord with a set of "as built" drawings which accurately set forth the nature and extent of all Alterations made by Tenant to the Premises.

ARTICLE 9

TAXES AND ASSESSMENTS

SECTION 9.1 TAXES. From and after the Commencement Date, Tenant shall be responsible for, and agrees to pay prior to delinquency, any and all taxes, assessments, levies, fees and other governmental charges of every kind or nature (collectively, "Taxes") levied or assessed by any municipal, county, state, Federal or other taxing or assessing authority upon, against or with respect to (i) the Premises, (ii) all furniture, fixtures, equipment and any other personal property of any kind placed, installed or located within, upon or about the Premises, (iii) all alterations, additions or improvements of whatsoever kind or nature, if any, made to the Premises, and (iv) Rental or other charges payable by Tenant to Landlord, irrespective of whether any of the items described in clauses (i) through (iv) above are assessed as real or personal property, and irrespective of whether any such items are assessed to or against Landlord or Tenant, but expressly excluding any general net income, franchise or inheritance tax levied upon or payable by Landlord. Tenant shall, upon written request of Landlord, furnish to Landlord a copy of the receipted tax bill or other proof of said payment acceptable to Landlord, prior to delinquency. Tenant hereby agrees to protect and hold harmless Landlord and the Premises from all liability for any and all such Taxes, together with any interest, penalties or other sums thereby imposed, and from any sale or other proceeding to enforce payment thereof.

SECTION 9.2 TAXES ON RENTALS. Should the United States Government or the State of California or any political subdivision thereof or any governmental authority having jurisdiction (by way of substitution for all or any part of the "Taxes" otherwise required to be paid in whole or in part by Tenant pursuant to Section 9.1, or in addition thereto), impose a capital levy or a tax, assessment and/or surcharge of any kind or nature whatsoever (including, but not limited to, a value added tax) upon, against, in connection with or with respect to the Rental or other charges payable to Landlord by Tenant for the Premises or on Landlord's ownership of the Premises or any portion thereof or interest therein or otherwise, then, in any such case, such tax, assessment and/or surcharge shall be deemed to constitute Taxes and/or assessments against the Premises and Tenant shall pay the same to Landlord, as billed by Landlord.

SECTION 9.3 PRORATIONS. All such Taxes and assessments for the first and last year of this Lease shall be prorated between Landlord and Tenant on the basis of the fiscal year of the appropriate governmental authority or authorities.

SECTION 9.4 BONDS. With respect to any assessment which may be levied upon the Premises and which under any applicable law then in force may be evidenced by bond or bonds payable in annual installments, the Taxes payable by Tenant hereunder shall be limited to such installments (including interest) as may be due and payable during each such year and the same shall be prorated as of the end of the Term with respect to the last year of the Term hereof.

ARTICLE 10

UTILITY CHARGES

SECTION 10.1 UTILITY CHARGES. Tenant shall pay all charges for gas, water, sewer, electricity, telephone and other utility services used on the Premises during the Term, and shall indemnify Landlord and the Premises from and against any such charges or liens arising therefrom. If any such charges are not paid when due, Landlord may pay same, and any amount so paid by Landlord shall thereupon become due to Landlord from Tenant as Additional Rental, together with interest thereon, as provided in Section 24.4 of this lease.

ARTICLE 11

REPAIRS AND UPKEEP

SECTION 11.1 NO OBLIGATION OF LANDLORD. Landlord shall not be required or obligated to make any changes, alterations, additions, improvements or repairs in, on or about the Premises, or any part thereof, during the Term of this Lease.

SECTION 11.2 TENANT'S OBLIGATIONS. At all times during the Term, Tenant shall, at its sole cost and expense, keep and maintain the Premises and all facilities appurtenant thereto in first-class condition, order and repair, and commensurate with the operation and maintenance of a first-class service station and shall comply promptly with all applicable Governmental Requirements (including, but not limited to, the requirements of the Fund) and covenants, conditions and restrictions. Tenant's obligations hereunder shall include, at Tenant's sole cost and expense, the repair, maintenance and, if necessary, replacement of any paving or parking facilities located on the Premises.

SECTION 11.3 CURE BY LANDLORD. Notwithstanding Sections 11.1 and 11.2, in the event Tenant fails, within thirty (30) days after receipt of notice in writing from Landlord, to comply with the provisions of Section 11.2 in any material respect, Landlord shall be entitled, but shall not be obligated, to enter the Premises and perform such work as may be necessary to restore the Premises to the condition required by Section 11.2, and all of Landlord's expenses in connection with such work shall be paid by Tenant to Landlord, as Additional Rental, upon demand, together with interest thereon as provided in Section 24.4 of this Lease.

ARTICLE 12

LANDLORD'S NONLIABILITY AND INDEMNITY

SECTION 12.1 LANDLORD'S NONLIABILITY. Except to the extent caused by any act, omission or neglect of any duty by Landlord, Landlord shall not be liable, and Tenant waives on its behalf all claims and demands against Landlord arising or accruing during the Term, for any loss, damage or injury of any kind or character to any person or property (i) arising from any use of the Premises or any part thereof, (ii) caused by any defect in any building, structure or other improvement thereon or in any equipment or other facility located therein, (iii) caused by or arising from any act or omission of Tenant or of any of its agents, employees, licensees or invitees, (iv) arising from any accident on the Premises or any fire or other casualty thereon, (v) occasioned by the failure of Tenant to maintain the Premises in a safe condition, or as required pursuant to Article 5 of this Lease pertaining to Environmental Matters, or (vi) arising from any other cause whatsoever. Tenant, as a material part of the consideration of this Lease, hereby waives on its behalf all claims and demands against Landlord for any loss, damage or injury of Tenant of the kind or character described in subsections (i) through (vi) above.

SECTION 12.2 INDEMNITY BY TENANT. Tenant shall save, protect, defend, indemnify, pay for and hold harmless Landlord and Landlord's successors, assigns, employees and agents (collectively for this Section 12.2 only "Landlord") from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including, without limitation, penalties, fines and monetary sanctions), losses, costs or expenses (including, without limitation, consultants' fees, investigation and laboratory fees, reasonable attorneys' fees and remedial and response costs) (the foregoing are collectively referred to as "Liabilities") in connection with loss of life, personal injury, damage to property and/or monetary loss which may now or in the future be incurred or suffered by Landlord by reason of, resulting from, in connection with, or arising in any manner whatsoever as a direct or indirect result of (i) any occurrence in, upon or at the Premises, (ii) the occupancy or use by Tenant of the Premises or any part thereof, (iii) Tenant's failure to comply with any provision of this Lease, including without limitation, the construction of the Tenant Improvements and operation of the Premises in accordance with Governmental Requirements, (iv) during the Term, the escape, seepage, leakage, spillage, discharge, emission or release from the Premises of any Hazardous Materials or Hazardous Materials Contamination and any Hazardous Materials Contamination of other property caused thereby, (v) the Liabilities incurred under any Governmental Requirements relating to Hazardous Materials released during the Term and (vi) any Liabilities otherwise occasioned wholly or in part by any act or omission of Tenant, its agents, representatives, contractors, employees, servants, customers or licensees. In case Landlord shall be made a party to any litigation covered by this Section 12.2, Tenant shall accept a tender of the defense by Landlord and handle such litigation with an attorney reasonably approved by Landlord, and Tenant shall, notwithstanding any allegation of negligence or fault on the part of Landlord, defend Landlord, hold Landlord harmless, and pay all costs, expenses and reasonable attorneys' fees incurred or paid by Landlord in connection with any such litigation. Tenant's obligations under this Section 12.2 shall survive the expiration of this Lease. Notwithstanding the foregoing, Tenant shall not be liable to indemnify Landlord hereunder for (i) any Liabilities arising from events occurring prior to the commencement of the Term (unless specifically caused by acts or omissions of Tenant) or (ii) Liabilities ultimately determined to have been attributable to the negligence or willful misconduct of Landlord, provided that Tenant shall assume the defense of Landlord in all circumstances and if Landlord is ultimately determined to have been negligent or have committed willful misconduct,

Landlord shall reimburse Tenant a share of such reasonable defense costs in the proportion and to the extent Landlord is found to have been negligent or have committed willful misconduct.

ARTICLE 13

INSURANCE

SECTION 13.1 POLICY FORM AND EVIDENCE OF COVERAGE. All policies of insurance provided for herein shall be written as primary policies (without “contribution” or “solely in excess of coverage carried by Landlord” provisions) with responsible and solvent insurance companies authorized to do business in California with a policyholder’s rating of “A” (Excellent) or better and a financial rating of “X” or better in Best’s Insurance Reports Fire and Casualty. Prior to the commencement of the Term of the Lease, Tenant shall supply Landlord (and at all times during the Term of the Lease keep on file with Landlord) a true and correct copy of all such policies or a certificate of insurance accurately reflecting the coverage required hereunder together with satisfactory evidence showing that all premiums thereon have been paid and, thereafter, as additional premiums become due, Tenant shall supply Landlord with satisfactory evidence that said premiums have been paid. Notwithstanding anything to the contrary contained within this provision, Tenant’s obligations to carry insurance as provided herein may be brought within the coverage of a so-called “blanket” policy or policies of insurance carried and maintained by Tenant, so long as such policy or policies segregates the amount of coverage applicable to the Premises. In the event that Tenant fails to procure, maintain and/or pay for, at the times and for the durations specified herein, any insurance required hereunder, or fails to carry insurance required by law or Governmental Requirements, Landlord may (but without obligation to do so) at any time or from time to time, and without notice, procure such insurance and pay the premiums therefor, in which event Tenant shall repay to Landlord all sums so paid by Landlord, together with interest thereon as provided in Section 24.4 of this Lease, and any costs or expenses incurred by Landlord in connection therewith, within ten (10) days following Landlord’s written demand to Tenant for such payment.

SECTION 13.2 TYPES AND LIMITS OF COVERAGE. Tenant, at its sole cost and expense, shall, during the entire Term of the Lease, procure, pay for and keep in full force and effect (i) comprehensive general liability insurance with respect to the Premises and the operations of, or on behalf of Tenant in, on or about the Premises, including, but not limited to, owned and hired motor vehicle liability, personal injury, blanket contractual, broad-form property damage, and product/completed operations liability coverage for not less than Two Million Dollars (\$2,000,000), combined limit per occurrence for bodily injury, death and property damage liability and, if food and/or alcoholic beverages are at any time during the Term permitted to be sold and/or consumed, liquor liability coverage, for not less than Two Million Dollars (\$2,000,000); (ii) worker’s compensation coverage as required by law; (iii) business interruption and/or loss of rental income insurance, provided that Tenant may self-insure for such coverage; (iv) insurance against fire, extended coverage, vandalism, malicious mischief and such other additional perils as now are or hereafter may be included in the standard “all risk” policy in general use in Orange County, California, including an earthquake endorsement to the extent required by a lender or applicable governmental authorities (or if acceptable to such lender or governmental authority, alternative security for earthquake coverage), insuring the Premises, merchandise, trade fixtures, furnishings, equipment and other items of personal property of Tenant located on or in the Premises, in an amount equal to not less than the actual replacement cost thereof; (v) insurance covering any leasehold improvements and any alterations permitted under Article 8 of the Lease in an amount not less than their full unamortized value, amortized over the Term, which such insurance coverage shall provide

protection against perils covered in the ISO "Causes of Loss - Special Form" (form CP 10 30) and sprinkler leakage.

SECTION 13.3 SPECIFIC PROVISIONS. Each policy evidencing insurance required to be carried by Tenant pursuant to this Article 13 shall contain the following provisions and/or clauses: (i) a provision that such policy and the coverage evidenced thereby shall be primary and that any coverage carried by Landlord shall be noncontributing with respect to any policies carried by Tenant; (ii) a provision including Landlord and any other parties in interest reasonably designated by Landlord, including but not limited to, Landlord's lender (if any) and Landlord's Trustee) as an additional insured to the extent of their respective interests; (iii) a provision that the insurer will not cancel or change the coverage provided by such policy without first giving Landlord thirty (30) days' prior written notice; and (iv) to the extent obtainable, a provision to the effect that any amounts payable by virtue of loss of rental income or business interruption, if any, shall be computed and stated separately in any settlement entered into by the insurer under the policy involved.

SECTION 13.4 WAIVER OF SUBROGATION. Landlord and Tenant each waive any rights either may have against the other on account of any loss or damage occasioned to Landlord or Tenant, as the case may be, their respective property, the Premises or the contents of the Premises arising from any risk covered by insurance carried or required to be carried by them pursuant to this Article 13, when, and to the extent, that such loss or damage is actually compensated pursuant to such insurance. Landlord and Tenant each covenant to diligently and in good faith seek recovery of all available insurance proceeds in the event of any loss or claim to which the foregoing waiver would apply. Landlord and Tenant also agree that the insurance policies obtained by each of them pursuant to this Lease shall contain endorsements waiving any right of subrogation which the insurer may otherwise have against the noninsuring party. The foregoing release and the foregoing requirement for waivers of subrogation shall be operative only so long as the same shall neither preclude the obtaining of such insurance nor diminish, reduce or impair the liability of any insurer.

ARTICLE 14

RESTORATION

SECTION 14.1 TENANT'S OBLIGATIONS. If any building or other improvement comprising the Premises from time to time during the Term shall be damaged or destroyed by fire or other casualty during the Term of the Lease, Tenant shall, at its own cost and expense, repair or restore the same according to such plans as shall be approved in writing by Landlord, and such work of repair or restoration shall be commenced within one hundred twenty (120) days after the damage or loss occurs and shall be completed with due diligence but in no event longer than one (1) year after such work is commenced, and such work shall be otherwise done in accordance with the requirements of the provisions hereof and plans and specifications approved in advance by Landlord. All insurance proceeds collected for the repair of such damage or destruction shall be applied to the cost of such repairs or restoration, and if (i) there are no insurance proceeds, or (ii) the same shall be insufficient for said purpose, Tenant shall make up the deficiency out of its own funds.

SECTION 14.2 RENT ABATEMENT. Except as specifically provided below, the Base Rent or Extended Term Rent, if applicable, payable by Tenant hereunder shall abate, in the proportion that the part of the Premises rendered unusable to Tenant bears to the whole thereof, from the date of the damage or destruction through the time required to repair and rebuild the Premises; but only to the extent to which Landlord receives reimbursement for such abatement pursuant to the

business interruption and/or loss of rental income insurance maintained by Tenant under Section 13.2 of this Lease. Notwithstanding the foregoing, in the event of an uninsured casualty caused by an act of God (such as a flood or hurricane), the Base Rent or Extended Term Rent, if applicable, payable by Tenant hereunder shall not abate. Except for abatement of such Base Rent or Extended Term Rent, if applicable, Tenant shall have no claim against Landlord by reason of any damage, destruction, repair or rebuilding of the Premises.

SECTION 14.3 OPTION TO TERMINATE. If the Premises are damaged or destroyed, such that the cost of repair or replacement will be in excess of One Hundred Thousand Dollars (\$100,000) during the last year of the Term, either party may at its option cancel and terminate this Lease as of the date of occurrence of such damage by giving written notice of such election to the other party within thirty (30) days after the date of occurrence of such damage provided, however, that if Tenant possesses an option to extend the Term and the time within which Tenant may exercise such option has not expired, and if Tenant validly exercises such option within twenty (20) days after the occurrence of such damage or destruction, then neither party shall have the right to cancel this Lease and the Premises shall be rebuilt as provided in Section 14.1. If the Lease is terminated by either party pursuant to this Section 14.3, Landlord shall have the right to receive all insurance proceeds recovered on account of the damage or destruction described herein.

SECTION 14.4 TENANT WAIVER. Tenant waives the provisions of Civil Code Sections 1941 and 1942 which relate to termination of leases when the leased premises are destroyed; and Tenant agrees that such event shall be governed by the terms of this Lease and not such statutes.

ARTICLE 15

LIENS AND CLAIMS

SECTION 15.1 MECHANICS' LIENS. Tenant shall not suffer or permit to be enforced against the Premises, or any part thereof, any mechanics', design professionals', materialmen's, contractors' or subcontractors' liens arising from, or any claim for damage growing out of, the work of any construction, repair, restoration, replacement or improvement or any other claim or demand howsoever the same may arise (collectively, "Liens(s)"), but Tenant shall pay or cause to be paid all Liens and cause same to be removed as liens against the Premises within thirty (30) days after the filing of any Lien; provided, Landlord shall have the right at any time following the filing of any Lien to (i) pay and satisfy any Lien out of funds then held by Landlord on Tenant's behalf; (ii) obtain and record at Tenant's expense a surety bond in the manner set forth in Section 15.2 of this Lease; and (iii) withhold any payments due to Tenant until the Lien has been removed as a lien against the Premises. Tenant agrees to defend, indemnify and hold Landlord and the Premises free and harmless from all liability for any and all Liens together with reasonable attorneys' fees and all costs and expenses in connection therewith. The foregoing shall not apply to any liens arising out of or related to the release of Hazardous Materials prior to the commencement of the Term.

SECTION 15.2 RIGHT TO CONTEST. Notwithstanding anything contained herein, if Tenant shall in good faith contest the validity of any lien, then Tenant shall, at its sole expense, defend itself and Landlord against the same and shall pay and satisfy any adverse expense or cost or any adverse judgment that may be rendered thereon before the enforcement thereof against Landlord or the Premises upon the condition that, if Landlord shall require, Tenant shall furnish to Landlord and cause to be recorded a surety bond satisfactory to Landlord in an amount at least equal to one and one-half (1-1/2) times the amount of such contested Lien indemnifying Landlord against liability for

same and holding the Premises free from the effect of the Lien or, if Landlord shall request, Tenant shall procure and record the bond provided for in the California Civil Code or any comparable statute hereinafter enacted providing for a bond freeing the Premises from the effect of such Lien.

SECTION 15.3 NOTICES. Before the commencement of any work of improvement on the Premises, in addition to its other obligations provided herein, Tenant shall give to Landlord thirty (30) days' prior written notice thereof specifying the expected date of commencement thereof or any change thereto. Landlord reserves the right at any time and from time to time to post and maintain on the Premises such notices of nonresponsibility or other notices as may be necessary to protect Landlord against liability for all Liens.

ARTICLE 16

SUBSTITUTE PERFORMANCE OR PAYMENT BY LANDLORD

SECTION 16.1 SUBSTITUTE PERFORMANCE OR PAYMENT BY LANDLORD. In the event Tenant shall fail to pay and discharge or cause to be paid and discharged, when due and payable, any tax, assessment or other charge upon or in connection with the Premises, or any Lien for labor or material employed or used in, or any claim for damages arising out of the construction, repair, restoration, replacement, maintenance and use of the Premises, or any judgment on any contested lien or claim, or any insurance premium or expense in connection with the Premises, or any other claim, charge or demand which Tenant has agreed to pay or cause to be paid under the covenants and conditions of this Lease, and such failure continues for thirty (30) days following written notice from Landlord to do so, then, in addition to any other remedies specified herein, Landlord may, at its option, pay any of the aforementioned sums or settle or discharge any action therefor, or judgment thereon. All costs, expenses and other sums incurred or paid by Landlord in connection with any of the foregoing shall be paid by Tenant to Landlord within ten (10) days following demand therefor, together with interest thereon at the rate of interest provided in Section 24.4 of this Lease from the date incurred through and including the date paid and any default in such repayment shall constitute a breach of the covenants and conditions of the Lease in the same manner as failure to pay Rental when due.

ARTICLE 17

ASSIGNMENT AND SUBLETTING

SECTION 17.1 PROHIBITION. Neither Tenant nor any trustee, receiver or other successor to Tenant shall, either voluntarily or by operation of law, assign, sell, encumber, pledge or otherwise transfer all or any part of Tenant's leasehold estate hereunder, or permit the Premises to be occupied by anyone other than Tenant or Tenant's employees, or sublet the Premises or any portion thereof without Landlord's prior written consent in each instance, which consent shall not be unreasonably withheld. Consent by Landlord to one or more assignments of the Lease or to one or more sublettings of the Premises shall not operate to limit Landlord's rights under this Article 17 in any way. If any successor to Tenant is a corporation which, under the then-current guidelines published by the Commissioner of Corporations of the State of California, is not deemed a public corporation or is an unincorporated association or partnership, the transfer, assignment or hypothecation, whether in one (1) transaction or a series of transactions, of any stock or interest in such corporation, association or partnership in the aggregate in excess of forty-nine percent (49%) shall be deemed an assignment within the meaning and provisions of this Article 17. If Tenant is a

corporation which, under the then-current guidelines published by the Commissioner of Corporations of the State of California, is deemed a public corporation, Landlord agrees that it shall not unreasonably withhold its consent to an assignment of the Lease or a sublease of the Premises to any subsidiary corporation of Tenant or Tenant's parent corporation, if any, or to any corporation succeeding to all or substantially all of the assets of Tenant as a result of a consolidation or merger or to a corporation to which all or substantially all of the assets of Tenant are proposed to be sold.

SECTION 17.2 REQUIRED INFORMATION. In connection with requesting Landlord's consent to an assignment of the Lease or a subletting of the Premises or any portion thereof for which Landlord's consent is required, Tenant shall submit in writing to Landlord no less than sixty (60) days prior to the effective date of such assignment or subletting: (i) The name of the proposed subtenant or assignee; (ii) the nature of the proposed subtenant's or assignee's business to be carried on in the Premises; (iii) the terms and provisions of the proposed sublease or assignment; and (iv) such reasonable information as Landlord may request concerning the proposed subtenant or assignee including, but not limited to, a balance sheet of the proposed subtenant or assignee as of a date within ninety (90) days of the request for Landlord's consent, statements of income or profit and loss of the proposed subtenant or assignee for the two (2)-year period preceding the request for Landlord's consent and a written statement in reasonable detail as to the business experience of the proposed subtenant or assignee during the five (5) years preceding the request for Landlord's consent. Notwithstanding any other term or provision of this Lease, it shall be deemed reasonable for Landlord to withhold its consent to any assignment of the Lease or a subletting of the Premises if any of the following exist: (a) the use to which the Premises will be put by the proposed transferee is different from the use set forth in Section 5 of the Basic Lease Provisions; (b) the assignee does not have a net worth at the time of the assignment which is sufficient to perform the obligations of Tenant hereunder and the assignment is other than to (i) an assignee of Tenant which is an authorized dealer for (or is under contract to become a dealer for) a major national or regional oil company (which shall include, but not be limited to, Shell, Tosco, Chevron or Exxon), or (ii) a major national or regional oil company; (c) the business reputation or character of the proposed transferee is not reasonably acceptable to Landlord; (d) the proposed transferee is not likely to conduct on the Premises a business of a quality substantially equal to or greater than that conducted by Tenant; (e) in the event unpaid amounts are due to Landlord, Landlord has not received assurances acceptable to Landlord in its sole discretion that all past due amounts owing from Tenant to Landlord, if any, will be paid and all other defaults on the part of Tenant, if any, will be cured prior to the effective date of the proposed assignment; and (f) the proposed transferee does not have at least ten (10) years' experience in operating gasoline service stations.

SECTION 17.3 INVALIDITY. No transfer or assignment, whether voluntary or involuntary, by operation of law, under legal process or proceedings or otherwise, shall be valid or effective without such prior written consent and approval. Should Tenant attempt to make or suffer to be made any such transfer, assignment or subletting, except as aforesaid, or should any of Tenant's rights under the Lease be sold or otherwise transferred by or under court order or legal process or otherwise, or should Tenant be adjudged insolvent or bankrupt then, and in any of the foregoing events, Landlord may, at its option, terminate this Lease by written notice thereof to Tenant. Should Landlord consent to any such transfer, assignment or subletting, such consent shall not constitute a waiver of any of the restrictions of this Article 17, and the same shall apply to each successive transfer, assignment or subletting hereunder, if any.

SECTION 17.4 TENANT'S LIABILITY. No subletting or assignment, even with the consent of Landlord, shall relieve Tenant of its Rental or other obligations to be performed by Tenant

hereunder. The acceptance by Landlord of any payment due hereunder from any other person shall not be deemed to be a waiver by Landlord of any provision of the Lease or to be a consent to any assignment or subletting.

SECTION 17.5 TRANSFER FEE. Tenant shall reimburse Landlord for actual costs and expenses, including reasonable attorneys' fees, incurred by Landlord in connection with any request by Tenant for Landlord's consent pursuant to this Article 17, provided that such costs and expenses shall not exceed One Thousand Dollars (\$1,000.00).

ARTICLE 18

DEFAULTS AND REMEDIES

SECTION 18.1 DEFAULTS. The occurrence of any one (1) or more of the following events shall constitute a default hereunder by Tenant:

- (a) Abandonment of the Premises.
- (b) Failure by Tenant to make any payment of Rental or other payment or charge required to be made by Tenant hereunder as and when due, where such failure shall continue for a period of seven (7) days after the due date.
- (c) Failure by Tenant to perform any other express or implied covenants or provisions herein contained and where such failure continues for thirty (30) days after written notice thereof from Landlord to Tenant specifying the particulars of such default; provided, further, that if the nature of Tenant's default is such that more than thirty (30) days are reasonably required for its cure, then Tenant shall not be deemed to be in default if Tenant shall commence such cure within said thirty (30)-day period and thereafter diligently prosecute such cure to completion.
- (d) Tenant's (i) application for, consent to or suffering of the appointment of a receiver, trustee or liquidator for all or for a substantial portion of its assets; (ii) making a general assignment for the benefit of creditors; (iii) admitting in writing its inability to pay its debts or its willingness to be adjudged a bankrupt; (iv) becoming unable to or failing to pay its debts as they mature; (v) being adjudged a bankrupt; (vi) filing a voluntary petition or suffering an involuntary petition under any bankruptcy, arrangement, reorganization or insolvency law (unless in the case of an involuntary petition, the same is dismissed within sixty (60) days of such filing); (vii) convening a meeting of its creditors or any class thereof for purposes of effecting a moratorium, extension or composition of its debts; or (viii) suffering or permitting to continue unstayed and in effect for twenty (20) consecutive days any attachment, levy, execution or seizure of all or a substantial portion of Tenant's assets or of Tenant's interest in this Lease.

Notwithstanding the foregoing, Landlord agrees not to declare a default in the event of any of the foregoing provided that Tenant continues to make all payments required under this Lease and perform all covenants of this Lease.

SECTION 18.2 REMEDIES. In any of such events of default and in addition to any or all other rights or remedies of Landlord hereunder or by law provided, Landlord may exercise the following remedies at its sole option:

(a) Termination. Terminate Tenant's right to possession of the Premises by any lawful means, in which case the Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord. In such event Landlord shall be entitled to recover from Tenant:

(i) The worth at the time of award of the unpaid Rental which had been earned at the time of termination;

(ii) The worth at the time of award of the amount by which the unpaid Rental which would have been earned after termination until the time of award exceeds the amount of such loss that Tenant proves could have been reasonably avoided;

(iii) The worth at the time of award of the amount by which the unpaid Rental for the balance of the Term after the time of award exceeds the amount of such loss that Tenant proves could have been reasonably avoided; and

(iv) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result therefrom including, but not limited to, the cost of recovering possession of the Premises, expenses of reletting (including necessary repair, renovation and alteration of the Premises), reasonable attorneys' fees and any other reasonable costs.

The "worth at the time of award" of the amounts referred to in subparagraphs (i) and (ii) shall be computed by allowing interest at ten percent (10%) per annum from the dates such amounts accrued to Landlord. The worth at the time of award of the amount referred to in subparagraph (iii) shall be computed by discounting such amount at one (1) percentage point above the discount rate of the Federal Reserve Bank of San Francisco at the time of award.

(b) Reletting. Without terminating or effecting a forfeiture of the Lease or otherwise relieving Tenant of any obligation hereunder, Landlord shall have the right to attempt to relet the Premises or any portion thereof at any time or from time to time and for such terms and upon such conditions and rental as Landlord may reasonably require. Whether or not the Premises are relet, Tenant shall pay to Landlord all amounts required by Tenant hereunder up to the date that Landlord terminates Tenant's right to possession of the Premises; provided, however, that following a default, Landlord shall not unreasonably withhold its consent to an assignment of this Lease or a subletting of the Premises requested by Tenant unless Landlord shall also elect to terminate this Lease and Tenant's right to possession of the Premises, as provided in Section 18.2(a) of this Lease. Such payments by Tenant shall be due at the times provided in the Lease and Landlord need not wait until the termination of the Lease to recover them by legal action or in any other manner. If Landlord relets the Premises or any portion thereof, such reletting shall not relieve Tenant of any obligation hereunder, except that Landlord shall apply the rent or other proceeds actually collected by it for such reletting against amounts due from Tenant hereunder to the extent such proceeds compensate Landlord for nonperformance of any obligation of Tenant hereunder. Landlord may execute any lease made pursuant hereto in its own name and the new tenant thereunder shall be under no obligation to see the application by Landlord of any proceeds to Tenant nor shall Tenant have any right to collect any such proceeds. Landlord shall not by any reentry or other act be deemed to have accepted any surrender by Tenant of the Premises or Tenant's interest therein or be deemed to have terminated the Lease or to have relieved Tenant of any obligation hereunder unless Landlord shall have given Tenant express written notice of Landlord's election to do so, as set forth herein.

SECTION 18.3 CUMULATIVE RIGHTS. The rights and remedies reserved to Landlord hereunder, including those not specifically described, shall be cumulative and, except as otherwise may be provided by California statutory law in effect at the time, Landlord may pursue any or all of such rights and remedies, at the same time or separately. In addition, Landlord shall have the remedy described in California Civil Code Section 1951.4 (Landlord may continue this Lease in effect after Tenant's breach and abandonment and recover rent as it becomes due), if Tenant has the right to sublet or assign, subject only to reasonable limitations.

SECTION 18.4 NO WAIVER. No delay or omission of Landlord or Tenant to exercise any right or remedy shall be construed as a waiver of any such right or remedy or of any default by the other party hereunder. The acceptance by Landlord of Rental or any other payments hereunder shall not be a waiver of any preceding breach or default by Tenant of any provision hereof, other than the failure of Tenant to pay the particular Rental or any other payments accepted, regardless of Landlord's knowledge of such preceding breach or default at the time of acceptance of such Rental or any other payments, or a waiver of Landlord's right to exercise any remedy available to Landlord by virtue of such breach or default.

SECTION 18.5 EXPENSES AND LEGAL FEES. If either party incurs any expense, including reasonable attorneys' fees, in connection with any action or proceeding instituted by either party by reason of any default or alleged default of the other party hereunder, the party prevailing in such action or proceeding shall be entitled to recover its reasonable expenses from the other party.

ARTICLE 19

TRANSFERS AND FINANCING BY LANDLORD

SECTION 19.1 TRANSFERS. The terms "Landlord," as used in the Lease, so far as covenants or obligations on the part of Landlord are concerned, shall mean and include only the fee owner or owners of the Premises at the time in question and, in the event of any transfer or transfers of the title to said land, Landlord (and in the case of any subsequent transfers or conveyances, the then grantor) shall be automatically freed and relieved from all covenants or obligations on the part of Landlord contained in the Lease thereafter to be performed. The covenants and obligations contained in the Lease on the part of Landlord shall be binding on Landlord, its successors and assigns only during and in respect to their respective successive periods of ownership. No holder of a mortgage and/or deed of trust to which the Lease is or may be subordinate shall be responsible in connection with the Security Deposit hereunder unless such mortgagee or holder of such mortgage or deed of trust shall have actually received the Security Deposit hereunder.

SECTION 19.2 ATTORNMENT. In the event any proceedings are brought for the foreclosure of, or in the event of the conveyance by deed in lieu of foreclosure of, or in the event of exercise of the power of sale under, any mortgage and/or deed of trust made by Landlord covering the Premises, or in the event Landlord sells, conveys or otherwise transfers its interest in the Premises, Tenant hereby attorns to, and covenants and agrees to execute an instrument in writing reasonably satisfactory to the new owner whereby Tenant attorns to such successor in interest and recognizes such successor as Landlord under the Lease.

SECTION 19.3 SUBORDINATION. Tenant agrees that this Lease shall, at the request of Landlord, be subordinate to any mortgages or deeds of trust that may hereafter be placed by Landlord upon the Premises and to any and all advances to be made thereunder, and to the interest

thereon, and all renewals, replacements and extensions thereof; provided, that the mortgagees or beneficiaries named in said mortgages or trust deeds shall agree to recognize the interest of Tenant, if any, under this Lease in the event of foreclosure if Tenant is not then in default, and further provided that if Tenant is not in default, Tenant shall be entitled to quiet enjoyment of the Premises. Tenant also agrees that any mortgagee or beneficiary may elect to have this Lease constitute a prior lien to its mortgage or deed of trust, and in the event of such election and upon notification by such mortgagee or beneficiary to Tenant to that effect, this Lease shall be deemed prior in lien to such mortgage or deed of trust, whether this Lease is dated prior to or subsequent to the date of said mortgage or deed of trust. Tenant agrees that upon the request of Landlord, any mortgagee or beneficiary, Tenant shall execute whatever instruments may be required to carry out the intent of this Section 19.3.

ARTICLE 20

HOLDING OVER

SECTION 20.1 HOLDING OVER. This Lease shall terminate and become null and void without further notice upon the expiration of the Term herein specified, and any holding over by Tenant after such expiration shall not constitute a renewal hereof or give Tenant any rights hereunder or in or to the Premises, except as otherwise herein provided, it being understood and agreed that the Lease cannot be renewed, extended or in any manner modified except by a writing signed by both parties hereto. If Tenant shall hold over for any period after the expiration of the Term, Landlord may, at its option, exercisable by written notice to Tenant, treat Tenant as a tenant from month-to-month commencing on the first day following the expiration of this Lease and subject to the terms and conditions herein contained, except that the monthly Rental, which shall be payable in advance, shall be one hundred fifty percent (150%) of Base Rent or Extended Period Rent, as applicable, at the expiration date plus any Additional Rental provided for herein (referred to herein as a "Holdover Tenancy"), provided, however, if at the expiration of the Term Landlord and Tenant are in good faith negotiating an extension of the Term or a new lease, such increased Base Rent or Extended Period Rent, as applicable, shall not take effect for sixty (60) days. If Tenant fails to surrender the Premises upon expiration of the Lease despite demand to do so by Landlord, Tenant shall defend, indemnify and hold Landlord harmless from all loss or liability including, without limitation, any claims made by any succeeding tenant, founded on or resulting from such failure to surrender, and Landlord shall be entitled to the benefit of all provisions of law respecting summary recovery of possession to the same extent as if such statutory or other notice had been given.

ARTICLE 21

SURRENDER, REMOVAL AND TITLE TO IMPROVEMENTS

SECTION 21.1 SURRENDER OF THE PREMISES. Upon any termination of this Lease, whether by lapse of time, cancellation pursuant to an election provided for herein, or otherwise, Tenant shall immediately surrender possession of the Premises, including all buildings and improvements, to Landlord in a clean and orderly condition and appearance, state of repair and operating order, and with all improvements in a good, safe, fully operable condition, and in full compliance with all Governmental Requirements, subject, however to damage and ordinary wear and tear which Tenant is not otherwise obligated to remedy under any provision of this Lease. If possession be not immediately surrendered, Landlord may, with process of law, enter said Premises and repossess the same and expel Tenant or any sublessee or occupant therefrom. Landlord shall

hold the Premises after any such re-entry free of any right, privilege or estate of Tenant and without any duty or obligation to Tenant in respect of any subsequent law, reletting or disposition of the Premises.

SECTION 21.2 REMOVAL OF PERSONAL PROPERTY. Upon the termination of this Lease, Tenant, if not in default hereunder at the time, shall have the right to remove, and if directed so to do by Landlord shall remove, from the Premises, all of Tenant's machinery, equipment, trade fixtures, signs, furniture, furnishings, supplies and inventory then installed by Tenant or in place in, on or about the Premises; provided, however, if Tenant is in default of this Lease at such time, then Tenant may not remove the foregoing items of property from the Premises and Landlord shall have a lien thereon as security against loss or damage resulting from Tenant's default. Tenant shall make all repairs to the Premises required because of such removal and Tenant shall restore the Premises to their condition as existed upon the Delivery Date, except for ordinary wear and tear which Tenant is not otherwise obligated to remedy under any provision of this Lease. If this Lease shall terminate at any time other than the time herein fixed as the expiration of the Term, and occurring not due to a default by Tenant, then Tenant, if not in default hereunder at the time, shall have a reasonable time thereafter to effect the removal of the foregoing items, not to exceed thirty (30) days. Tenant shall pay Base Rent or Extended Period Rent, as applicable, and items designated in this Lease as Additional Rental to Landlord on a per diem basis during the time such removal is taking place.

SECTION 21.3 ABANDONMENT OF PERSONAL PROPERTY. If any of Tenant's machinery, equipment, trade fixtures, signs, furniture, furnishings, supplies and inventory remain on the Premises after the end of the Term or the time allowed to remove the same, such property shall be deemed abandoned by Tenant and it shall become the property of Landlord without any claim therefor of Tenant should Landlord so elect.

SECTION 21.4 FAILURE TO SURRENDER; HOLDOVER TENANCY. Tenant shall be considered to be in possession of the Premises under a "Holdover Tenancy" and shall be subject to the provisions of Section 20.1, including without limitation Tenant's payment obligations thereunder, if any of the following occurs: (i) Tenant needs possession of the Premises after the expiration or earlier termination of the Term to assess, monitor, or perform corrective action on a Hazardous Substance that would materially impair ingress, egress, parking, business operations or Landlord's commercially reasonable efforts to relet or redevelop the Premises; (ii) Tenant is required to be in possession of the Premises after the expiration or earlier termination of the Term by some law or governmental or court order; (iii) Tenant fails to remove any machinery, equipment, trade fixtures, signs, furniture, furnishings, supplies or inventory which Landlord has directed Tenant to remove within and such failure materially impairs ingress, egress, parking, business operations or Landlord's commercially reasonable efforts to relet or redevelop the Premises.

ARTICLE 22

GOVERNMENTAL TAKING

SECTION 22.1 DEFINITION OF TERMS. The term "total taking," as used in this Article 22, means the taking of the entire Premises under the power of eminent domain or a taking by governmental requirements for dedication or otherwise of so much of the Premises as to prevent or substantially impair the conduct of Tenant's business thereon. The term "partial taking" means the taking of a portion only of the Premises which does not constitute a total taking, as defined above.

SECTION 22.2 TOTAL TAKING. If during the Term there shall be (i) a total taking by public authority, or (ii) a partial taking by public authority and, because of the portion or portions of the Premises taken, the balance of the Premises remaining after such taking cannot continue to be profitably operated as a gasoline service station as is contemplated by this Lease, then the leasehold estate of Tenant in and to the Premises shall cease and terminate as of the date the actual physical possession thereof shall be taken.

SECTION 22.3 PARTIAL TAKING. If during the Term there shall be a partial taking of the Premises, the Lease shall terminate as to the portion of the Premises taken upon the date upon which actual possession is taken, but the Lease shall continue in force and effect as to the remainder of the Premises. Base Rent or Extended Period Rent, as applicable, payable by Tenant for the balance of the Term shall be abated in the ratio that the square footage ground area of the Premises taken bears to the total ground area of the Premises at the time of such taking.

SECTION 22.4 ALLOCATION OF AWARD. In the event of any taking, partial or total, all of the proceeds of any award, judgment or settlement payable by the condemning authority shall be the exclusive property of Landlord, and Tenant hereby assigns to Landlord all of its right, title and interest in any award, judgment or settlement from the condemning authority. Tenant, however, shall have the right, to the extent that Landlord's award is not reduced or prejudiced, to claim from the condemning authority (but not from Landlord) such compensation as may be recoverable by Tenant, in its own right, for Tenant's fixtures, relocation expenses, unamortized costs of Tenant's leasehold improvements, loss or goodwill and damage to Tenant's personal property.

SECTION 22.5 EFFECT OF TERMINATION. If the Lease is terminated, in whole or in part, pursuant to any of the provisions of this Article 22, all Rental and other charges payable by Tenant to Landlord hereunder and attributable to the Premises or portion thereof so taken, shall be paid up to the date upon which actual physical possession shall be taken by the condemnor, and the parties shall thereupon be released from all further liability in relation thereto.

SECTION 22.6 VOLUNTARY CONVEYANCE. A voluntary conveyance by Landlord to a public utility, agency or authority under threat of a taking under the power of eminent domain in lieu of formal proceedings pursuant to the imposition of governmental requirements for dedication or otherwise shall be deemed a taking within the meaning of this Article 22.

ARTICLE 23

STATEMENT OF TENANT

SECTION 23.1 CONTENTS AND EFFECT. In the event Landlord desires to finance, refinance or sell the Premises, Tenant shall, upon not less than fifteen (15) days' prior written notice by Landlord, execute, acknowledge and deliver to Landlord a statement in writing in the form of Exhibit G certifying that the Lease is unmodified and in full force and effect (or, if there has been any modification thereof, that the same is in full force and effect as modified and stating the modification(s)) and that Landlord is not in default, except as specified in such statement, in regard to any of its covenants or obligations under the Lease, and further setting forth the dates to which all sums payable as Rental hereunder have been paid in advance, if any, and such other statements relating to delivery and acceptance of the Premises as Landlord's lender, lienor, encumbrancer or purchaser may reasonably require. Tenant represents and warrants that any such statement delivered

pursuant to this Article 23 will be accurate and binding upon Tenant and may be relied upon by any such person.

SECTION 23.2 EFFECT OF TENANT'S FAILURE. Tenant's failure to execute and deliver such statement within such time shall be conclusive evidence (i) that the Lease is in full force and effect, without modification except as may be represented by Landlord, (ii) that there are no uncured defaults in Landlord's performance, and (iii) that not more than one (1) monthly installment of Base Rent or Extended Period Rent, as applicable, has been paid in advance.

ARTICLE 24

MISCELLANEOUS PROVISIONS

SECTION 24.1 GUARANTEE. The performance by Tenant of the terms, covenants, conditions and restrictions of this Lease to be kept and performed by Tenant shall be guaranteed by _____ ("Guarantor") during the Term (except for the guarantee of the obligations under Article 5, which shall continue), pursuant to the terms of a guarantee acceptable to Landlord and executed concurrently herewith (see Exhibit D).

SECTION 24.2 NOTICES. Any notice, election, demand or other communication to be given by either party to the other hereunder may be delivered in person to an authorized representative of the other party, or may be deposited in the United States Mail, duly registered or certified, postage prepaid, return receipt requested, and addressed to the party for whom intended at its address set forth in Section 11 of the Basic Lease Provisions. Either of the parties hereto may hereafter respectively designate another address as provided above. Service of any such written notice shall be deemed complete at the time of such personal delivery or within two (2) days after the mailing thereof as provided above. If more than one (1) tenant is named under the Lease, service of any notice upon any one of said tenants as herein provided shall be deemed service upon all of said tenants.

SECTION 24.3 PRORATIONS. All payments required to be made under the terms of the Lease which require proration shall be prorated on the basis of one-twelfth (1/12th) of the amount for each full month and one-three hundred and sixtieth (1/360th) of the amount for each day to be prorated.

SECTION 24.4 INTEREST ON LATE PAYMENTS. Any installment of Rental accruing under the provisions of the Lease or any other payment which is not paid within ten (10) days after it is due shall, at Landlord's option and in addition to any late charge provided for herein, bear simple interest at the rate of five percent (5%) per annum plus the discount rate established by the Federal Reserve Bank of San Francisco as of the twenty-fifth (25th) day of the month immediately preceding each such payment due date, but in no event in excess of the highest rate then allowed under the usury laws of the State of California, accruing from and after the due date thereof until paid.

SECTION 24.5 ACCORD AND SATISFACTION. No payment by Tenant or receipt by Landlord of a lesser amount than the Rental and other payments herein stipulated shall be deemed to be other than on account of the earliest due stipulated Rental, nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rental be deemed an accord and satisfaction and Landlord may accept such check or payment without prejudice to

Landlord's right to recover the balance of such Rental or pursue any other remedy provided in this Lease.

SECTION 24.6 WAIVER. One (1) or more waivers of any covenant or condition by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant or condition. The consent or approval by Landlord to or of any act by Tenant requiring Landlord's consent or approval shall not be deemed to render unnecessary Landlord's consent or approval to any subsequent similar act by Tenant. No breach by Tenant or Landlord of a covenant or condition of the Lease shall be deemed to have been waived by Landlord or Tenant, as the case may be, unless such waiver is in writing signed by the nondefaulting party. The rights and remedies of Landlord under the Lease shall be cumulative and in addition to any and all other rights and remedies which Landlord has or may have.

SECTION 24.7 SURRENDER OR CANCELLATION. The voluntary or other surrender of the Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, but shall terminate all or any existing subleases unless Landlord expressly elects to treat such surrender or cancellation as an assignment to Landlord of any or all of such subleases.

SECTION 24.8 ENTIRE AGREEMENT. The Lease and the exhibits hereto cover in full each and every agreement of every kind or nature whatsoever between the parties hereto concerning the Premises and all preliminary negotiations and agreements of whatsoever kind with respect to the Premises, except those contained herein, are superseded and of no further force of effect. No person, firm or corporation has at any time had any authority from Landlord or Tenant to make any representations or promises on behalf of such party, and Tenant and Landlord each expressly agrees that if any such representations or promises have been made by the other party or others, Tenant or Landlord, as the case may be, hereby waives all right to rely thereon. No verbal agreement or implied covenant shall be held to vary the provisions hereof, notwithstanding any statute, law or custom to the contrary.

SECTION 24.9 AMENDMENT TO LEASE. No amendment or other modification of the Lease shall be effective unless in writing signed by Landlord and by Tenant, or by their respective successors in interest.

SECTION 24.10 CERTAIN RULES OF CONSTRUCTION. Time is of the essence of the Lease. Notwithstanding the fact that certain references elsewhere in the Lease to acts required to be performed by Tenant hereunder omit to state that such acts shall be performed at Tenant's cost and expense, and at no expense to Landlord, unless the context clearly implies to the contrary, each and every act to be performed or obligation to be fulfilled by Tenant pursuant to the Lease shall be performed or fulfilled at Tenant's cost and expense and at no expense to Landlord. The captions, section numbers, article numbers and table of contents appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections or articles of this Lease nor in any way affect this Lease. Each and all of the obligations, covenants, conditions and restrictions of this Lease shall inure to the benefit of and be binding upon and enforceable against, as the case may require, the successors and assigns of Landlord and, subject to the restrictions of Article 17, any authorized assignee, transferee, sublessee and other successors in interest of Tenant. In this Lease, each of the neuter, feminine or masculine gender(s) includes the other or others, and the singular number includes the plural, wherever the context so requires. If more than one (1) tenant is named above, the obligation of each of such tenants hereunder shall be and is joint and several.

SECTION 24.11 CONTROLLING LAW. This Lease shall be governed by and construed in accordance with the laws of the State of California. If any provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease shall not be affected thereby and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 24.12 COUNTERPARTS. This Lease may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

SECTION 24.13 MEMORANDUM OF LEASE. Tenant shall not record this Lease; provided, however, that Tenant and Landlord shall execute and acknowledge a short form memorandum of this Lease for recording purposes in the form attached hereto as Exhibit H. Tenant shall be responsible for all expenses associated with any such recording of a short form memorandum of this Lease. Upon the expiration or earlier termination of this Lease for any reason, Tenant, within three days following the date of request by Landlord, shall deliver to Landlord a quitclaim deed conveying to Landlord any and all interest Tenant may have under this Lease.

[SIGNATURES ON FOLLOWING PAGE]

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

LANDLORD

**GARDEN GROVE AGENCY FOR
COMMUNITY DEVELOPMENT,**
a Delaware limited liability company

By: _____
Agency Director

TENANT

GALAXY OIL COMPANY,
a California corporation

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

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

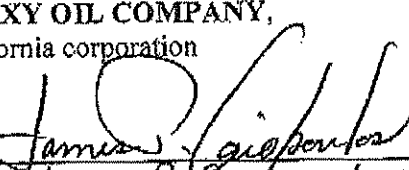
LANDLORD

**GARDEN GROVE AGENCY FOR
COMMUNITY DEVELOPMENT,**
a Delaware limited liability company

By: _____
Agency Director

TENANT

GALAXY OIL COMPANY,
a California corporation

By: 
Name: James D. Carpon Los
Title: PRESIDENT


By: 
Name: KRISTINA E. EISENMAN
Title: SECRETARY

EXHIBIT "A"

DESCRIPTION OF PREMISES

That certain real property commonly known as 13501 Harbor Boulevard, Garden Grove, California, and is more particularly described as follows:

APN 100 122-31

THE SOUTH 168.19 FEET OF THE NORTH 218.19 FEET OF THE EAST 210.00 FEET OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 5 SOUTH, RANGE 10 WEST IN RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP RECORDED IN BOOK 51, PAGE 12 OF MISCELLANEOUS MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING UNTO THE CITY OF GARDEN GROVE, IN FEE TITLE, FOR STREET AND HIGHWAY PURPOSES THAT PORTION OF SAID LAND WHICH LIES NORTHEASTERLY AND EASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE NORTH LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 4, DISTANT NORTH $89^{\circ} 43' 39''$ WEST 131.56 FEET FROM THE NORTHEAST CORNER THEREOF; THENCE SOUTH PARALLEL WITH THE EAST LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 50.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH $46^{\circ} 00' 01''$ EAST 50.14 FEET; THENCE SOUTH $01^{\circ} 43' 40''$ EAST 133.70 FEET TO THE SOUTH LINE OF THE NORTH 218.19 FEET OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 4.

EXHIBIT "B"

GUARANTEE OF LEASE

This GUARANTEE OF LEASE (this "Guarantee") is entered into _____, 2010, by and between JAMES P. CAIOPOULOS, a married man ("Guarantor"), and GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic ("Landlord").

I. RECITALS

A. A certain lease of even date herewith has been, or will be, executed by and between Landlord and Galaxy Oil Company, a California corporation therein and hereinafter referred to as "Tenant", covering certain premises in the City of Garden Grove, County of Orange, State of California ("Lease").

B. Landlord under the Lease requires as a condition to its execution of the Lease that the undersigned guarantee the full performance of the obligations of Tenant thereunder.

C. Guarantor is desirous that Landlord enter into the Lease with Tenant.

NOW, THEREFORE, in consideration of the execution of the Lease by Landlord, Guarantor hereby unconditionally guarantees the full performance of each and all of the terms, covenants and conditions of the Lease to be kept and performed by Tenant, as hereinafter provided.

II. TERMS

A. GUARANTOR'S OBLIGATIONS:

1. GUARANTEE OF TENANT'S PERFORMANCE. Except as specifically provided herein, Guarantor unconditionally guarantees to Landlord the full and complete performance of each and all of the terms, covenants and conditions of the Lease and any amendments thereto required to be performed by Tenant including, but not limited to, the payment of all Base Rent and Additional Rental including Taxes (as each term is defined in the Lease), insurance premiums and any and all other charges or sums or any portion thereof to accrue or become due from Tenant to Landlord pursuant to the terms of the Lease ("Monetary Sums").

2. TENANT'S FAILURE TO PERFORM. If Tenant fails to pay any of the Monetary Sums when due under the Lease, then, within ten (10) days of written notice to Guarantor by Landlord, Guarantor, by certified or cashier's check, shall pay to Landlord or Landlord's designated agent any such Monetary Sums as may be due and owing from Tenant to Landlord by reason of Tenant's failure to so perform.

3. OTHER PROVISIONS. If Tenant fails to perform any covenants, terms or conditions of the Lease as required to be performed, other than as provided for in Part II, Section A.2 of this Guarantee, then, upon written notice to Guarantor by Landlord, Guarantor shall commence and complete performance of the conditions, covenants and terms within five (5) business days after the date of Landlord's notice to Guarantor of such failure by Tenant to so perform; provided, in the event the performance by Guarantor cannot be completed within five (5) business days, Guarantor

shall commence performance within that time and diligently pursue same to completion within a reasonable period of time.

4. **ADDITIONAL DAMAGES AND INTEREST.** In addition to the payment of the Monetary Sums and the performance of any and all other provisions, conditions and terms of the Lease which may be required of Guarantor by reason of Tenant's failure to perform, Guarantor agrees to pay to Landlord any and all reasonable and necessary incidental damages and expenses incurred by Landlord as a direct and proximate result of Tenant's failure to perform, which expenses shall include reasonable attorneys' fees. Guarantor further agrees to pay to Landlord interest on any and all sums due and owing Landlord by reason of Tenant's failure to pay same at the highest rate allowed by law at the time of payment.

5. **TERM.** Except as set forth herein, this Guarantee shall terminate upon the expiration of five (5) years from the commencement of the Term of the Lease, provided Tenant is not then in default, nor has an event occurred, which with the giving of notice or the passage of time, or both, may constitute a default under the terms of the Lease. If Tenant is then in default or such an event has occurred, this Guarantee shall not terminate until all such defaults or events have been cured. Notwithstanding the foregoing, Guarantor shall not be released and the Guaranty shall continue in full force and effect for any and all liability arising from Tenant's obligations pursuant to Article 5 of the Lease.

B. LANDLORD'S RIGHTS:

1. **ENFORCEMENT.** Notwithstanding the provisions of Section A above, Landlord reserves the right, in the event of any failure of Tenant to pay the Monetary Sums, to proceed against Tenant or Guarantor, or both, and to enforce against Guarantor or Tenant, or both, any and all rights that Landlord may have to the Monetary Sums. Guarantor understands and agrees that its liability under this Guarantee shall be primary and that, in any right of action which may accrue to Landlord under the Lease or this Guarantee, Landlord, at its option, may proceed against Guarantor without having taken any action or obtained any judgment against Tenant.

2. **DELAY IN ENFORCEMENT.** Guarantor understands and agrees that any failure or delay of Landlord to enforce any of its rights under the Lease or this Guarantee shall in no way affect Guarantor's obligations under this Guarantee.

C. GUARANTOR'S WAIVERS:

Guarantor hereby waives the following:

1. Any and all notices, presentments and notices of nonpayment or nonperformance;
2. All defenses based upon any disability of Tenant;
3. Any and all rights it may have now or in the future to require or demand that Landlord pursue any right or remedy Landlord may have against Tenant or any third party;
4. Any and all rights it may have to enforce any remedies available to Landlord against Tenant now or in the future;

5. Any and all right to participate in any security deposit held by Landlord under the Lease now or in the future;
6. The right to require Landlord to proceed against Tenant, exhaust any security which Landlord now holds or may hold in the future from Tenant or pursue any other right or remedy available to Landlord;
7. The provisions of Sections 2810, 2819, 2845 and 2850 of the California Civil Code.

D. EXTENSIONS, AMENDMENTS, ASSIGNMENT OR SUBLEASE:

Guarantor understands and agrees that its obligations under this Guarantee shall not be affected in any way by any extension, amendment or assignment or subletting of the Lease and in no way shall any such occurrence release or discharge Guarantor from its obligations under this Guarantee.

E. TENANT'S INSOLVENCY:

1. ASSUMPTION OF LIABILITY. Guarantor understands and agrees that, if Tenant becomes insolvent or is adjudicated bankrupt, whether by voluntary or involuntary petition, or if any bankruptcy action involving Tenant is commenced or filed, or if a petition for reorganization, arrangement or similar relief is filed against Tenant, or if a receiver of any part of Tenant's property or assets is appointed by any court, Guarantor will pay to Landlord the amount of all accrued, unpaid and accruing Monetary Sums to the date when the trustee or administrator accepts the Lease and commences paying same; provided, however, at such time as the trustee or administrator rejects the Lease, Guarantor shall pay to Landlord all accrued, unpaid and accruing Monetary Sums under the Lease for the remainder of the Term.

2. LANDLORD'S OPTION. Pursuant to the provisions of Part II, Section E.1 above, at the option of Landlord as to the amounts owing for the unexpired term of the Lease if the Lease is rejected, Guarantor shall either:

(a) Pay to Landlord an amount equal to the Monetary Sums which would have been payable for the unexpired term of the Lease reduced to its present day value less any amounts received by Landlord for reletting pursuant to the terms of Section 18.2(b) of the Lease; or

(b) Executive and deliver to Landlord a new lease for the balance of the Term with the same terms and conditions as the Lease and with Guarantor as tenant thereunder.

3. EFFECT OF OPERATION OF LAW. Any operation of any present or future debtor's relief act or similar act or law or decision of any court as pertains to Tenant shall in no way affect the obligations of Guarantor to perform any of the terms, covenants or conditions of the Lease or of this Guarantee.

III. MISCELLANEOUS

A. NOTICES. Any and all notices required under this Guarantee shall be made in writing and shall be mailed, first-class, certified mail, postage prepaid, return receipt requested to the party who is designated to receive the notice at the address set forth after its respective signature on this Guarantee, or at such other place as may be designated by that part from time to time upon written notice to the other party.

B. EXTENT OF OBLIGATIONS. Notwithstanding anything to the contrary in this Guarantee, it is understood and agreed that this Guarantee shall extend to any and all obligations of Tenant to Landlord under the Lease and any amendments to the Lease.

C. SUBROGATION. Guarantor understands and agrees that it shall have no right of subrogation against Tenant until such time as all of Tenant's obligations to Landlord have been fully paid and discharged.

D. ASSIGNABILITY. This Guarantee may be assigned in whole or in part by Landlord upon written notice to Guarantor.

E. SUCCESSORS AND ASSIGNS. The terms and provisions of this Guarantee shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

F. MODIFICATION OF GUARANTEE. This Guarantee constitutes the full and complete agreement between the parties hereto and it is understood and agreed that the provisions hereof may only be modified by a writing executed by the parties hereto.

G. NUMBER AND GENDER. As used herein, the singular shall include the plural and, as used herein, the masculine shall include the feminine and neuter genders.

H. CAPTIONS/HEADINGS. Any captions or headings used in this Guarantee are for reference purposes only and are in no way to be construed as part of this Guarantee.

I. INVALIDITY. If any term, provision, covenant or condition of this Guarantee is held to be void, invalid or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

J. JURISDICTION. The validity of this Guarantee and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be interpreted and construed pursuant to and in accordance with the laws of the State of California.

K. ATTORNEYS' FEES. In the event it becomes necessary to judicially enforce any of the terms and provisions of this Guarantee, the prevailing party shall be entitled to its reasonable costs and expenses incurred with respect thereto including, but not limited to, reasonable attorneys' fees and such other costs and expenses as may be allowed by law.

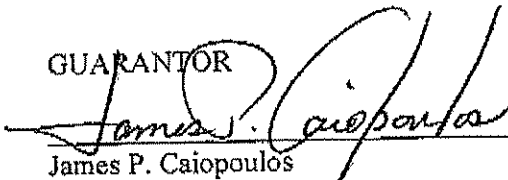
L. GUARANTEE OF PAYMENT AND PERFORMANCE. It is understood and agreed that this Guarantee is unconditional and continuing and is a guarantee of payment and performance and not of collection.

M. JOINT AND SEVERAL OBLIGATION. If Guarantor is more than one (1) person, the obligations of the persons comprising Guarantor shall be joint and several and the unenforceability of this Guarantee or Landlord's election not to enforce this Guarantee against one (1) or more of the persons comprising Guarantor shall not affect the obligations of the remaining persons comprising Guarantor or the enforceability of this Guarantee against such remaining persons.

N. COUNTERPARTS. This Guarantee may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

N WITNESS WHEREOF, the undersigned have executed this Guarantee and made it effective on the date first written above.

GUARANTOR


James P. Caiopoulos

Address for Notices

Galaxy Oil Company
12862 Garden Grove Boulevard
Suite 252
Garden Grove, California 92843

M. JOINT AND SEVERAL OBLIGATION. If Guarantor is more than one (1) person, the obligations of the persons comprising Guarantor shall be joint and several and the unenforceability of this Guarantee or Landlord's election not to enforce this Guarantee against one (1) or more of the persons comprising Guarantor shall not affect the obligations of the remaining persons comprising Guarantor or the enforceability of this Guarantee against such remaining persons.

N. COUNTERPARTS. This Guarantee may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

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GUARANTOR

James P. Caiopoulos

Address for Notices

Galaxy Oil Company
12862 Garden Grove Boulevard
Suite 252
Garden Grove, California 92843

CONSENT OF SPOUSE

The undersigned acknowledges that the undersigned has read the **SERVICE STATION LEASE** by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "Agency"), and **GALAXY OIL COMPANY**, a California limited liability company (the "Developer") dated _____, 2010 (the "Lease"), and the Guaranty entered into concurrently therewith by and between **JAMES P. CAIOPOULOS**, as Guarantor, and the Agency guarantying the Guaranteed Obligations as defined in the Guaranty. Capitalized terms used and not otherwise defined in this Consent of Spouse have the respective meanings given to them in the Guaranty and the Lease.

The undersigned, intending to be legally bound:

1. represents and warrants that the undersigned is the spouse of James P. Caiopoulos;
2. consents to and approves the execution, delivery and performance by the undersigned's spouse of, and agrees to be bound by the Guaranty;
3. agrees to execute and deliver any document, and to take any other action, that the Lease, the Guaranty, the Developer and/or the Guarantor may reasonably request for the purpose of facilitating, consummating or evidencing any of the transactions contemplated by the Guaranty and/or the Lease;
4. irrevocably appoints James P. Caiopoulos (with full power of substitution) as the undersigned's agent and attorney-in-fact for the purpose of executing and delivering (on behalf of the undersigned) any contract, consent or other document, and for the purpose of taking any other action, relating directly or indirectly to the Lease and/or the Guaranty; and
6. represents and warrants that the undersigned has had the opportunity to obtain legal advice, from counsel of the undersigned's own choosing and independent of the undersigned's spouse as to the undersigned's legal rights and as to the legal effect of this Consent of Spouse.

The representations, warranties, covenants, obligations and other provisions set forth in this Consent of Spouse shall survive the Commencement Date of the Lease, notwithstanding any investigation conducted with respect thereto or any knowledge of any other person.

Dated: _____, 2010


Susan H. Caiopoulos

B-1

DOCSOC/1406619v8/022012-0321

CONSENT OF SPOUSE

The undersigned acknowledges that the undersigned has read the **SERVICE STATION LEASE** by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "Agency"), and **GALAXY OIL COMPANY**, a California limited liability company (the "Developer") dated _____, 2010 (the "Lease"), and the Guaranty entered into concurrently therewith by and between **JAMES P. CAIOPOULOS**, as Guarantor, and the Agency guarantying the Guaranteed Obligations as defined in the Guaranty. Capitalized terms used and not otherwise defined in this Consent of Spouse have the respective meanings given to them in the Guaranty and the Lease.

The undersigned, intending to be legally bound:

1. represents and warrants that the undersigned is the spouse of James P. Caiopoulos;
2. consents to and approves the execution, delivery and performance by the undersigned's spouse of, and agrees to be bound by the Guaranty;
3. agrees to execute and deliver any document, and to take any other action, that the Lease, the Guaranty, the Developer and/or the Guarantor may reasonably request for the purpose of facilitating, consummating or evidencing any of the transactions contemplated by the Guaranty and/or the Lease;
4. irrevocably appoints James P. Caiopoulos (with full power of substitution) as the undersigned's agent and attorney-in-fact for the purpose of executing and delivering (on behalf of the undersigned) any contract, consent or other document, and for the purpose of taking any other action, relating directly or indirectly to the Lease and/or the Guaranty; and
6. represents and warrants that the undersigned has had the opportunity to obtain legal advice, from counsel of the undersigned's own choosing and independent of the undersigned's spouse as to the undersigned's legal rights and as to the legal effect of this Consent of Spouse.

The representations, warranties, covenants, obligations and other provisions set forth in this Consent of Spouse shall survive the Commencement Date of the Lease, notwithstanding any investigation conducted with respect thereto or any knowledge of any other person.

Dated: _____, 2010

Susan H. Caiopoulos

ESTOPPEL CERTIFICATE

RE: Lease dated _____, ____ (the "Lease") between

_____ ("Tenant") and
_____ ("Landlord") concerning
the _____ premises known as _____
Suite _____,
_____, California _____ (the "Premises") located in the
(the "Shopping Center").

8. Tenant has made, and Landlord holds, a security deposit with a current balance as of the date hereof equal to \$ _____.

9. Tenant has not made, and has received no notice of, any sale, transfer, pledge, assignment or hypothecation of the Lease, or of the rents owed thereunder.

10. All conditions under the Lease to be performed by Landlord prerequisite to the full effectiveness of the Lease have been satisfied.

11. All construction, repairs and improvements contemplated by the Lease to be performed by Landlord have been performed by Landlord and have been completed satisfactorily in accordance with the terms of the Lease, and no other construction, repair and improvements are contemplated under the Lease.

12. There are no sums or credits due Tenant from Landlord under the Lease, except for the return of any remaining balance of the security deposit (if any) at the end of the Lease term in accordance with the terms of the Lease and applicable law.

13. As of the date hereof, there exists no factual circumstance or condition which, with notice or the lapse of time, or both, would give rise to any obligation on the part of Landlord, would constitute a default on the part of Landlord, would constitute a defense to the enforcement of the Lease by Landlord or any offset against the rents or other charges due Landlord under the Lease, or would constitute the basis for a claim or cause of action against Landlord.

14. Tenant is not using the Premises in violation of any applicable laws, rules, ordinances or regulations, including, but not limited to, any applicable environmental laws, rules or regulations (collectively "Laws"); there are no regulatory actions or other claims pending or threatened against Tenant in connection with any Laws; Tenant has not received any notice from any third party or governmental authority alleging a violation of any Laws; and Tenant shall immediately notify Landlord in writing of any existing, pending or threatened action by any local, state or general governmental authority and of any third party claims of which Tenant is aware arising out of the violation or alleged violation of any Laws.

15. There has not been filed by or against Tenant nor, to the best knowledge and belief of Tenant, is there threatened against or contemplated by Tenant, a petition in bankruptcy, voluntary or otherwise, any assignment for the benefit of creditors, any petition seeking reorganization or arrangement under bankruptcy laws of the United States or of any state thereof, or any other action brought under said bankruptcy laws.

16. The undersigned hereby agrees that Lender and its successors and assigns shall not be bound by any prepayment by Tenant of more than one month's installment of rent unless such prepayment is expressly required in the Lease or has been specifically approved in writing by Lender.

17. If Lender advises Tenant that Landlord is in default of any indebtedness to Lender and Lender requests that payment of all future rents be made directly to Lender, Tenant agrees that it shall make all future rent payments under the Lease directly to Lender until instructed otherwise by Lender.

18. Tenant acknowledges having read this Certificate and understands the certifications and representations made herein, and hereby executes this Certificate intending reliance hereon by

_____ and Lender, and the successors and assigns of each. The undersigned signatory represents and warrants that he or she is duly authorized to execute this Certificate on behalf of Tenant.

Dated: _____, _____

(Name of Tenant)

By: _____
(Signature)

(Printed Name of Person
Signing this Certificate)

(Title of Person Signing this Certificate)

EXHIBIT "D"

MEMORANDUM OF LEASE

When Recorded, Return To

Mail Tax Statements to:

Space above this line for Recorders use only
AP # _____

GROUND LEASE

(Short Form - Memorandum)

This Short Form-Memorandum of Service Station Lease (Short Form Memorandum) dated as of _____, 2010 is by and between GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic, and GALAXY OIL COMPANY, a California corporation (collectively, "Landlord").

WITNESSETH:

1. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord that certain real property commonly known as 13501 Harbor Boulevard, Garden Grove, California, legally described in Exhibit A attached hereto, at the rental and upon all of the terms and conditions set forth in that certain Service Station Lease of even date herewith between the parties hereto, which is incorporated herein by this reference ("Lease").

2. The Premises is located entirely within the shopping center commonly known as _____.

3. The Premises is leased for a term of five (5) years, subject to four (4), five (5) year extension options ("Term"). The Commencement Date under the Lease is _____, 2010 and the Expiration Date of the Lease is _____, 20__, subject to earlier termination pursuant to law.

4. The Lease provides, among other things, that Tenant shall pay any and all taxes, general and special assessments and other charges of every description which during the Term or any extension thereof may be levied upon or assessed against the Premises and all interest therein and all improvements and other property thereon, whether belonging to Landlord or Tenant.

5. The Lease provides, among other things, that except as specifically provided therein, Tenant shall not encumber, assign or otherwise transfer the Lease, or any right or interest thereunder, without the prior written consent and approval of Landlord. Any such encumbrance, assignment or other transfer without such prior written consent and approval shall be void and shall confer no rights whatsoever.

6. The Lease provides, among other things, that Tenant shall have rights of ingress and egress to and from the Premises and all other rights appurtenant to the Premises.

7. Should there be any inconsistency between the terms of this instrument and the Lease, the terms of the Lease shall prevail.

IN WITNESS WHEREOF, each of the parties hereto has executed this instrument as of the date first above written.

LANDLORD:

TENANT:

GARDEN GROVE AGENCY FOR
COMMUNITY DEVELOPMENT,
a public body, corporate and politic

_____,
a _____

By: _____
Agency Director

By: _____
Its: _____

EXHIBIT "E"
GAS STATION ASSETS

EXHIBIT "F"

SCOPE OF DEVELOPMENT DETAIL OF TENANT IMPROVEMENTS

I. STORE

- Replace broken fixtures – bathroom
- Replace broken fixtures – lights
- Replace broken tile – floor and wall
- Replace all broken glass
- Replace damaged dry wall
- Install new cabinetry and countertops throughout store
- Install new coffee island
- Install (2) new air conditioners – (1) five ton, (1) three ton
- Install (1) new walk-in cooler compressor
- Replace water main from store to City connection
- Paint and signage both inside and out

II. ENVIRONMENTAL UPGRADES

- Upgrade TLS 350 Veeder Root computer (tank monitoring system) with In Station Diagnostics (ISD) with both required hardware and software for EVR Phase II compliance
- Install EVR Phase II carbon canister on vent pipes along with ancillary piping and electrical to/from tank/dispenser/line sensors with communication link to Veeder Root system
- Install double wall piping from turbine sumps to (4) under dispenser containment (UDC's)
- Install and connect (4) new Dresser Wayne Ovation 3 product dispensers to UDC's and connect electrical/piping/sensors
- Clean, test and recertify (2) 15,000/gallon product tanks
- Program Veeder Root Monitor of Phase II requirements
- Perform all required inspections/Monitor Certification and AQMD vapor testing

III. CANOPY

- Demolition of existing concrete slab by island area
- Excavate 8 new canopy footings
- Set (8) new rebar footing cages
- Pour (8) 2500psi concrete footings
- Fabricate and install new anchor bolts and templates in each footing
- Install (8) structural steel canopy column stub(s) with base plates onto new canopy footings
- Relocate existing canopy and weld existing canopy column(s) to new column stub(s)

IV. SITE

- Installation of Xerxes 600 gallon fiberglass rainwater containment tank
- Installation of rainwater swells between dispenser islands and associated piping from swells to rainwater containment tank

V. SITE RE-IMAGING

- Install 250' of Level #1 canopy fascia system with LED
- Dig/pour new footing for new monument sign
- Install new monument sign
- Install C-140 high rise sign on existing pole structure
- Install (4) new dispenser spanners
- Install logos and hallmarks