

Joint Maintenance Agreement

This Agreement is made this 11th Day of January 2007 between BJ Properties & Management, LLC, a Nevada Limited Liability Company, to be held in Series C, hereinafter referred to as "**BJ Properties**", the owner of Parcel A, and **Harvey Lyons, as Trustee of The Lyons Revocable Family Trust**, hereinafter referred to as "**Lyons Trust**" the owner of Parcel B.

BJ Properties is the successor in interest to **COLONIAL MALL LTD**, a Limited Partnership and is the owner of Assessors Parcel No# 156-180-45 at 1207 Carlsbad Village Dr Carlsbad CA 92008, more fully described as Parcel A in the City of Carlsbad, County of San Diego, State of California, as shown at Page 3204 of Parcel Maps, filed in the Office of the County Recorder of San Diego County, November 13, 1974, hereinafter referred to as **Parcel A**; having acquired its ownership interest pursuant to a grant deed dated May 22, 2006 and recorded on June 7, 2006 as Document No. 2006-0401590 of the official records of the County Recorder of San Diego County.

The Lyons Trust is the successor in interest to **CARLSBAD INVESTMENT CORPORATION**, and is the owner of Assessors parcel No # 156-180-44-00, at 3050 Pio Pico Dr Carlsbad CA 92008 more fully described as Parcel B of Parcel Map No. 3598, in the City of Carlsbad, County of San Diego, State of California, filed in the office of the County Recorder of San Diego County, February 28, 1975, hereinafter referred to as **Parcel B**; having acquired its ownership pursuant to a grant deed dated February 18, 2004 and recorded February 20, 2004 as Document No. 2004-0132913 of the official records of the County Recorder of San Diego County.

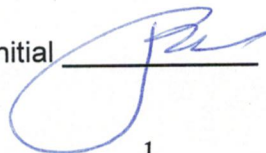
BJ Properties and the **Lyons Trust**, as the successor owners of record of Parcel A and Parcel B as described above, hereby agree:

1. To be equally responsible for all ongoing maintenance and repair of that portion of Parcel B described as **Parcel C** in the legal description attached hereto as "Attachment 1" which constitutes approximately 20% of the total Parcel B. **Lyons Trust** will administer the maintenance and repair on **Parcel C**. The monthly maintenance on **Parcel C** as at January 2007 is approximately \$76.00. This agreement will allow up to 10% per annum increase by the supplying outside vendors for maintenance only on **Parcel C**. Over and above the monthly maintenance if any amounts are due for repairs or additional maintenance on any part of **Parcel C** in excess of \$2,000.00 in any one calendar year must be agreed upon in writing by both parties.
2. To be equally responsible for all ongoing **property taxes** on that portion of Parcel B described as **Parcel C** in the legal description attached hereto as "Attachment 1" which constitutes approximately 20% of the total Parcel B. **Parcel C's** share of property and associate taxes is based on 20% of the **land** value of Parcel B per the City Tax Bill as at December 2006 is \$1,678.92. This agreement allows for ongoing increases in Property taxes annually up to 5%. Both parties will be liable for any extraordinary Federal, State, City or any other Government imposed taxes or increase on **Parcel C** that are not associated with a sale of **Parcel C**

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3. The **Lyons Trust** will supply **BJ Properties** with a sufficient number of access codes for entry into Parcel C in order that **BJ Properties**, as the owner of Parcel A, may have joint use of the parking available on Parcel C.
4. The **Lyons Trust** will install signage along the East side of the wall of Parcel C, stating that "All Parking in this upper parking facility is for the joint use of the Restaurants Guests and Colonial Mall's Tenants".
5. The **Lyons Trust** and **BJ Properties** agree to monitor the ongoing joint use of Parcel C in order to insure its equitable use.
6. The **Lyons Trust** is to invoice **BJ Properties** monthly for 50% of all monthly maintenance on Parcel C, which amounts will be paid within 10 days of invoicing.
7. The **Lyons Trust** is to invoice **BJ Properties** at the beginning of each year for 50% of the prorated real property taxes attributable to Parcel C which is estimated to be 20% of the total Parcel B real property taxes on the land.

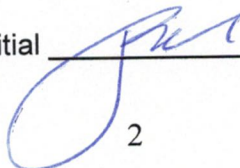
By January 30, 2007, the following will occur:

8. The parties to this agreement will sign a new Joint Parking Agreement, for recording in the County of San Diego, and subject to the City of Carlsbad signing off on the agreement.
9. The **Lyons Trust** will open a handicapped access walkway from Parcel C to the Building on Parcel A, shown on the drawing attached hereto as Attachment "2". **BJ Properties** is to be responsible for any painting of blue stripes on parking lot service.
10. **BJ Properties** agrees that subject to any City requirements, they will within 60 days of the signing of this agreement, construct a storm water drain across the West entry to their parking lot, with outlet pipes running underground to the nearest and/or most accessible storm water drain. The **Lyons Trust** hereby grants **BJ Properties** permission to run the drain pipes underground Parcel B, if need be, to the nearest acceptable storm-water drain. **Lyons Trust** hereby holds **BJ Properties** harmless and releases them from any known water damage caused to Parcel B, due to the flow of water from Parcel A onto Parcel B up to and including the date of signing of this agreement.
11. The **Lyons Trust** and **BJ Properties** will insure that each other is adequately covered with up to \$1,000,000.00 of Liability Insurance for any damage or liability incurred on their properties and more especially on Parcel B and Parcel C. **BJ Properties** is to verify that their insurance covers incidents occurring on Parcel B.
12. **BJ Properties** agrees to immediately pay to The **Lyons Trust** the sum of \$3,000.00 as monies due for their share in full for repair and maintenance on Parcel C through 9/30/06 plus all maintenance and taxes due through 12/31/06

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13. **Litigation Costs and Attorney's Fees.** Notwithstanding the preceding Paragraph, in the event that any Party shall institute any legal action or proceeding, in law or equity, against another Party on account of the other's failure or refusal to perform or to fulfill any of the covenants or conditions of this Agreement on it's part to be performed or fulfilled (whether actual or perceived), or to interpret the provisions of this Agreement, then it is agreed that in such action or proceeding the prevailing Party shall be entitled to its reasonable costs therein, and such further and additional sums as and for his attorney's fees as the court in such action or proceeding may adjudge to be reasonable, except as provided for in Paragraph 14 A.

14. **Dispute Resolution:**

14A. **MEDIATION:** The **Lyons Trust** and **BJ Properties** agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action. Mediation fees if any shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action.

14B. **Arbitration of Disputes.** The Parties agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation shall be decided by neutral binding arbitration. The arbitrator shall be a retired judge or justice, or an attorney with at least five years of real estate Law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law. The parties shall have the right to discovery in accordance with California Code of Civil Procedure Section 1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part III of the California Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Interpretation of this agreement to arbitrate shall be governed by the Federal Arbitration Act.

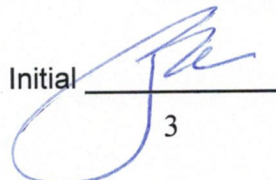
- **Exclusions from Mediation and Arbitration:** The following matters are excluded from mediation and arbitration (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in California Civil Code Section 2985; (ii) an unlawful detainer action; (iii) the filing or enforcement of a mechanic's lien; and (iv) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court. The filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the mediation and arbitration provisions.

14C. **NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND**

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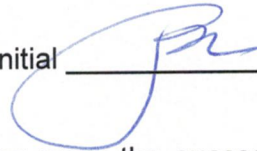
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YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY" "WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTER INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION."

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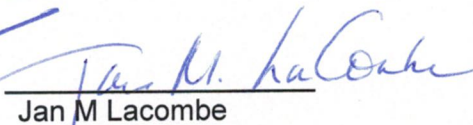
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15. This agreement will be binding upon the successors-in-interest and assignees of either party.

Agreed to and executed 1 / 11 /2007

By:

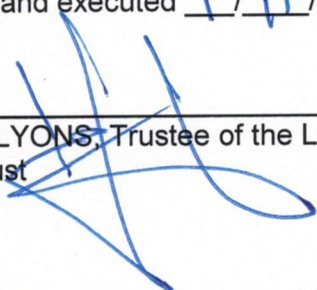

L. Bruce Brown


Jan M Lacombe

for
BJ Properties & Management, LLC a Nevada Limited Liability Company, to be held in Series C)

Agreed to and executed 1 / 11 /2007

By:


HARVEY LYONS, Trustee of the Lyons Revocable Family Trust

[SEE NOTARY JURATS ON PAGES 5, 6 AND 7]

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

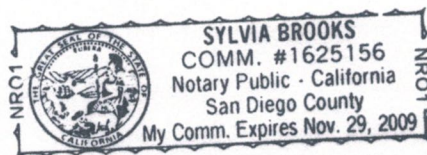
On 1/11, 2007 before me, SYLVIA BROOKS, a Notary

Public in and for said State, personally appeared L. Bruce Brown,

personally known to me/ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal


**NOTARY PUBLIC IN AND FOR SAID
COUNTY AND STATE**



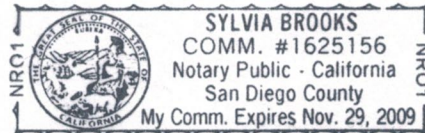
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

On 1/11, 2007 before me, Sylvia Brooks, a Notary Public in and for said State, personally appeared HARVEY LYONS, personally known to me/_____ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal



**NOTARY PUBLIC IN AND FOR SAID
COUNTY AND STATE**





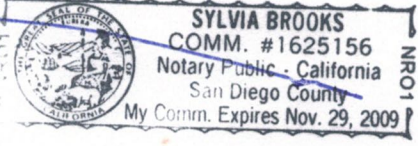
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

On 1/11, 2007 before me, SYLVIA BROOKS, a Notary Public in and for said State, personally appeared JAN LAROMSE, personally known to me/ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the persons(s), or the entity upon behalf of which the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Initial [Signature]

[Signature]
NOTARY PUBLIC IN AND FOR SAID
COUNTY AND STATE
Initial [Signature] Initial [Signature]



[Signature]



City of Carlsbad

Planning Department

September 24, 2007

Mr. Harvey Lyons
3252 Holiday Court, #223
La Jolla, CA 92037

RE: PIO PICO PROPERTY/COLONIAL MALL PROPERTY PARKING AGREEMENT

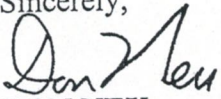
Dear Mr. Lyons:

The City of Carlsbad has reviewed the latest version of the Supplemental Agreement for Joint Parking and Maintenance (the "Agreement") dated August 20, 2007. The Agreement complies with all changes requested by the City of Carlsbad on August 9, 2007. Therefore, the City of Carlsbad is with this letter hereby providing written consent of approval of the proposed Agreement, as required by the original recorded agreement (Doc # 74-131027).

Once you have recorded the Agreement, please submit a recorded copy to our offices for our files. Once we have received the recorded copy of the Agreement, it will be forwarded to our City Attorney and Code Enforcement offices for closure on this issue.

Should you have any questions or need any further assistance regarding this issue, please contact Gary T. Barberio, Assistant Planning Director at (760) 602-4606.

Sincerely,


DON NEU
Planning Director

DN:GTB:bd

- c: Jane Mobaldi, Assistant City Attorney
- Paul Edmondson, Deputy City Attorney
- Gary T. Barberio, Assistant Planning Director
- Van Lynch, Senior Planner
- Mr. Bruce Brown, Colonial Mall

