

INTERNATIONAL GATEWAY OF THE AMERICAS

SAN YSIDRO REDEVELOPMENT PROJECT

SAN DIEGO, CALIFORNIA

DISPOSITION AND DEVELOPMENT AGREEMENT

By and Between

REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO,
AGENCY,

and

LANDGRANT DEVELOPMENT UNLIMITED,
DEVELOPER.

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TABLE OF CONTENTS

		<u>Page</u>
I.	[§ 100] SUBJECT OF AGREEMENT	1
A.	[§ 101] <u>Purpose of the Agreement</u>	1
B.	[§ 102] <u>The Redevelopment Plan</u>	2
C.	[§ 103] <u>The Redevelopment Project Area</u>	2
D.	[§ 104] <u>The Site</u>	3
E.	[§ 105] <u>Parties to the Agreement</u>	4
1.	[§ 106] <u>Agency</u>	4
2.	[§ 107] <u>Developer</u>	5
F.	[§ 108] <u>Prohibition Against Change In Ownership Management and Control of Developer</u>	5
II.	[§ 200] DISPOSITION OF THE SALES PARCELS	7
A.	[§ 201] <u>Sale and Purchase</u>	7
B.	[§ 202] <u>Escrow</u>	7
C.	[§ 203] <u>Conveyance of Title and Delivery of Possession</u>	10
D.	[§ 204] <u>Form of Deed</u>	10
E.	[§ 205] <u>Condition of Title</u>	11
F.	[§ 206] <u>Time For and Place For Delivery of Deed</u>	12
G.	[§ 207] <u>Payment of the Purchase Price and Recordation of the Deed</u>	12
H.	[§ 208] <u>Title Insurance</u>	13
I.	[§ 209] <u>Taxes and Assessments</u>	13
J.	[§ 210] <u>Occupants of the Sales Parcel</u>	13
K.	[§ 211] <u>City Land Use Regulations</u>	14
L.	[§ 212] <u>Condition of Each Sales Parcel and the Site</u>	14
M.	[§ 213] <u>Preliminary Work by the Developer</u>	14
N.	[§ 214] <u>Submission of Evidence of Financing</u>	15
III.	[§ 300] DEVELOPMENT OF THE SITE	18
A.	[§ 301] <u>Responsibilities for Development</u>	18
1.	[§ 302] <u>Scope of Development</u>	18
2.	[§ 303] <u>Basic Concept Drawings</u>	18
3.	[§ 304] <u>Landscaping and Grading Plans</u>	18
4.	[§ 305] <u>Construction Drawings and Related Documents for the Site</u>	19
5.	[§ 306] <u>Agency Approval of Plans, Drawings, and Related Documents</u>	19
6.	[§ 307] <u>Cost of Construction</u>	20
7.	[§ 308] <u>Schedule of Performance</u>	20
8.	[§ 309] <u>Indemnification During Construction; Bodily Injury and Property Damage Insurance</u>	21
9.	[§ 310] <u>Antidiscrimination During Construction</u>	21
10.	[§ 311] <u>Local, State, and Federal Laws</u>	22

	11.	[\$ 312]	<u>City and Other Governmental Agency Permits</u>	22
	12.	[\$ 313]	<u>Rights of Access</u>	22
B.		[\$ 314]	<u>Responsibilities of the Agency</u>	22
C.		[\$ 315]	<u>Taxes, Assessments, Encumbrances and Liens</u>	22
D.		[\$ 316]	<u>Prohibition Against Transfer</u>	23
E.		[\$ 317]	<u>Security Financing; Rights of Holders</u>	25
	1.	[\$ 318]	<u>No Encumbrances Except Mortgages, Deeds of Trust, Conveyances and Leases-Back or Other Conveyance for Financing for Development</u>	25
	2.	[\$ 319]	<u>Holder Not Obligated to Construct Improvements</u>	26
	3.	[\$ 320]	<u>Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure</u>	26
	4.	[\$ 321]	<u>Failure of Holder to Complete Improvements</u>	27
	5.	[\$ 322]	<u>Right of Agency to Cure Mortgage, Deed of Trust, or Other Security Interest Default</u>	28
F.		[\$ 323]	<u>Right of the Agency to Satisfy Other Liens on the Property After Title Passes</u>	28
G.		[\$ 324]	<u>Certificate of Completion</u>	29
IV.		[\$ 400]	<u>USE OF THE SITE</u>	30
A.		[\$ 401]	<u>Uses</u>	30
B.		[\$ 402]	<u>Maintenance of the Site</u>	30
C.		[\$ 403]	<u>Obligation to Refrain From Discrimination</u>	30
D.		[\$ 404]	<u>Form of Nondiscrimination and Nonsegregation Clauses</u>	31
E.		[\$ 405]	<u>Effect and Duration of Covenants</u>	32
F.		[\$ 406]	<u>Rights of Access - Public Improvements and Facilities</u>	32
V.		[\$ 500]	<u>DEFAULTS, REMEDIES AND TERMINATION</u>	32
A.		[\$ 501]	<u>Defaults - General</u>	32
B.		[\$ 502]	<u>Legal Actions</u>	33
	1.	[\$ 503]	<u>Institution of Legal Actions</u>	33
	2.	[\$ 504]	<u>Applicable Law</u>	33
	3.	[\$ 505]	<u>Acceptance of Service of Process</u>	33
C.		[\$ 506]	<u>Rights and Remedies are Cumulative</u>	34
D.		[\$ 507]	<u>Damages</u>	34
E.		[\$ 508]	<u>Specific Performance</u>	34
F.		[\$ 509]	<u>Remedies and Rights of Termination</u>	35
	1.	[\$ 510]	<u>Termination by Developer</u>	35
	2.	[\$ 511]	<u>Termination by Agency</u>	37
G.		[\$ 512]	<u>Right of Reentry</u>	40

H.	[§ 513]	<u>Agency Right to Acquire Participating Parcels</u>	43
VI.	[§ 600]	GENERAL PROVISIONS	44
A.	[§ 601]	<u>Notices, Demands, and Communications Between the Parties</u>	44
B.	[§ 602]	<u>Conflicts of Interest</u>	44
C.	[§ 603]	<u>Nonliability of Agency Officials and Employees</u>	44
D.	[§ 604]	<u>Enforced Delay: Extension of Time of Performance</u>	44
E.	[§ 605]	<u>Inspection of Books and Records</u>	45
F.	[§ 606]	<u>Approvals</u>	45
G.	[§ 607]	<u>Real Estate Commissions</u>	45
VII.	[§ 700]	SPECIAL PROVISIONS	46
A.	[§ 701]	<u>Relocation of Occupants from Added Sales Parcels</u>	46
B.	[§ 702]	<u>Payment or Reimbursement for Costs, If Any, Pertaining to Agreed Sales Parcels and Participating Parcels</u>	46
C.	[§ 703]	<u>Acquisition of Participating Parcels by Developer</u>	47
D.	[§ 704]	<u>Subdivision Maps</u>	47
E.	[§ 705]	<u>Agreements to be Recorded Affecting Real Property</u>	48
F.	[§ 706]	<u>Reciprocal Easement Agreements</u>	48
G.	[§ 707]	<u>Development Agreement</u>	49
H.	[§ 708]	<u>Bi-National Authorization for River Pedestrian Bridge</u>	49
I.	[§ 709]	<u>Coordination with Mexico</u>	50
J.	[§ 710]	<u>City Permits</u>	50
K.	[§ 711]	<u>Federal/State Approvals</u>	51
L.	[§ 712]	<u>GSA Cooperation Agreement</u>	52
M.	[§ 713]	<u>Regional Transit Issues</u>	52
N.	[§ 714]	<u>Agency Administration</u>	53
O.	[§ 715]	<u>World Trade Center</u>	53
P.	[§ 716]	<u>Purchase of Agreed Sales Parcels</u>	54
Q.	[§ 717]	<u>River Pedestrian Bridge Implementation Plan</u>	54
R.	[§ 718]	<u>Public Use Leases to City</u>	55
S.	[§ 719]	<u>Financing of Public Improvements</u>	56
	1.	[§ 720] <u>Public Works Financing Agreement</u>	56
	2.	[§ 721] <u>Developer Advances</u>	56
	3.	[§ 722] <u>Permanent Financing by Developer</u>	57
	4.	[§ 723] <u>Option of Agency to Finance and/or Construct</u>	57
VIII.	[§ 800]	ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS	58

ATTACHMENTS

- ATTACHMENT NO. 1 - SITE MAP
- ATTACHMENT NO. 1A - LEGAL DESCRIPTION
- ATTACHMENT NO. 2 - METHOD OF FINANCING
- ATTACHMENT NO. 3 - SCHEDULE OF PERFORMANCE
- ATTACHMENT NO. 4 - SCOPE OF DEVELOPMENT
- ATTACHMENT NO. 5 - GRANT DEED
- ATTACHMENT NO. 6 - AGREEMENT TO BE RECORDED AFFECTING
REAL PROPERTY
- ATTACHMENT NO. 7 - GUARANTY AGREEMENT
- ATTACHMENT NO. 8 - RIVER PEDESTRIAN BRIDGE TERM SHEET
- ATTACHMENT NO. 9 - LIST OF CITY PERMITS
- ATTACHMENT NO. 10 - GSA TERM SHEET
- ATTACHMENT NO. 11 - INTENTIONALLY OMITTED
- ATTACHMENT NO. 12 - PURCHASE AGREEMENT
- ATTACHMENT NO. 13 - PUBLIC USE LEASE
- ATTACHMENT NO. 14 - LOAN AGREEMENT
- ATTACHMENT NO. 15 - PUBLIC WORKS FINANCING AGREEMENT

DISPOSITION AND DEVELOPMENT AGREEMENT

This Disposition and Development Agreement (the "Agreement") is entered into by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (the "Agency"), and LANDGRANT DEVELOPMENT UNLIMITED, a California corporation, (the "Developer"). The Agency and the Developer agree as follows:

I. [§ 100] SUBJECT OF AGREEMENT

A. [§ 101] Purpose of the Agreement

This Agreement is made with reference to the following facts:

1. On July 31, 1996, the Mayors of the Cities of Tijuana and San Diego established the Agreement for Binational Cooperation between the two cities to set objectives on binational planning and other cross-border concerns to physically and economically enhance the region.

2. The Puerta Mexico/San Ysidro port of entry is identified as an area which needs to be designed to improve the flow of pedestrian and vehicular transportation, comprehensively plan local land uses, and develop improved infrastructure on both sides of the border.

3. Consistent with the intent of the Agreement for Binational Cooperation, the City of San Diego in 1996 adopted the Redevelopment Plan for the San Ysidro Redevelopment Project area to address the revitalization of the border area in the U.S.

4. Officials of the City of Tijuana and the City of San Diego have been conferring regarding the possibility of improving the border crossing and nearby areas of Zona Rio and Zona Norte in Mexico, and of San Ysidro in the U.S.

5. The Developer has been studying and preparing possible concept plans to achieve such redevelopment in joint venture with property owners and/or joint venture developers on the respective sides of the border, and in cooperation with federal, state and local public agencies on the respective sides of the border.

6. The Developer has now submitted to the Agency Basic Concept Drawings for development on the U.S. side of the border. The Basic Concept Drawings are generally consistent with the Community Plan and Redevelopment Plan applicable to the area covered by them and is intended to implement those Plans.

7. The Developer and the Agency desire to further such redevelopment efforts by agreeing to implement developments in phases within certain areas in U.S. jurisdiction.

8. If the City of Tijuana and others in Mexico choose to pursue such redevelopment within areas in Mexican jurisdiction, then the efforts of the Developer and the Agency with respect to the U.S. properties would put the Developer and the Agency in a position to cooperate with the Mexican authorities in the most effective and timely manner.

Based upon the foregoing, the purpose of this Agreement is to formally initiate such redevelopment activities within the U.S., and to effectuate the Redevelopment Plan for the San Ysidro Redevelopment Project, by providing for the disposition and development of the hereinafter defined Site. The development of the Site pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of the City of San Diego and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state, and local laws and requirements.

B. [§ 102] The Redevelopment Plan

This Agreement is subject to the provisions of the Redevelopment Plan for the San Ysidro Redevelopment Project (which was approved and adopted on April 16, 1996 by the City Council of the City of San Diego by Ordinance No. 018295). The Redevelopment Plan is incorporated herein by reference and made a part hereof as though fully set forth herein.

Any amendments hereafter to the Redevelopment Plan (as so approved and adopted) which change the uses or development permitted on the Site as proposed in this Agreement, or otherwise change the restrictions or controls that apply to the Site, or otherwise affect the Developer's obligations or rights with respect to the Site, shall require the written consent of the Developer. Amendments to the Redevelopment Plan applying to other property in the San Ysidro Redevelopment Project area shall not require the consent of the Developer.

C. [§ 103] The Redevelopment Project Area

The San Ysidro Redevelopment Project area is located in the City of San Diego, California (the "City"). The San Ysidro Redevelopment Project area is generally bounded by Interstate 905 on the north, the mesa along Interstate 805 and the railroad right-of-way on the east, the United States-Mexico border and the Tijuana River on the south, and Interstate 5 and Camino de la Plaza on the west. The exact boundaries of the Redevelopment Project area are specifically and legally described in the Redevelopment Plan for such Redevelopment Project.

D. [§ 104] The Site

The "Site" includes that portion of the San Ysidro Redevelopment Project area generally described as the area bounded by Camino de la Plaza on the north, the Virginia Avenue port of entry on the east, the Tijuana River Flood Control Channel on the south, and the intersection of Camino de la Plaza and the Tijuana River levee on the west, as illustrated and designated on the "Site Map" which is incorporated herein and attached hereto as Attachment No. 1 and as to be more precisely described as provided for in the "Legal Description" which is incorporated herein and attached hereto as Attachment No. 1A.

The Site is comprised of "Development Parcels" A, B, C, D, E-1, E-2, E-3, E-4 and F, as illustrated and designated on the Site Map and as to be more precisely described as provided for in the Legal Description. Development Parcels A, B, C, D, E-1, E-2, E-3, E-4 and F are each comprised of a Participating Parcel and/or a Sales Parcel. Each Participating Parcel contains all properties located within the applicable Development Parcel which are owned or to be acquired from their present owners by the Developer. Each Sales Parcel contains all properties to be acquired, subject to the terms and conditions of this Agreement, by the Agency and conveyed to the Developer. Each Sales Parcel is comprised of (1) individual properties (each an "Agreed Sales Parcel") located within the applicable Development Parcel, and which the Developer shall direct to be sold voluntarily to the Agency by their present owners consistent with this Agreement; and/or (2) individual properties (each an "Added Sales Parcel") located within the applicable Development Parcel, and which are to be acquired by the Agency absent the direction of the Developer. All of the Agreed Sales Parcels and the Added Sales Parcels within a Development Parcel comprise the Sales Parcel for the Development Parcel.

Wherever used herein, the term "Site" shall mean and include all of Development Parcels A, B, C, D, E-1, E-2, E-3, E-4 and F, including all of the Participating Parcels and Sales Parcels comprising them.

Wherever the term "Parcel" A, B, C, D, E-1, E-2, E-3, E-4 or F is used herein, or the term "Parcel" alone, the same shall refer to the Development Parcel of the specified letter (and number) or, if no letter (and number) is specified, any of the Development Parcels as the context may require. Wherever the term "Parcel E" is used herein the same shall refer to all of Parcels E-1, E-2, E-3 and E-4 combined.

Wherever the term "Participating Parcel" is used herein, the same shall refer to any of the Participating Parcels as the context may require. Wherever the term "Sales Parcel" is used herein, the same shall refer to any of the Sales Parcels (including all of the

Agreed Sales Parcels and Added Sales Parcels contained therein), as the context may require.

Wherever this Agreement refers or pertains to the acquisition of an Added Sales Parcel by the Agency, such reference shall also include any underlying interest of the owner thereof in adjacent streets, alleys or other public rights-of-way. Wherever this Agreement refers or pertains to the acquisition of an Agreed Sales Parcel by the Agency, or the reimbursement by the Agency to the Developer for its purchase of an Agreed Sales Parcel as part of a Participating Parcel, such reference shall exclude any underlying interest of the owner thereof in adjacent streets, alleys or other public rights-of-way. Wherever, this Agreement refers or pertains to the acquisition of a Participating Parcel by the Developer, such reference shall include the underlying interests in all streets, alleys or other public rights-of-way within the Development Parcel, except those related to Added Sales Parcels. Wherever this Agreement refers or pertains to the conveyance of a Sales Parcel (and the Added Sales Parcels and/or Agreed Sales Parcels comprising them) to the Developer, or the retention of a Participating Parcel by the Developer to combine with the applicable Sales Parcel into a Development Parcel, or to a Development Parcel (or "Parcel") or the Site, such reference shall take into account the dedication by the Agency or the Developer, as the case may be, of portions of such Sales Parcels and/or Participating Parcels as acquired, to the City for streets, alleys or other public rights-of-way consistent with the Final Subdivision Map or Subsequent Parcel Map applicable thereto, and shall mean the Development Parcel, Parcel or Site exclusive of such streets, alleys and other public rights-of-way, unless the context clearly dictates otherwise.

In addition to redevelopment of the Development Parcels as described in this Agreement, the development hereunder provides for construction and operation of the "River Pedestrian Bridge" between Parcel E-1 and Mexico (referred to in Section 708).

E. [§ 105] Parties to the Agreement

1. [§ 106] Agency

The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California.

The principal office of the Agency is located in the City Administration Building, Community Concourse, San Diego, California 92101.

"Agency" as used in this Agreement includes the Redevelopment Agency of the City of San Diego, California, and any assignee of or successor to its rights, powers and responsibilities.

2. [§ 107] Developer

Developer is a California corporation, and wholly owned subsidiary of LandGrant Corporation, a California corporation.

On or before execution of this Agreement by the Agency, the Developer shall cause to be executed and delivered to the Agency, an agreement by LandGrant Corporation, a California corporation, guaranteeing the performance of LandGrant Development Unlimited, a California corporation, as the Developer under this Agreement, substantially in the form of the "Guaranty Agreement" which is incorporated herein and attached hereto as Attachment No. 7.

The principal office of the Developer is 12625 High Bluff Drive, Suite 212, San Diego, California 92130.

Wherever the term "Developer" is used herein, such term shall include any permitted nominee, assignee or successor in interest as herein provided.

F. [§ 108] Prohibition Against Change In Ownership Management and Control of Developer

The Developer represents and agrees that its undertakings pursuant to this Agreement are, and that the Site will be used, for the purpose of redevelopment of the Site and not for speculation in land holding. The Developer further recognizes that, in view of

1. the importance of the redevelopment of the Site to the general welfare of the community;
2. the public aids that have been made available by law and by the government for the purpose of making such redevelopment possible; and
3. the fact that a change in ownership of 20% or more cumulatively of the equity interests in the Developer, or any other act or transaction involving or resulting in a change in ownership of 20% or more cumulatively of the equity interests in the Developer, is for practical purposes a transfer or disposition of the Site or part thereof owned by the Developer;

the qualifications and identity of the Developer, and its principals, are of particular concern to the community and the Agency. The Developer further recognizes that it is because of such qualifications and identity that the Agency is entering into this Agreement with the Developer. No voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein.

The Developer shall not assign all or any part of this Agreement without the prior written approval of the Agency, which approval shall not be unreasonably withheld if, in the reasonable determination of the Agency, the proposed assignee of the Developer has the qualifications of a developer comparable in all material respects (including experience, character and financial capability) to the original Developer together with its guarantors referred to in Section 107. The reason for inclusion of the guarantors in the test of comparability is to carry out the parties' intent that the proposed assignee (together with any guarantor, if any, then executing and delivering a guaranty of the proposed assignee's obligations to the Agency) succeed to the obligations of both the original Developer and its guarantors referred to in Section 107, the parties' intent being that the guarantees referred to in Section 107 be applicable to the obligations of the original Developer, but not to those of an approved successor or assign.

Except for assignments duly approved by the Agency as provided above, the Developer represents and agrees for itself, and any successor in interest of itself, that prior to issuance by the Agency of a Certificate of Completion and without the prior written approval of the Agency, there shall be no change in the ownership of 20% or more cumulatively of the equity interests in the Developer, or with respect to the identity of the parties in control of the Developer, by any method or means (other than such changes occasioned by the death or incapacity of any individual). The Agency acknowledges that the Developer's financing of the development on the Site may include equity participation by lenders and/or certain of the present direct or indirect owners of the Participating Parcels and/or the Agreed Sales Parcels. Such equity participation may involve assignment of the rights and obligations of the Developer and its guarantors with respect to this Agreement to a business venture (e.g., a partnership, corporation or limited liability company) the equity interests of which may be held in significant part by such additional parties. The Agency (by its Executive Director or his designee) agrees to reasonably approve such equity participation as part of the financing and development of the Site so long as the original Developer or an approved assignee remains in control of the development under this Agreement.

The Developer shall promptly notify the Agency of any and all changes whatsoever in the identity of the parties in control of the Developer or the degree thereof, of which it or any of its officers have been notified or otherwise have knowledge or information. This Agreement may be terminated by the Agency if there is any change (voluntary or involuntary) of 20% or more cumulatively of the equity interests in the Developer or in any party managing or in control of the Developer (other than such changes occasioned by the death or incapacity of any individual or as approved by the Agency as provided above) prior to issuance of a Certificate of Completion for the Site as hereinafter provided.

The restrictions of this Section 108 shall terminate upon issuance by the Agency of a Certificate of Completion for the entire Site or applicable portion thereof as described in Section 324.

II. [§ 200] DISPOSITION OF THE SALES PARCELS

A. [§ 201] Sale and Purchase

In accordance with and subject to all the terms, covenants, and conditions of this Agreement, the Agency agrees to sell to the Developer and the Developer agrees to purchase each Sales Parcel as delineated pursuant to Section III.B. and the first paragraph of Section III.C. of the "Method of Financing" which is incorporated herein and attached hereto as Attachment No. 2.

The Developer shall pay to the Agency as the basic purchase price for the applicable Sales Parcel, the "Purchase Price" for the Sales Parcel determined pursuant to Section I., Developer's Purchase Price, of the Method of Financing.

B. [§ 202] Escrow

The Agency agrees to open an escrow for conveyance of each Sales Parcel in the City of San Diego with First American Title Insurance Company or such other escrow company or escrow agent as may be acceptable to both the Agency and the Developer (the "Escrow Agent") as escrow agent, within the time provided in the "Schedule of Performance" attached hereto and incorporated herein as Attachment No. 3. Sections 104-107 and 200-209 inclusive of this Agreement constitute the joint escrow instructions of the Agency and the Developer, and a duplicate original of this Agreement shall be delivered to the Escrow Agent upon the opening of the escrow. The Agency and the Developer shall provide such additional escrow instructions consistent with this Agreement as shall be necessary. The Escrow Agent hereby is empowered to act under such instructions, and upon indicating its acceptance thereof in writing, delivered to the Agency and to the Developer within five (5) days after opening of the escrow, the Escrow Agent shall carry out its duties as Escrow Agent hereunder.

Upon delivery of the Grant Deed for the applicable Sales Parcel to the Escrow Agent by the Agency pursuant to Section 206 of this Agreement, the Escrow Agent shall record such Grant Deed in accordance with these escrow instructions, provided that the title to the applicable Sales Parcel can be vested in the Developer in accordance with the terms and provisions of this Agreement. The Escrow Agent shall buy, affix, and cancel any transfer stamps required by law. Any insurance policies governing the applicable Sales Parcel are not to be transferred.

The Developer shall pay in escrow to the Escrow Agent the following fees, charges and costs promptly after the Escrow Agent has notified the Developer of the amount of such fees, charges, and costs, but not earlier than ten (10) days prior to the scheduled date for the conveyance of the applicable Sales Parcel:

1. The entire escrow fee;
2. The premiums for the title insurance policy as well as any extended coverage or special endorsements to be paid by the Developer as set forth in Section 208 of this Agreement;
3. Costs necessary to place the title to the applicable Sales Parcel in the condition for conveyance required by the provisions of this Agreement;
4. Cost of drawing the deed;
5. Recording fees;
6. Notary fees;
7. Any State, County, or City documentary stamps or transfer tax.

The Developer shall also deposit the Purchase Price and/or proof of payment of Purchase Price for the applicable Sales Parcel with the Escrow Agent in accordance with the provisions of Section 207 of this Agreement.

The Developer shall pay in escrow to the Escrow Agent the ad valorem taxes, if any, upon the applicable Sales Parcel or upon this Agreement or any rights hereunder prior to the conveyance of title promptly after the Escrow Agent has notified the Developer of the amount of such taxes, but not earlier than ten (10) days prior to the scheduled date for the conveyance of the applicable Sales Parcel.

The Agency shall timely and properly execute, acknowledge and deliver a Grant Deed in substantially the form established in Section 204 of this Agreement, conveying to the Developer title to the applicable Sales Parcel in accordance with the requirements of Section 205 of this Agreement, together with an estoppel certificate certifying that the Developer has completed all acts (except deposit of the Purchase Price and/or proof of payment of Purchase Price), necessary to entitle the Developer to such conveyance, if such be the fact.

The Escrow Agent is authorized to:

1. Pay, and charge the Agency and the Developer, respectively, for any fees, charges and costs payable under this Section 202 of this Agreement. Before such payments are made, the Escrow Agent shall notify the Agency and the Developer of the fees, charges and costs necessary to clear title and close the escrow.
2. Disburse funds and deliver the Grant Deed and other documents to the parties entitled thereto when the conditions of this escrow have been fulfilled by the Agency and the Developer. The Purchase Price shall not be disbursed by the Escrow Agent unless and until it has recorded the Grant Deed to the applicable Sales Parcel, and has delivered to the Developer a title insurance policy insuring title and conforming to the requirements of Section 208 of this Agreement.
3. Record any instruments delivered through this escrow if necessary or proper to vest title in the Developer in accordance with the terms and provisions of the escrow instructions portion of this Agreement (Sections 104-107 and 200-209).

All funds received in this escrow shall be deposited by the Escrow Agent in a general escrow account with any state or national bank doing business in the State of California and reasonably approved by the Developer and the Agency, and may be combined in such with other escrow funds of the Escrow Agent.

If this escrow is not in condition to close with respect to the applicable Sales Parcel, on or before the time for conveyance established in Section 203 of this Agreement, either party who then shall have fully performed the acts to be performed before the conveyance of title may, in writing, demand the return of its money, papers, or documents from the Escrow Agent. No demand for return shall be recognized until ten (10) days after the Escrow Agent (or the party making such demand) shall have mailed copies of such demand to the other party or parties at the address of its principal place of business. Objections, if any, shall be raised by written notice to the Escrow Agent and to the other party within the 10-day period, in which event the Escrow Agent is authorized to hold all money, papers, and documents with respect to the applicable Sales Parcel until instructed by a mutual agreement of the parties or, upon failure thereof, by a court of competent jurisdiction. If no such demands are made, the escrow shall be closed as soon as possible.

If objections are raised as above provided for, the Escrow Agent shall not be obligated to return any such money, papers, or documents except upon the written instructions of both the Agency and the Developer, or until the party entitled thereto has been determined by a final decision of a court of competent jurisdiction. If no such objections are made within said 10-day period the Escrow Agent shall immediately return the demanded money, papers, or documents.

Any amendment to the escrow instructions shall be in writing and signed by both the Agency and the Developer. At the time of any amendment the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment.

All communications from the Escrow Agent to the Agency shall be copied to the Developer, and to the Developer shall be copied to the Agency, directed to the addresses and in the manner established in Section 601 of this Agreement for notices, demands, and communications between the Agency and the Developer.

The liability of the Escrow Agent under this Agreement is limited to performance of the obligations imposed upon it under Sections 104 to 107 and Sections 202 to 209, inclusive, of this Agreement.

Nothing in this Section 202 shall be constructed as a waiver of claims, rights or remedies by either party against the other party arising from a wrongfully given demand for return.

C. [§ 203] Conveyance of Title and Delivery of Possession

Subject to any mutually agreed upon extension of time, conveyance to the Developer of title to the applicable Sales Parcel in accordance with the provisions of Section 205 of this Agreement shall be completed on or prior to the date specified in the Schedule of Performance (Attachment No. 3) or such later date mutually agreed to in writing by the Agency and the Developer and communicated in writing to the Escrow Agent.

Except as otherwise provided herein possession of the applicable Sales Parcel shall be delivered to the Developer concurrently with the conveyance of title. The Developer shall accept title and possession to the applicable Sales Parcel on or before the date established therefor in this Section 203.

D. [§ 204] Form of Deed

The Agency shall convey to the Developer title to the applicable Sales Parcel in the condition provided in Section 205 of this Agreement by "Grant Deed" in a form to be mutually agreed upon by the Agency and the Developer consistent with this Agreement and substantially in the form incorporated herein and attached hereto

as Attachment No. 5. The Grant Deed to the applicable Sales Parcel shall contain covenants necessary or desirable to carry out this Agreement.

E. [§ 205] Condition of Title

The Agency shall convey to the Developer fee simple merchantable title to the applicable Sales Parcel free and clear of all liens, encumbrances, assessments, easements, leases and taxes; except those which are set forth in this Agreement and included in the Grant Deed, and those which are otherwise consistent with this Agreement and which are acceptable to the Developer; provided however that no covenants, conditions, restrictions or equitable servitudes shall prohibit or limit the development permitted by the Scope of Development (Attachment No. 4). Title to the applicable Sales Parcel shall be subject to the exclusion therefrom (to the extent now or hereafter validly excepted and reserved by the parties named in deeds, leases and other documents of record) of all oil, gas, hydrocarbon substances and minerals of every kind and character lying more than 500 feet below the surface, together with the right to drill into, through, and to use and occupy all parts of the applicable Sales Parcel lying more than 500 feet below the surface thereof for any and all purposes incidental to the exploration for and production of oil, gas, hydrocarbon substances or minerals from the applicable Sales Parcel, but without, however, any right to use or disturb either the surface of the applicable Sales Parcel or any portion thereof within 500 feet of the surface for any purpose or purposes whatsoever.

Notwithstanding the foregoing paragraph, if at or prior to the date for conveyance of title to the applicable Sales Parcel to the Developer as set forth in the Schedule of Performance (Attachment No. 3), the Agency has not obtained title to a property or properties constituting an Added Sales Parcel therein, but has obtained a judicial order authorizing the Agency to take possession thereof, the Agency may convey and the Developer shall accept the applicable Sales Parcel if the following conditions are met with respect to any such Added Sales Parcels:

1. The Agency delivers exclusive possession of any such Added Sales Parcel to the Developer by the Grant Deed conveying the Sales Parcel of which it is a part, on or prior to the time set for conveyance thereof; and
2. All occupants have relocated from any such Added Sales Parcel; and
3. The right of possession which the Developer acquires from the Agency is such that Title Co. (as hereinafter defined in Section 208) will issue a policy or policies of title insurance as to the

interest conveyed by said Grant Deed subject to only those items described in the first full paragraph of this Section 205; and

4. The Developer is able to secure financing for acquisition of the land and construction of the development on the Development Parcel of which any such Added Sales Parcel is a part, on the basis of said title insurance policy or policies; and
5. The Agency diligently proceeds with all condemnation actions until a final judgment is rendered, and said judgment authorizes the taking, and the time for appeal has expired pursuant to law; or the Agency obtains title by settlement of any such condemnation actions, which the Agency may complete only after giving the Developer written notice and a ten (10) day period to comment on the applicable settlement proposal.

In the event the Agency tenders possession of the applicable Sales Parcel as herein provided, the Developer shall not terminate this Agreement under the provisions of Section 510 of this Agreement, but shall deposit the entire Purchase Price for the applicable Sales Parcel in escrow in accordance with the provisions of Section 207, accept such right of possession and shall proceed with construction on the Development Parcel which included any such Added Sales Parcel.

All references to conveyance of title in this Agreement shall also mean delivery of possession as referred to in this Section as the context may require.

F. [§ 206] Time For and Place For Delivery of Deed

Subject to any mutually agreed upon extension of time, the Agency shall deposit the Grant Deed for the applicable Sales Parcel with the Escrow Agent on or before the date established for the conveyance of the applicable Sales Parcel in the Schedule of Performance (Attachment No. 3).

G. [§ 207] Payment of the Purchase Price and Recordation of the Deed

The Developer shall promptly deposit the Purchase Price and/or proof of payment of Purchase Price for the applicable Sales Parcel with the Escrow Agent upon or prior to the date for conveyance thereof, provided that the Escrow Agent shall have notified the Developer in writing that the Grant Deed conveying the applicable Sales Parcel to the Developer, properly executed and acknowledged by the Agency, has been delivered to the Escrow Agent and that title or possession is in condition to be conveyed in conformity

with the provisions of Section 205 of this Agreement. The Escrow Agent shall deliver the Purchase Price to the Agency immediately following the delivery to the Developer of a title insurance policy insuring title in conformity with Section 208 of this Agreement and the filing of the Grant Deed for recordation among the land records in the Office of the County Recorder for San Diego County.

H. [§ 208] Title Insurance

Concurrently with recordation of the Grant Deed, First American Title Insurance Company or another title insurance company satisfactory to the Agency and the Developer ("Title Co.") shall provide and deliver to the Developer an ALTA extended coverage title insurance policy issued by Title Co. insuring that the title is vested in the Developer in the condition required by Section 205 of this Agreement, and any special endorsements which the Developer reasonably requests. The Title Co. shall provide the insurance policy and the title insurance policy shall be in the amount of the Purchase Price of the applicable Sales Parcel or in such greater amount as the Developer may specify as hereinafter provided.

Concurrently with the issuance of the title policy for the applicable Sales Parcel, the Title Co. shall, if requested by the Developer, provide the Developer with an endorsement to insure the amount of the Developer's estimated construction costs of the improvements to be constructed thereon or on the Development Parcel of which the Sales Parcel is a part. The Developer may elect to obtain, at its expense, a binder in lieu of a title insurance policy.

The Developer shall pay for all premiums including those for any extended coverage or special endorsements which it requests.

I. [§ 209] Taxes and Assessments

Ad valorem taxes and assessments, if any, on the applicable Sales Parcel, and taxes upon this Agreement or any rights hereunder, levied, assessed or imposed for any period, commencing after conveyance of title or possession of the applicable Sales Parcel to the Developer, shall be borne by the Developer. The Developer shall also bear any property taxes and assessments which are required to be paid by the Agency in connection with its acquisition and/or holding of any Added Sales Parcel as provided in Section II. of the Method of Financing (Attachment No. 2), or of any Agreed Sales Parcel as provided in Section 702.

J. [§ 210] Occupants of the Sales Parcel

Agency agrees that title to the applicable Sales Parcel shall be conveyed free of any possession or right of possession except that of the Developer, unless waived by the Developer in writing.

K. [§ 211] City Land Use Regulations

Any changes to the Community Plan, zoning, Local Coastal Program or other City land use regulations applicable to the Site, which are required to implement the development under this Agreement, shall be deemed part of the City Permit Package, or a Subsequent City Permit, as the case may be, as referred to in Section 710. After the Developer has obtained approval of the City Permit Package, or a Subsequent City Permit, including any such required changes, then the Agency agrees that such City land use regulations applicable to the Site at the time of closing of the mortgage loan and/or other financing for each applicable Development Parcel to be developed hereunder shall be such as to permit development of the applicable Development Parcel and construction of improvements thereon in accordance with the provisions of this Agreement and the use, operation and maintenance of such improvements.

L. [§ 212] Condition of Each Sales Parcel and the Site

The Developer at its cost and expense will perform the preparatory work on the applicable Sales Parcel after its conveyance as is hereinafter specifically provided in the Scope of Development (Attachment No. 4).

As to all portions of the Sales Parcels (including any structures and improvements remaining at conveyance), the Sales Parcels and any portion thereof shall be conveyed and the remainder of the Site shall be held in an "as is" condition, with no warranty, express or implied by the Agency as to the condition of the soil or water, its geology, or the presence of known or unknown faults. It shall be the sole responsibility of the Developer, at the Developer's expense, to investigate and determine the soil and water conditions of the Sales Parcels and the Site and the suitability of the Sales Parcels and the Site for the development to be constructed by the Developer. If the soil or water conditions of the Sales Parcels and the Site, or any part thereof, are not in all respects entirely suitable for the use or uses to which the Sales Parcels and the Site will be put, then it is the sole responsibility and obligation of the Developer to take such action as may be necessary to place the Sales Parcels and the Site and the soil and water conditions thereof in all respects in a condition entirely suitable for the development of the Sales Parcels and the Site.

M. [§ 213] Preliminary Work by the Developer

Prior to the conveyance of title to the applicable Sales Parcel, representatives of the Developer shall have the right of access to and entry upon those real properties comprising the applicable Sales Parcel which are owned by the Agency or of which the Agency has possession, at all reasonable times, for the purpose

of obtaining data and making surveys and tests necessary to carry out this Agreement. Prior to such ownership or possession, upon reasonable request by the Developer, the Agency will cooperate with the Developer in attempting to obtain similar rights of entry from the owner or party in possession. The Developer agrees to defend, indemnify and hold the Agency, the City, and their officers, employees, contractors and agents, harmless for any and all claims, liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising out of any work or activity of the Developer, its officers, employees, contractors and agents, permitted pursuant to this Section 213. The Agency agrees to provide, or cause to be provided, to the Developer all data and information pertaining to the Site and available to the Agency when requested by the Developer.

N. [§ 214] Submission of Evidence of Financing

Within the times established respectively therefor in the Schedule of Performance (Attachment No. 3), the Developer shall submit to the Agency evidence satisfactory to the Agency that the Developer has obtained firm and binding commitments for financing necessary for the acquisition and development of each Development Parcel in accordance with this Agreement.

The Developer's first submission of such evidence of financing shall include:

1. A copy of the corporate resolution authorizing and committing the expenditure of sums by the Developer for predevelopment expenses (e.g., architectural and engineering studies, etc.) pertaining to all Development Parcels in an amount of up to Five Hundred Thousand Dollars (\$500,000).

The Developer's second submission of such evidence of financing shall include:

1. A copy of the commitment or commitments obtained by the Developer for the mortgage loan or loans or other financing for construction financing to finance the entire cost of acquisition of the land and construction of the improvements (as defined in the Scope of Development) on the applicable Development Parcel, certified by the Developer to be a true and correct copy or copies thereof. The commitment for financing shall be in such form and content acceptable to the Agency as reasonably evidences a firm commitment normally issued by an institutional lender.

2. Documentary evidence satisfactory to the Agency of sources of equity capital sufficient to demonstrate that the Developer has adequate funds legally committed to cover the difference, if any, between construction cost minus financing authorized by mortgage loans for the applicable Development Parcel.
3. With respect to Parcels A, B and C (as to retail and other permitted occupants), and with respect to Parcels E-1 and E-2 (as to office and other permitted occupants), a schedule of all tenants obtained to date to occupy space within the development on the respective Parcel, together with the amount of space, lease term, and minimum and performance rent and tenant improvement allowance applicable thereto, and copies of such tenant leases (if requested by the Agency) certified to be true and correct copies thereof.
4. With respect to Parcels A, B and C, identification of any proposed transfer of individual pads within the respective Parcel to a retail or restaurant occupant, for development consistent with, and within the time required therefor by, this Agreement, together with a copy of the commitment or commitments, and proposed documents of transfer, showing the terms and conditions of the transfer, certified by the Developer to be a true and correct copy or copies thereof. The documents of transfer shall be in such form and content acceptable to the Agency as reasonably assures the performance of the applicable development by the transferee, in compliance with this Agreement.

The Developer's third submission of such evidence of financing shall include:

1. A copy of the contract between the Developer and the general contractor or contractors for the construction of the improvements on the applicable Development Parcel, certified by the Developer to be a true and correct copy thereof.
2. Copies of the Developer's construction loan documents, including but not limited to the loan agreement, note and trust deed, as well as equity commitment documents, pertaining to the applicable Development Parcel in final form to be closed through the escrow provided for in Section 202, together with evidence that such documents have been submitted to escrow and that there are no

outstanding conditions, except such as are required by this Agreement to be satisfied concurrently with closing of the mortgage loan and/or other financing for the development of the applicable Development Parcel, which would preclude closing and funding of the construction loan or loans and equity.

3. Copies of the Developer's documents of transfer, including but not limited to the purchase and sale agreement, grant deed or ground lease, construction mortgage and equity financing documents, and the assignment and assumption agreement for rights and obligations to develop under this Agreement, pertaining to the transfer for development of individual pads within Parcel A, B or C, in final form to be closed through the escrow provided for in Section 202, together with evidence that such documents have been submitted to escrow and that there are no outstanding conditions, except such as are required by this Agreement to be satisfied concurrently with closing of the mortgage loan and/or other financing for the development of the applicable Development Parcel, which would preclude closing of the transfer and funding of the construction loan or loans and equity for development of the applicable pad.

In addition to the foregoing, within the time established in the Schedule of Performance (Attachment No. 3) for the Developer to submit to the Agency the Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for Parcel E-3, and as part of such submittal, the Developer shall submit to the Agency a copy of the commitment obtained by the Developer from a high quality, experienced and financially responsible hotel company (and operator if separate), to operate the hotel to be developed on Development Parcel E, certified by the Developer to be a true and correct copy thereof. The commitment for hotel operation shall be in such form and content acceptable to the Agency as reasonably evidences a firm legal commitment by such company (and operator if separate) to operate the hotel on Parcel E-3.

The Agency shall approve or disapprove each such submission of evidence of financing within the times established in the Schedule of Performance. Such approval shall not be unreasonably withheld. Failure of the Agency to approve or disapprove any such evidence of financing within such time shall be deemed an approval. If the Agency shall disapprove any such evidence of financing, the Agency shall do so by written notice to the Developer stating the reasons for such disapproval. The Developer shall promptly, but in any event prior to the dates respectively required for submission of evidence of financing in the Schedule of Performance, obtain and submit to the Agency new evidence of financing. The Agency shall

approve or disapprove such new evidence of financing in the same manner and within the same times established in this Section 214 for the approval or disapproval of the evidence of financing as initially submitted to the Agency.

III. [§ 300] DEVELOPMENT OF THE SITE

A. [§ 301] Responsibilities for Development

1. [§ 302] Scope of Development

The Site shall be developed in accordance with and within the limitations established in the "Scope of Development" incorporated herein and attached hereto as Attachment No. 4.

2. [§ 303] Basic Concept Drawings

The Developer shall prepare and submit Basic Concept Drawings and related documents for the development of the Site to the Agency for review and written approval within the time established in the Schedule of Performance. Basic Concept Drawings shall include a site plan showing the improvements as they are to be developed and constructed on the Site, together with related off-site public improvements.

The Site, and related off-site public improvements, shall be developed as established in the Basic Concept Drawings and related documents except as changes may be mutually agreed upon between the Developer and the Agency. Any such changes shall be within the limitations of the Scope of Development.

3. [§ 304] Landscaping and Grading Plans

The Developer shall prepare and submit to the Agency for its approval preliminary and final landscaping and preliminary and finish grading plans for each Development Parcel. Those plans shall be prepared and submitted within the times established in the Schedule of Performance. The landscaping plans shall include a lighting program which highlights the design of exterior components of the development including but not limited to building facades, architectural detail, landscaping and sculpture.

The landscaping plans shall be prepared by a professional landscape architect and the grading plans shall be prepared by a licensed civil engineer. Such landscape architect and/or civil engineer may be the same firm as the Developer's architect. Within the times established respectively therefor in the Schedule of Performance, the Developer shall submit to the Agency for approval the name and qualifications of its master architect and civil engineer for overall development of the Site and related off-site public improvements, and its architect, landscape architect, and civil engineer for each applicable Development Parcel.

4. [§ 305] Construction Drawings and Related Documents for the Site

The Developer shall prepare and submit construction drawings and related documents (collectively called the "Drawings") for the development pertaining to each Development Parcel (including the off-site public improvements to be constructed concurrently with the applicable Development Parcel) to the Agency for review (including but not limited to architectural review), and written approval within the times established in the Schedule of Performance (Attachment No. 3). Such construction drawings and related documents shall be submitted in four stages: Overall Schematic Drawings and Design Criteria for the entire Site, and Schematic/Design Development Drawings, 50% Construction Drawings, and Final Construction Drawings for each Development Parcel. Final Construction Drawings are hereby defined as those in sufficient detail to obtain a building permit.

Approval of progressively more detailed drawings and specifications will be promptly granted by the Agency if developed as a logical evolution of drawings or specifications theretofore approved. Any items so submitted and approved by the Agency shall not be subject to subsequent disapproval.

During the preparation of all drawings and plans, the Agency and the Developer shall hold regular progress meetings to coordinate the preparation of, submission to, and review of construction plans and related documents by the Agency. The Agency and the Developer shall communicate and consult informally as frequently as is necessary to insure that the formal submittal of any documents to the Agency can receive prompt and speedy consideration.

If any revisions or corrections of plans approved by the Agency shall be required by any government official, agency, department, or bureau having jurisdiction over the development of the applicable Development Parcel, the Developer and the Agency shall cooperate in efforts to obtain waiver of such requirements or to develop a mutually acceptable alternative.

5. [§ 306] Agency Approval of Plans, Drawings, and Related Documents

Subject to the terms of this Agreement, the Agency shall have the right of review (including without limitation architectural review) of all plans and submissions, including any proposed changes therein which affect the exterior of the development or the scope or composition of the development. The Agency shall approve or disapprove the plans, drawings and related documents referred to in Section 303, 304 and 305 of this Agreement within the times established in the Schedule of Performance (Attachment No. 3). Failure by the Agency to either approve or disapprove within the

times established in the Schedule of Performance shall be deemed an approval. Any disapproval shall state in writing the reasons for disapproval and the changes which the Agency requests to be made. Such reasons and such changes must be consistent with the Scope of Development (Attachment No. 4) and any items previously approved or deemed approved hereunder. The Developer, upon receipt of a disapproval based upon powers reserved by the Agency hereunder shall revise the plans, drawings and related documents, and shall resubmit to the Agency as soon as possible after receipt of the notice of disapproval.

If the Developer desires to make any substantial change in the Final Construction Drawings after their approval, such proposed change shall be submitted to the Agency for approval. If the Final Construction Drawings, as modified by the proposed change, conform to the requirements of Section 305 of this Agreement and the Scope of Development, the proposed change shall be approved and the Developer shall be notified in writing within fifteen (15) days after submission. Such change in the construction plans shall, in any event, be deemed approved unless rejected, in whole or in part, by written notice thereof setting forth in detail the reasons therefor, and such rejection shall be made within said fifteen (15) day period.

6. [§ 307] Cost of Construction

Subject to the terms and conditions of this Agreement, the cost of developing the Site and each Development Parcel, and constructing all improvements thereon, and all off-site public improvements, shall be borne by the Developer.

7. [§ 308] Schedule of Performance

After the closing of the mortgage loan and/or other financing for the applicable Development Parcel, the Developer shall promptly begin and thereafter diligently prosecute to completion the construction of the improvements on the applicable Development Parcel, together with related off-site public improvements, and the development thereof as provided in the Scope of Development (Attachment No. 4). The Developer shall begin and complete all construction and development within the times specified in the Schedule of Performance (Attachment No. 3) with such reasonable extensions of said dates as may be granted by the Agency. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between the Developer and the Agency.

During periods of construction, the Developer shall submit to the Agency a written report of the progress of the construction when and as reasonably requested by the Project Head (referred to in Section 714). The report shall be in such form and detail as may be reasonably required by the Project Head and shall include a

reasonable number of construction photographs (if requested) taken since the last report by the Developer.

During periods of construction, the Agency shall give reasonable assistance to the Developer in encouraging other governmental entities to make prompt, timely inspections in order to keep the development on schedule.

8. [§ 309] Indemnification During Construction;
Bodily Injury and Property Damage
Insurance

During the period commencing with execution of this Agreement by the Agency, and until such time as the Agency has issued a Certificate of Completion with respect to the construction of the improvements on the entire Site, the Developer agrees to and shall defend, indemnify and hold the Agency, the City, and their officers, employees, contractors and agents harmless from and against all claims, liability, loss, damage, costs, or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person which shall occur on the Site, or in connection with this Agreement, and which in either event shall be directly or indirectly caused by any acts done or any errors or omissions of the Developer or its officers, employees, contractors or agents. The Developer shall not be responsible for (and such indemnity shall not apply to) any acts, errors, or omissions of the Agency, the City, or their respective officers, employees, contractors, or agents.

Without limiting the foregoing indemnity, during the period commencing with execution of this Agreement by the Agency, and ending on the date when a Certificate of Completion has been issued with respect to the entire Site, the Developer shall furnish or cause to be furnished to the Agency, duplicate originals or appropriate certificates of bodily injury and property damage insurance policies covering the matters referred to in the above indemnity, in the amount of at least Three Million Dollars (\$3,000,000) combined single limit naming the Agency, the City, and their officers, employees, contractors and agents as additional insureds.

9. [§ 310] Antidiscrimination During Construction

The Developer for itself and its successors and assigns agrees that in the construction of the improvements on the Site and off-site provided for in this Agreement, the Developer will not discriminate against any employee or applicant for employment because of sex, sexual orientation, marital status, race, color, creed, religion, national origin, or ancestry.

10. [§ 311] Local, State, and Federal Laws

The Developer shall carry out the construction of the improvements on the Site and off-site in conformity with all applicable laws, including all applicable federal and state labor standards.

11. [§ 312] City and Other Governmental Agency Permits

Before commencement of construction or development of any buildings, structures or other work of improvement upon any portion of the Site, or off-site, the Developer shall, at its own expense, secure or cause to be secured, any and all permits which may be required by the City or any other governmental agency with jurisdiction over such construction, development or work. The Agency shall provide all proper assistance to the Developer in securing these permits.

12. [§ 313] Rights of Access

Representatives of the Agency and the City shall have the reasonable right of access to the Site without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements. Such representatives of the Agency or the City shall be those who are so identified in writing by the Executive Director of the Agency (or his designee). Such representatives shall give reasonable written notice to the Developer in advance of their access to the Site (except in cases of emergency), and in all respects their activities shall comply with then applicable laws and regulations regarding health and safety.

B. [§ 314] Responsibilities of the Agency

The Agency shall not be responsible for performing any of the work specified in the Scope of Development (Attachment No. 4), except as set forth in Section B. thereof.

In addition to Section B. of the Scope of Development (Attachment No. 4), the Agency shall be responsible for the matters described in Section III of the Method of Financing (Attachment No. 2) and for the performance of its other obligations specifically set forth in this Agreement.

C. [§ 315] Taxes, Assessments, Encumbrances and Liens

The Developer shall pay when due all real estate taxes and assessments assessed and levied on or against the Site and each portion thereof, including each Sales Parcel subsequent to the conveyance of title or possession thereto. The Developer shall not

place, or allow to be placed, on the Site or any portion thereof, any mortgage, trust deed, encumbrance or lien not authorized by this Agreement. The Developer shall remove, or shall have removed, any levy or attachment made on the Site (or any portion thereof), except those created by work of the Agency, or shall assure the satisfaction thereof within a reasonable time but in any event prior to a sale thereunder. Nothing herein contained shall be deemed to prohibit the Developer from contesting the validity or amount of any tax assessment, encumbrance or lien, nor to limit the remedies available to the Developer in respect thereto. The covenants of the Developer set forth in this Section 315 relating to the placement of any unauthorized mortgage, trust deed, encumbrance, or lien, shall remain in effect only until a Certificate of Completion of construction has been recorded with respect to the Site or the portion thereof upon which any unauthorized mortgage, trust deed, encumbrance or lien might be placed.

D. [§ 316] Prohibition Against Transfer

Prior to the recordation by the Agency of a Certificate of Completion (referred to in Section 324 of this Agreement), the Developer shall not, except as permitted by this Agreement, assign or purport to assign this Agreement or any right herein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Site or the improvements thereon, without prior written approval of the Agency, which approval (if consistent with the standards set forth in Section 108) shall not be unreasonably withheld. This prohibition shall not apply to the Site (or portion thereof) subsequent to the recordation of the Certificate of Completion with respect thereto. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Site, nor shall it prohibit granting any security interests expressly described in this Agreement for financing the acquisition and development of the Site.

In the event that the Developer does assign this Agreement or any of the rights herein, or does sell, transfer, convey or assign any Development Parcel (or portion thereof), or the buildings or structures thereon, prior to the issuance of the Certificate of Completion pertaining thereto, the Agency shall be entitled to increase the Purchase Price paid by the Developer for any Sales Parcel within the applicable Development Parcel (or if none, then the Purchase Price for any other Sales Parcel within the Site, whether conveyed or unconveyed, but for which a Certificate of Completion has not been issued, and as selected by the Agency in its discretion), by the amount that the consideration payable for such sale, transfer, conveyance or assignment of the applicable Development Parcel (or portion thereof) is in excess of the Purchase Price paid by the Developer for any Sales Parcel within the applicable Development Parcel, plus the cost of acquisition of

any Participating Parcel within the applicable Development Parcel, and the cost of improvements and development theretofore made to the applicable Development Parcel, including carrying charges and costs related thereto, or all of such costs attributable to the corresponding portion of the applicable Development Parcel. The consideration payable for such sale, transfer, conveyance or assignment to the extent it is in excess of the amount so authorized, shall belong and be paid to the Agency and until so paid the Agency shall have a lien on the applicable Development Parcel (or the Development Parcel of which the alternative Sales Parcel selected by the Agency is a part), and any part involved for such amount. Any such lien shall be subordinate and subject to mortgages, deeds of trust, or other security instruments executed for the sole purpose of obtaining funds to purchase and develop the applicable Development Parcel (or portion thereof) as authorized herein. At the time of any sale, transfer, conveyance or assignment the Developer shall submit to the Agency sufficient information reasonably required by the Agency to demonstrate that there is no excess consideration under this paragraph. The Agency approval of a sale, transfer, conveyance or assignment, which (if consistent with the standards set forth in Section 108) shall not be unreasonably withheld, shall be deemed to foreclose any further claim by the Agency that there is excess consideration under this paragraph with respect to such sale, transfer, conveyance or assignment, provided that the Developer complies with the conditions in the immediately following paragraph, if applicable.

The Agency's right to increase the Purchase Price paid by the Developer for a Sales Parcel, as set forth in the preceding paragraph, shall not be applicable to an assignment of this Agreement or any of the rights herein, with respect to an individual pad within Parcel A, B or C, or a sale, transfer, conveyance or assignment of such an individual pad for development in accordance with this Agreement, provided that: (1) any such transfer complies with the terms and conditions for such a transfer contained in Section 214, (2) the Developer is not released from its responsibilities to assure completion of development of the pad under this Agreement, (3) the Developer remains materially and actively involved in the ongoing development of the remainder of the Development Parcel of which the pad is a part, and the Site, and (4) any proceeds to the Developer which would otherwise be considered excess consideration under the preceding paragraph are used only to pay the costs and expenses of developing any Development Parcel under this Agreement, or are held by the Developer, and not distributed directly or indirectly to any owners of the Developer, until such time as a Certificate of Completion for the applicable pad has been issued by the Agency.

In the absence of specific written agreement by the Agency, no sale, transfer, conveyance or assignment of this Agreement or the Site (or any portion thereof), or approval by the Agency of any such sale, transfer, conveyance or assignment, shall be deemed to

relieve the Developer or any other party from any obligations under this Agreement.

E. [§ 317] Security Financing; Rights of Holders

1. [§ 318] No Encumbrances Except Mortgages, Deeds of Trust, Conveyances and Leases-Back or Other Conveyance for Financing for Development

Notwithstanding Section 316, in connection with the closing of the mortgage loan and/or other financing for any Development Parcel, mortgages, deeds of trust, conveyances and leases-back, or any other form of conveyance required for any reasonable method of financing are permitted before the recordation of the Certificate of Completion on the applicable Development Parcel or portion thereof (referred to in Section 324 of this Agreement), but only for the purpose of securing loans of funds to be used for financing the acquisition of property and construction of improvements on the applicable Development Parcel or off-site public improvements related thereto, and any other expenditures necessary and appropriate to develop the applicable Development Parcel under this Agreement. The Developer shall notify the Agency in advance of any mortgage, deed of trust, conveyance and lease-back, or other form of conveyance for financing if the Developer proposes to enter into the same before the recordation of the Certificate of Completion. The Developer shall not enter into any such conveyance for financing without the prior written approval of the Agency, which approval the Agency agrees to give if any such conveyance is given to a responsible financial or lending institution or other acceptable person or entity. Such lender shall be deemed approved unless rejected in writing by the Agency within thirty (30) days after receipt of notice thereof by the Agency. Such lender approved by the Agency pursuant to this Section 318, shall not be bound by any amendment, implementation, or modification to this Agreement subsequent to its approval without such lender giving its prior written consent.

In any event, the Developer shall promptly notify the Agency of any mortgage, deed of trust, conveyance and lease-back, or other financing, conveyance, encumbrance or lien that has been created or attached to any Development Parcel (or portion thereof) prior to completion of the construction of the improvements thereon whether by voluntary act of the Developer or otherwise.

The words "mortgage" and "deed of trust" as used herein include all other appropriate modes of financing real estate acquisition, construction, and land development.

2. [§ 319] Holder Not Obligated to Construct Improvements

The holder of any mortgage, deed of trust or other security interest authorized by this Agreement shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements or to guarantee such construction or completion; nor shall any covenants or any other provision in the Grant Deed for a Sales Parcel be so construed as to so obligate such holder. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the applicable Development Parcel to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

3. [§ 320] Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure

Whenever the Agency shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer in completion of construction of the improvements on any Development Parcel, the Agency shall at the same time deliver to each holder of record of any mortgage, deed of trust or other security interest authorized by this Agreement with respect to the applicable Development Parcel, a copy of such notice or demand. Each such holder, with respect to the applicable Development Parcel, shall (insofar as the rights of the Agency are concerned) have the right at its option within ninety (90) days after the receipt of the notice, to cure or remedy, or commence to cure or remedy, any such default and to add the cost thereof to the security interest debt and the lien of its security interest. If such default shall be a default which can only be remedied or cured by such holder upon obtaining possession, such holder shall seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall remedy or cure such default within ninety (90) days after obtaining possession; provided that in the case of a default which cannot with diligence be remedied or cured, or the remedy or cure of which cannot be commenced within such 90-day period, such holder shall have such additional time as reasonably necessary to remedy or cure such default with diligence and continuity; and provided further that such holder shall not be required to remedy or cure any non-curable default of the Developer. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the improvements on the applicable Development Parcel (beyond the extent necessary to conserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations to the Agency by written agreement satisfactory to the Agency. The holder in that event must agree to complete, in the manner provided in this Agreement, the improvements to which the lien or title of such holder related, and

submit evidence satisfactory to the Agency that it has the qualifications and/or financial responsibility necessary to perform such obligations. Any such holder properly completing such improvements shall be entitled, upon written request made to the Agency, to a Certificate of Completion from the Agency.

4. [§ 321] Failure of Holder to Complete Improvements

For any Development Parcel (or portion thereof) for which a Certificate of Completion has not yet been issued by the Agency, in any case where, six months after the Agency has delivered to such holder a notice of default by the Developer in completion of construction of improvements on any Development Parcel under this Agreement, the holder of any mortgage, deed of trust or other security interest creating a lien or encumbrance upon the applicable Development Parcel (or portion thereof) has not exercised the option to construct, or if it has exercised the option but has not proceeded diligently with construction (including diligent efforts to obtain possession if necessary), the Agency may purchase the mortgage, deed of trust or other security interest by payment to the holder of the amount of the unpaid debt, plus any accrued and unpaid interest and other charges properly payable under the mortgage, deed of trust or other security interest; provided, however, that the holder shall have thirty (30) days after its receipt of notice from the Agency of its intent to effect this purchase, in which the holder may exercise the option to construct (if it has not previously done so), or may resume proceeding diligently with construction, as the case may be, and if the holder does so act, the notice from the Agency shall be deemed withdrawn; the foregoing right to delay purchase by the Agency may be exercised only once by the holder. If the ownership of the applicable Development Parcel (or portion thereof) has vested in the holder, the Agency, if it so desires, shall be entitled to a conveyance from the holder to the Agency upon payment to the holder of an amount equal to the sum of the following as they pertain to the applicable Development Parcel (or portion thereof):

- a. The unpaid mortgage, deed of trust or other security interest debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings).
- b. All expenses with respect to foreclosure.
- c. The net expense, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent ownership or management of the applicable Development

Parcel (or portion thereof), such as insurance premiums and real estate taxes.

- d. The cost of any improvements made by such holder.
- e. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the Agency.

5. [§ 322] Right of Agency to Cure Mortgage, Deed of Trust, or Other Security Interest Default

In the event of a default or breach by the Developer of a mortgage, deed of trust or other security interest with respect to any Development Parcel (or portion thereof) prior to the issuance of a Certificate of Completion therefor by the Agency, and the holder has not exercised its option to complete the development, the Agency may cure the default prior to completion of any foreclosure. In such event, the Agency shall be entitled to reimbursement from the Developer of all costs and expenses incurred by the Agency in curing the default. The Agency shall also be entitled to a lien upon the applicable Development Parcel (or portion thereof) to the extent of such costs and disbursements incurred prior to the issuance of a Certificate of Completion therefor. Any such lien shall be subordinate and subject to mortgages, deeds of trust, or other security instruments executed for the sole purpose of obtaining funds to purchase and develop the applicable Development Parcel (or portion thereof) as authorized herein.

F. [§ 323] Right of the Agency to Satisfy Other Liens on the Property After Title Passes

Prior to the recordation of the Certificate of Completion for the applicable Development Parcel or portion thereof, (referred to in Section 324 of this Agreement), and after the Developer has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on any Development Parcel (or portion thereof), other than the liens referred to in Section 322, the Agency shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require the Developer to pay or make provisions for the payment of any tax, assessment, lien or charge so long as the Developer in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the applicable Development Parcel (or any portion thereof) to forfeiture or sale.

G. [§ 324] Certificate of Completion

Promptly after completion of all construction and development to be completed by the Developer upon any Development Parcel, the Agency shall furnish the Developer with a Certificate of Completion upon written request therefor by the Developer. The Agency shall not unreasonably withhold any such Certificate of Completion. Such Certificate of Completion shall be, and shall so state, conclusive determination of satisfactory completion of the construction required by this Agreement upon the applicable Development Parcel, and of full compliance with the terms hereof with respect to the applicable Development Parcel. The Agency shall also furnish the Developer with a Certificate of Completion for portions of the improvements upon any Development Parcel as are on separate legal lots and are properly completed and ready to use if the Developer is not in default under this Agreement. After the recordation of the Certificate of Completion, any party then owning or thereafter purchasing, leasing, or otherwise acquiring any interest therein shall not (because of such ownership, purchase, lease or acquisition) incur any obligation or liability under this Agreement, except that such party shall be bound by any covenants contained in the deed, lease, mortgage, deed of trust, contract or other instruments which survive this Agreement. Neither the Agency nor any other person, after the recordation of the Certificate of Completion, shall have any rights, remedies or controls that it would otherwise have or be entitled to exercise under this Agreement with respect to the applicable Development Parcel (or portion thereof), as a result of a default in or breach of any provision of this Agreement, and the respective rights and obligations of the parties with reference to the applicable Development Parcel (or portion thereof) shall be limited thereafter to those set forth in the documents recorded pursuant to this Agreement or which otherwise survive this Agreement.

The Certificate of Completion shall be in such form as to permit it to be recorded in the Office of the Recorder of San Diego County.

If the Agency refuses or fails to furnish a Certificate of Completion for any Development Parcel (or portion thereof, as applicable) after written request from the Developer, the Agency shall, within ten (10) days of the written request, provide the Developer with a written statement which details the reasons the Agency refused or failed to furnish a Certificate of Completion. The statement shall also contain the Agency's opinion of the action the Developer must take to obtain a Certificate of Completion. If the reasons for such refusal is confined to the immediate unavailability of specific items or materials for landscaping, the Agency will issue its Certificate of Completion upon the posting of a bond by the Developer with the Agency in an amount representing a fair value of the work not yet completed. If the Agency shall have failed to provide such written statement within said 10-day

period, the Developer shall be deemed entitled to the Certificate of Completion.

Such Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage, or any insurer of a mortgage securing money loaned to finance the improvements, nor any part thereof. Such Certificate of Completion is not notice of completion as referred to in Section 3093 of the California Civil Code.

IV. [§ 400] USE OF THE SITE

A. [§ 401] Uses

The Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Site or any part thereof, that during construction and thereafter the Developer, its successors and assignees shall devote the Site to the uses specified in the Redevelopment Plan, the Scope of Development, the Grant Deeds and the Agreements to be Recorded Affecting Real Property for the period specified in the applicable document. With respect to Parcels A, B and C, such uses shall be deemed to include all retail uses permitted from time to time by zoning laws then applicable to such Parcels.

B. [§ 402] Maintenance of the Site

During construction and thereafter, the Developer shall maintain the improvements on the Site and shall keep the Site free from any accumulation of debris or waste materials.

During construction and thereafter, the Developer shall also maintain the landscaping required to be planted under the Scope of Development in a healthy condition.

C. [§ 403] Obligation to Refrain From Discrimination

The Developer covenants and agrees for itself, its successors, its assigns and every successor in interest to the Site or any part thereof, there shall be no discrimination against or segregation of any person, or group of persons, on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site nor shall the Developer itself or any person claiming under or through it 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, subtenants, sublessees, or vendees of the Site.

D. [§ 404] Form of Nondiscrimination and Nonsegregation Clauses

The Developer shall refrain from restricting the rental, sale or lease of the property on the basis of sex, sexual orientation, marital status, race, color, creed, religion, ancestry or national origin of any person. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

1. In deeds: "The grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee itself or any person claiming under or through it, 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, subtenants, sublessees, or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

2. In leases: "The lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, 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 sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the leasing, subleasing, renting, transferring, use, occupancy, tenure or enjoyment of the land herein leased, nor shall lessee itself, or any person claiming under or through it, establish or permit 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 land herein leased."

3. In contracts: "There shall be no discrimination against or segregation of any person or group of persons on account of sex, sexual orientation, marital status, race, color, religion, creed,

national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee itself or any person claiming under or through it, 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, subtenants, sublessees, or vendees of the land."

E. [§ 405] Effect and Duration of Covenants

The covenants established in this Agreement shall, without regard to technical classification and designation, be binding on the Developer and any successor in interest to the Site or any part thereof for the benefit and in favor of the Agency, its successors and assigns, and the City. Such covenants as are to survive the issuance of the Certificate of Completion by the Agency shall be as contained in the applicable Grant Deed for a Sales Parcel (Attachment No. 5) and the applicable Agreement to be Recorded Affecting Real Property for a Participating Parcel (Attachment No. 6) and shall remain in effect for the periods specified therein. Covenants in this Agreement not expressly set forth in the Grant Deed (Attachment No. 5) or the Agreement to be Recorded Affecting Real Property (Attachment No. 6) shall terminate as to any Development Parcel (or portion thereof) upon the issuance of a Certificate of Completion therefor.

F. [§ 406] Rights of Access - Public Improvements and Facilities

The Agency for itself, and for the City and other public agencies, at their sole risk and expense, reserves the right to enter the Site or any part thereof at all reasonable times and with as little interference as possible, for the purposes of construction, reconstruction, maintenance, repair or service of any public improvements or public facilities located on the Site. Any such entry shall be made only after reasonable notice to the Developer, and the Agency shall indemnify and hold the Developer harmless from any claims or liabilities pertaining to such entry. Any damage or injury to the Site resulting from such entry shall be promptly repaired at the sole expense of the public agency responsible for the entry.

V. [§ 500] DEFAULTS, REMEDIES AND TERMINATION

A. [§ 501] Defaults - General

Subject to the extensions of time set forth in Section 604, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. The party who fails or delays must immediately commence to cure,

correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence, and during any period of curing shall not be in default.

The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

B. [§ 502] Legal Actions

1. [§ 503] Institution of Legal Actions

In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of San Diego, State of California, in any other appropriate court of that county, or in the Federal District Court in the Southern District of California.

2. [§ 504] Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

3. [§ 505] Acceptance of Service of Process

In the event that any legal action is commenced by the Developer against the Agency, service of process on the Agency shall be made by personal service upon the Executive Director or Chair of the Agency, or in such other manner as may be provided by law.

In the event that any legal action is commenced by the Agency against the Developer, service of process on the Developer shall be made by personal service upon the President, Secretary or other officer of the Developer, and shall be valid whether made within or without the State of California, or in such manner as may be provided by law.

C. [§ 506] Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

D. [§ 507] Damages

If either party defaults with regard to any of the provisions of this Agreement, the nondefaulting party shall serve written notice of such default upon the defaulting party. If the default is not cured within ten (10) days after receipt of the notice of default if an obligation to pay money, or within thirty (30) days after the notice of default otherwise, or if such default (other than the payment of money) is of a type which is not capable of being cured within thirty (30) days, then if the default is not commenced to be cured within thirty (30) days after of the notice of default and is not cured promptly in a continuous and diligent manner within a reasonable period of time after commencement, the nondefaulting party may thereafter (but not before) commence an action for damages against the defaulting party with respect to such default. Neither party, however, shall have any right to indirect or consequential or punitive damages against the other, and each party hereby waives the right to claim the same against the other.

E. [§ 508] Specific Performance

If either party defaults with regard to any of the provisions of this Agreement, the nondefaulting party shall serve written notice of such default upon the defaulting party. If the default is not cured within ten (10) days after receipt of the notice of default if an obligations to pay money, or within thirty (30) days after the notice of default otherwise, or if such default (other than the payment of money) is of a type which is not capable of being cured within thirty (30) days, then if the default is not commenced to be cured within thirty (30) days after service of the notice of default and is not cured promptly in a continuous and diligent manner within a reasonable period of time after commencement, the nondefaulting party, at its option, may thereafter (but not before, unless necessary to prevent immediate harm) commence an action for specific performance of the terms of this Agreement pertaining to such default.

F. [§ 509] Remedies and Rights of Termination

1. [§ 510] Termination by Developer

In the event that prior to closing of the mortgage loan and/or other financing for any Development Parcel:

- a. the Agency (and City) and the Developer are unable, despite diligent and good faith efforts, and within the time established therefor in the Schedule of Performance (Attachment No. 3), to obtain the Bi-National Authorization for the River Pedestrian Bridge referred to in Section 708 of this Agreement; or
- b. the Agency is unable, despite diligent and good faith efforts, and within the time established therefor in the Schedule of Performance, to enter into the GSA Cooperation Agreement referred to in Section 712 of this Agreement; or
- c. The Developer is unable, despite diligent and good faith efforts, to obtain firm commitments by all public and private entities necessary or appropriate for implementation of the Bridge Implementation Plan, and obtain approval by the Agency thereof, as referred to in Section 717, and within the time established therefor in the Schedule of Performance; or
- d. the Agency, after hearing as required by law, fails to adopt a resolution of necessity provided for in Chapter 4, Article 2 of the California Eminent Domain Law with respect to any Added Sales Parcel to be acquired by the Agency hereunder, or as to the GSA owned Added Sales Parcels, GSA does not agree to, or does not, convey them to the Agency on terms and conditions consistent with this Agreement; or
- e. the Developer is unable, despite diligent and good faith efforts, and within the time established therefor in the Schedule of Performance, to obtain the Federal/State Approvals with respect to the Site, as referred to in Section 711 of this Agreement; or

- f. the Developer is unable, despite diligent and good faith efforts, and within the time established respectively therefor in the Schedule of Performance to obtain approval from the City of the Preliminary Subdivision Map, or the Final Subdivision Map, with respect to the Site, or any Subsequent Parcel Map with respect to the applicable Development Parcel, as referred to in Section 704 of this Agreement; or
- g. the Developer is unable, despite diligent and good faith efforts, and within the time established respectively therefor in the Schedule of Performance, to obtain approval from the City of the City Permit Package with respect to the Site, or a Subsequent City Permit with respect to the applicable Development Parcel, as referred to in Section 710 of this Agreement; or
- h. the Developer is unable, despite diligent and good faith efforts, to obtain and submit to the Agency any submission of evidence of financing commitments referred to in Section 214 of this Agreement with respect to the applicable Development Parcel, within the time established respectively therefor in the Schedule of Performance; or
- i. the Developer is unable despite diligent and good faith efforts, and within the time established therefor in the Schedule of Performance, to obtain a Development Agreement from the City as referred to in Section 707 of this Agreement; or
- j. the Developer is unable despite diligent and good faith efforts, and within the time established respectively therefor in the Schedule of Performance, to enter into the Public Use Lease with the City with respect to the applicable Development Parcel, as referred to in Section 718 of this Agreement; or
- k. The Agency fails to tender conveyance of title to all Sales Parcels within the Development Parcels or possession thereof, to the Developer in the manner and condition, and within the established time therefor in the Schedule of Performance;

1. if any default or failure referred to in subdivision (k) of this Section shall not be cured within thirty (30) days after the date of written demand by the Developer;

then this Agreement shall, at the option of the Developer, be terminated with respect to any Development Parcel for which closing of the mortgage loan and/or other financing has not occurred, by written notice thereof to the Agency, and except to the extent provided in Section II of the Method of Financing (Attachment No. 2) and in Sections 513 and 702 hereinbelow, neither the Agency nor the Developer shall have any further rights against or liability to the other under this Agreement with respect to any Development Parcel for which closing of the mortgage loan and/or other financing has not occurred.

2. [§ 511] Termination by Agency

In the event that prior to closing of the mortgage loan and/or other financing for any Development Parcel:

- a. the Developer (or any successor in interest) assigns or purports to assign this Agreement or any right herein, or in the Site or any portion thereof in violation of this Agreement; or
- b. there is a change of 20% or more cumulatively of the equity interests in the ownership of the Developer, or with respect to the identity of the parties in control of the Developer, or the degree thereof contrary to the provisions of Sections 107 and 108 hereof; or
- c. the Agency (and City) and the Developer are unable, despite diligent and good faith efforts, and within the time established therefor in the Schedule of Performance (Attachment No. 3), to obtain the Bi-National Authorization for the River Pedestrian Bridge referred to in Section 708 of this Agreement; or
- d. the Agency is unable, despite, diligent and good faith efforts, and within the time established therefor in the Schedule of Performance, to enter into the GSA Cooperation Agreement referred to in Section 712 of this Agreement; or

- e. the Developer shall fail to prepare and adopt the Bridge Implementation Plan, or the Developer is unable, despite diligent and good faith efforts, to obtain firm commitments by all public and private entities necessary or appropriate for its implementation, and obtain approval by the Agency thereof, as referred to in Section 717, and within the time established therefor in the Schedule of Performance; or
- f. the Developer shall fail to make available to the Agency the advance of funds with respect to the Site in the amount, form and manner set forth in Section II.A. of the Method of Financing (Attachment No. 2) and Section 702, and within the time established respectively therefor in the Schedule of Performance or said Section II.A., or the Developer shall otherwise fail to timely pay or reimburse the Agency (or City) for any costs or expenses incurred by the Agency (or City) with respect to the Site which are to be borne by the Developer under this Agreement (including without limitation Section 721); or
- g. the Developer shall fail to cause all owners of properties comprising the Agreed Sales Parcels to be acquired by the Agency within Parcel A from the proceeds of the Loan Agreements for Parcels A, B and C, to enter into a Purchase Agreement with the Agency as referred to in Section 716, and within the time established therefor in the Schedule of Performance; or
- h. the Agency, after hearing as required by law, fails to adopt a resolution of necessity as provided for in Chapter 4, Article 2 of the California Eminent Domain Law with respect to any Added Sales Parcel to be acquired by the Agency hereunder, or as to the GSA owned Added Sales Parcels, GSA does not agree to, or does not, convey them to the Agency on terms and conditions consistent with this Agreement; or
- i. the Developer does not deliver to the Agency any submission of plans, drawings, and related documents as required by this Agreement within the time established respectively therefor in this Agreement; or

- j. the Developer is unable, despite diligent and good faith efforts, and within the time established therefor in the Schedule of Performance, to obtain the Federal/State Approvals with respect to the Site, as referred to in Section 711 of this Agreement; or
- k. the Developer is unable, despite diligent and good faith efforts, and within the time established respectively therefor in the Schedule of Performance, to obtain approval from the City of the Preliminary Subdivision Map, or the Final Subdivision Map, with respect to the Site, or any Subsequent Parcel Map with respect to the applicable Development Parcel, as referred to in Section 704 of this Agreement; or
- l. the Developer is unable, despite diligent and good faith efforts, and within the time established respectively therefor in the Schedule of Performance to obtain approval from the City of the City Permit Package with respect to the Site, or a Subsequent City Permit with respect to the applicable Development Parcel, as referred to in Section 710 of this Agreement; or
- m. the Developer shall fail to submit to the Agency any submission of evidence of financing commitments referred to in Section 214 of this Agreement with respect to the applicable Development Parcel, within the time established respectively therefor in the Schedule of Performance; or
- n. the Developer is unable, despite diligent and good faith efforts, and within the time established therefor in the Schedule of Performance to obtain a Development Agreement from the City as referred to in Section 707 of this Agreement; or
- o. the Developer is unable, despite diligent and good faith efforts, and within the time established respectively therefor in the Schedule of Performance, to enter into any Public Use Lease with the City with respect to the applicable Development Parcel, as referred to in Section 718 of this Agreement; or

- p. the Developer shall fail to hold title to all of the properties within the Participating Parcels, in the manner and condition, and within the time established therefor in the Schedule of Performance; or
- q. the Developer does not pay the Purchase Prices and take title to all Sales Parcels within the Development Parcels, under a tender of conveyance by the Agency pursuant to this Agreement; and
- r. if any default or failure referred to in subdivisions (a), (b), (e), (f), (g), (i), (j), (m), (p) or (q) of this Section shall not be cured within thirty (30) days after the date of written demand by the Agency;

then this Agreement and any rights of the Developer, or any assignee or transferee, in this Agreement, or arising therefrom with respect to the Agency, as it pertains to any Development Parcel for which closing of the mortgage loan and/or other financing has not occurred, shall at the option of the Agency, be terminated by written notice to the Developer, and except to the extent provided in Section II of the Method of Financing (Attachment No. 2) and in Sections 513 and 702 hereinbelow, neither the Agency nor the Developer shall have any further rights against or liability to the other under this Agreement with respect to any Development Parcel for which closing of the mortgage loan and/or other financing has not occurred. A termination by the Agency, with respect to any Development Parcel for which the closing of the mortgage loan and/or other financing has not occurred, shall not in any way diminish or impair the Agency's (and Developer's) obligations as set forth in this Agreement with respect to any Development Parcel(s) for which the closing of the mortgage loan and/or other financing has occurred, including without limitation its payment of amounts due under Loan Agreements and/or Public Use Leases provided by the Agency with respect to such closed Development Parcel(s) and with respect to related off-site improvements.

G. [§ 512] Right of Reentry

The Agency shall have the right, at its option, to reenter and take possession of any Sales Parcel (or portion thereof) with all improvements thereon, and to terminate and revest in the Agency the estate theretofore conveyed to the Developer, if after conveyance of title or possession and prior to the recordation of the Certificate of Completion pertaining to the applicable Sales Parcel (or portion thereof), the Developer (or its successors in interest) shall:

1. fail to commence construction of the improvements on the applicable Sales Parcel and/or the Development Parcel of which it is a part, as required by this Agreement for a period of three (3) months after written notice to proceed from the Agency, provided that the Developer shall not have obtained an extension or postponement to which the Developer may be entitled pursuant to Section 604 hereof; or
2. abandon or substantially suspend construction of the improvements on the applicable Sales Parcel and/or the Development Parcel of which it is a part, for a continuous period of three (3) consecutive months after written notice of such abandonment or suspension from the Agency, provided that the Developer shall not have obtained an extension or postponement to which the Developer may be entitled to pursuant to Section 604 hereof; or
3. assign or purport to assign this Agreement, or any rights herein, pertaining to the applicable Sales Parcel and/or the Development Parcel of which it is a part, or transfer, or suffer any involuntary transfer of the applicable Sales Parcel and/or the Development Parcel of which it is a part, or any part thereof, in violation of this Agreement, and such violation shall not be cured within thirty (30) days after the date of receipt of written notice thereof by the Agency to the Developer.

Such right to reenter, repossess, terminate, and revest, and the provisions below regarding the application of proceeds, shall be subject to and be limited by and shall not defeat, render invalid, or limit:

1. any mortgage, deed of trust, or other security interests pertaining to the applicable Development Parcel, as permitted by this Agreement;
2. any rights or interests provided in this Agreement for the protection of the holders of such mortgages, deeds of trust, or other security interests.

The rights established in this Section 512 shall not apply to a portion of the Sales Parcel on which the improvements to be constructed thereon have been completed in accordance with the Agreement and for which a Certificate of Completion has been recorded therefor as provided in Section 324.

The Grant Deed to each Sales Parcel shall contain appropriate reference and provision to give effect to the Agency's right, as set forth in this Section 512, under specified circumstances prior to the recordation of the Certificate of Completion, to re-enter and take possession of the Sales Parcel, or any part thereof, with all improvements thereon, and to terminate and re-vest in the Agency the estate conveyed to the Developer.

Subject to the rights of holders of security interests as stated in number paragraphs 1 and 2 above, upon the re-vesting in the Agency of title to the applicable Sales Parcel, or any part thereof, as provided in this Section 512, the Agency shall, pursuant to its responsibilities under state law, use its diligent and good faith efforts to resell the Sales Parcel, or any part thereof, as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law and of the Redevelopment Plan to a qualified and responsible party or parties (as determined by the Agency), who will assume the obligation of making or completing the improvements, or such other improvements in their stead, as shall be satisfactory to the Agency and in accordance with the uses specified for the Sales Parcel, or any part thereof, in the Redevelopment Plan. Upon such resale of the Sales Parcel, or any part thereof, subject to the rights of holders of security interests as stated in numbered paragraphs 1 and 2 above, the proceeds thereof shall be applied:

1. first, to reimburse the Agency on its own behalf or on behalf of the City of all substantiated costs and expenses incurred by the Agency, including but not limited to salaries to personnel engaged in such action, in connection with the recapture, management, and resale of the Sales Parcel, or part thereof (but less any income derived by the Agency from the Sales Parcel, or any part thereof, in connection with such management); all taxes, assessments and water and sewer charges, if any and if applicable, with respect to the Sales Parcel or part thereof (or, in the event the Sales Parcel, or part thereof, is exempt from taxation or assessment or such charges during the period of ownership, then such taxes, assessments, or charges, as would have been payable if the Sales Parcel, or part thereof, were not so exempt); any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of the Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the agreed improvements or any part thereof on the Sales Parcel, or part thereof; and any amounts otherwise

owing to the Agency by the Developer and its successor or transferee; and

2. second, to reimburse the Developer, its successor or transferee, up to the amount equal to (1) the sum of the Purchase Price paid to the Agency by the Developer for the Sales Parcel (or allocable to the part thereof); and (2) the costs incurred for the development of the Sales Parcel, or part thereof, or for the construction of the agreed improvements thereon, less (3) any gain or income withdrawn or made by the Developer therefrom or from the improvements thereon.

Any balance remaining after such reimbursements shall be retained by the Agency as its property.

To the extent that the right established in this Section 512 involves a forfeiture, it must be strictly interpreted against the Agency, the party for whose benefit it is created. The rights established in this Section 512 are to be interpreted in light of the fact that the Agency will convey each Sales Parcel to the Developer for development and not for speculation in undeveloped land.

H. [§ 513] Agency Right to Acquire Participating Parcels

In the event that the Developer fails to acquire any Sales Parcel and/or Participating Parcel within a Development Parcel, or to complete the improvements on the applicable Development Parcel and obtain a Certificate of Completion for the entire Development Parcel, within the time and in the manner required by this Agreement, the Agency may, at its sole option, acquire any Participating Parcel (or portion thereof) which is within the applicable Development Parcel. The amount to be paid to the Developer (or other owner) shall be the fair market value of the Participating Parcel (or portion thereof) to be acquired with existing improvements as of the date of purchase by the Agency. If the Agency and the Developer (or other owner) are unable to agree upon the fair market value of the Participating Parcel (or portion thereof), the Agency may institute an action in eminent domain to acquire the Participating Parcel (or portion thereof), and this Agreement will then constitute a stipulation on the part of the Developer (or other owner) that the only issues involved in said action shall be the fair market value of the real property to be acquired.

VI. [§ 600] GENERAL PROVISIONS

A. [§ 601] Notices, Demands, and Communications Between the Parties

Formal notices, demands, and communications between the Agency and the Developer shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the Agency and the Developer, as designated in Sections 106 and 107 hereof. Such notices, demands and communications if given in person shall be deemed given when delivered, and if given by mail shall be deemed given three (3) business days after deposit in the mails. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section 601.

B. [§ 602] Conflicts of Interest

No member, official or employee of the Agency shall have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is, directly or indirectly, interested.

The Developer warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

C. [§ 603] Nonliability of Agency Officials and Employees

No member, official, employee or consultant of the Agency shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Agency or for any amount which may become due to the Developer or to its successor, or on any obligations under the terms of this Agreement.

D. [§ 604] Enforced Delay: Extension of Time of Performance

In addition to specific provisions of this Agreement, performance by either party hereunder (except for the payment of money) shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, Acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplies, acts of the other party, acts or failure to act of the City or any other public or governmental agency or

entity, foreign or domestic, (other than that acts or failure to act of the Agency shall not excuse performance by the Agency) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of knowledge of the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the Agency and the Developer.

Wherever this Agreement refers to performance by a specific time, or in accordance with the Schedule of Performance (Attachment No. 3), including without limitation in Sections 510 and 511 hereof, such times shall include any extensions pursuant to this Section 604.

E. [§ 605] Inspection of Books and Records

The Agency has the right at all reasonable times to inspect the books and records of the Developer pertaining to the Site as pertinent to the purposes of this Agreement. The Developer also has the right at all reasonable times to inspect the books and records of the Agency pertaining to the Site as pertinent to the purposes of the Agreement.

F. [§ 606] Approvals

Except where this Agreement expressly provides for the approval of either party in its discretion, approvals required of the Agency or the Developer shall not be unreasonably withheld or delayed.

G. [§ 607] Real Estate Commissions

The Agency shall not be liable for any real estate commissions, brokerage fees or finders fees which may arise here from. Each party agrees to defend and hold the other party harmless from any claim by any broker, agent of finder retained by the first party. Each party represents to the other party that it has not incurred any liability for the payment of any real estate commission or brokerage or finder's fee in connection with this Agreement.

VII. [§ 700] SPECIAL PROVISIONS

A. [§ 701] Relocation of Occupants from Added Sales
Parcels

The Agency shall be responsible for relocating all occupants, both residential and commercial, from the Added Sales Parcels. The Developer shall, as part of the Acquisition Advances for the Added Sales Parcels, advance funds to the Agency to pay for those costs and expenses of relocation as are set forth in Section II.A.3.c. of the Method of Financing (Attachment No. 2).

B. [§ 702] Payment or Reimbursement for Costs, If Any,
Pertaining to Agreed Sales Parcels and
Participating Parcels

The Agency and the Developer agree that, except as otherwise expressly provided in this Agreement, all costs and expenses incurred by or imposed on the Agency in connection with any Agreed Sales Parcel and/or Participating Parcel, shall be borne by the Developer, and any costs and expenses to be borne by the Developer which are first paid by the Agency shall be reimbursed by the Developer to the Agency in accordance with the provisions of this Section.

In the event the Agency determines, after consultation with the Developer, that under applicable federal, state or local law, the Agency is required to provide relocation assistance and/or relocation payments to any occupants of any Agreed Sales Parcel and/or Participating Parcel, or any portion thereof, whether residential or commercial, owner or tenant, or in the event the Agency and the Developer otherwise agree that it is necessary or appropriate to provide such relocation assistance and/or payments, then the Developer shall pay the costs and expenses thereof (including all categories and types of relocation expense referred to in Section II.A.3.c. of the Method of Financing).

All costs with respect to each Agreed Sales Parcel and Participating Parcel as required by this Section 702 shall be paid by the Developer in accordance with the procedures set forth in Section II.A.1. and II.A.3. of the Method of Financing (including without limitation draw by the Agency on the Acquisition Letter of Credit referred to therein); except that payment or reimbursement by the Developer to the Agency under this Section shall be made whether or not any Agreed Sales Parcel is conveyed to the Developer, or the applicable Development Parcel is developed and a Certificate of Completion issued therefor, or this Agreement is terminated by either party, and the amount of the Developer's payments hereunder shall not be added to the Acquisition Advance Note and Acquisition Trust Deeds applicable to the Added Sales Parcels.

C. [§ 703] Acquisition of Participating Parcels by Developer

The properties within each Participating Parcel are owned in fee by others than the Developer. Within the time established therefor in the Schedule of Performance (Attachment No. 3), the Developer shall obtain a conveyance to itself of all of the properties within the Participating Parcels from their then current owners, free of encumbrances (except for financing approved by the Developer and the Agency as permitted under this Agreement) and otherwise in the condition of title corresponding to that required for each Sales Parcel pursuant to Section 205 of this Agreement. Such conveyance shall occur (at no cost or expense to the Agency) through the escrow referred to in Section 202 or in a separate concurrent escrow if the parties agree.

The Developer has agreed to acquire the Participating Parcel within Development Parcel A hereunder, on the condition that the Agency will pay (by reimbursement) for part of the Developer's acquisition cost for portions of such Participating Parcel as provided for in the second, third and fourth paragraphs of Section II.A.4., and in the second, third and fourth paragraphs of Section III.C., of the Method of Financing (Attachment No. 2), subject to the conditions precedent therein. For the purpose of implementing such reimbursement, the portions of such Participating Parcel for which the Agency will reimburse part of the Developer's acquisition cost, shall also be identified as Agreed Sales Parcels.

D. [§ 704] Subdivision Maps

Within the times established respectively therefor in the Schedule of Performance (Attachment No. 3), the Developer shall prepare and use diligent and good faith efforts to obtain approval from the City of a preliminary subdivision map (the "Preliminary Subdivision Map"), and a final subdivision map (the "Final Subdivision Map"), and to record the Final Subdivision Map, dividing the Site into the Development Parcels substantially as shown on the Site Map (Attachment No. 1). Wherever used herein the term Preliminary Subdivision Map shall include processing, and the term Final Subdivision Map shall include accomplishing any related public right-of-way vacations and dedications necessary or appropriate to create the Development Parcels under this Agreement. The Developer shall prepare and process the Preliminary and Final Subdivision Maps in sufficient time that the Final Subdivision Map may be recorded pursuant to this Section.

The Preliminary Subdivision Map and/or the Final Subdivision Map may omit the division of Parcel F, and/or may combine one or more of Parcels E-1, E-2, E-3 and E-4, or combine them excluding the GSA owned Added Sales Parcels, if the GSA owned Added Sales Parcels have not been acquired by the Agency when the applicable Subdivision Map is approved and/or recorded, or if the locations of

all developments within Parcel E have not been sufficiently identified. In any such event, within the times established respectively therefor in the Schedule of Performance, the Developer shall prepare and use diligent and good faith efforts to obtain approval from the City and record, Parcel Maps (each a "Subsequent Parcel Map") dividing Parcel F, and/or Parcel E-1, E-2, E-3 and/or E-4, as applicable, into the Development Parcels shown on the Site Map.

The Agency shall cooperate with the Developer to obtain approval from the City of the Preliminary and Final Subdivision Maps and any Subsequent Parcel Maps. The Preliminary and Final Subdivision Maps, and any Subsequent Parcel Maps, shall be subject to approval by the Agency.

E. [§ 705] Agreements to be Recorded Affecting Real Property

Within the times established respectively therefor in the Schedule of Performance (Attachment No. 3), the Developer and the Agency shall execute, and cause to be recorded by the Escrow Agent, against each Participating Parcel within the applicable Development Parcel, an "Agreement to be Recorded Affecting Real Property" in substantially the form which is incorporated herein and attached hereto as Attachment No. 6. The Developer shall obtain and cause to be recorded by the Escrow Agent any instruments necessary and appropriate to subordinate any prior encumbrances on the applicable Participating Parcel to said Agreement to be Recorded Affecting Real Property.

F. [§ 706] Reciprocal Easement Agreements

Within the time established therefor in the Schedule of Performance (Attachment No. 3), the Developer shall execute and record a reciprocal easement agreement (the "Overall REA") which shall create certain rights, privileges, obligations, duties, and easements and impose certain covenants and restrictions, all as customary for integrated developments similar to that on the Site and as consistent with the Agreement, on the legal parcels created by the Final Subdivision Map.

To the extent any such rights, privileges, objection, duties, and easements, and/or covenants and restrictions, are unknown or inapplicable at the time the Overall REA is recorded, within the times established respectively therefor in the Schedule of Performance, the Developer shall execute and record a reciprocal easement agreement (each a "Subsequent REA"), or amend the Overall REA, as applicable to a specific Parcel or Parcels.

The Overall REA, and each Subsequent REA, shall be subject to approval by the Agency (by its Executive Director or his designee). The Developer shall obtain and cause to be recorded any instruments

necessary and appropriate to subordinate any prior encumbrances on all Participating Parcels to the Overall REA and any Subsequent REAs.

G. [§ 707] Development Agreement

Within the time established therefor in the Schedule of Performance (Attachment No. 3), the Developer shall use diligent and good faith efforts, to obtain a Development Agreement (the "Development Agreement") from the City in furtherance of the development on the Site. The parties intend that such a Development Agreement be relatively simple and straightforward, customary in form and content, and consistent in all substantive respects with this Agreement. The Agency shall cooperate with and assist the Developer in its efforts to obtain the Development Agreement. The Development Agreement shall be subject to approval by the Agency (by its Executive Director or his designee).

H. [§ 708] Bi-National Authorization for River Pedestrian Bridge

Within the time established therefor in the Schedule of Performance (Attachment No. 3), the Agency and the Developer shall use diligent and good faith efforts (and the Agency shall attempt to obtain City cooperation as necessary and appropriate) to obtain necessary authority from the national governments of the United States and Mexico, by exchange of diplomatic notes, port of entry extension and reconstruction approval and/or other actions (the "Bi-National Authorization"), to allow for the development and operation of the River Pedestrian Bridge consistent with the River Pedestrian Bridge Term Sheet which is incorporated herein and attached hereto as Attachment No. 8.

Such diligent and good faith efforts by the Agency (and attempts to obtain City cooperation) shall include without limitation the following:

1. Submit and/or support an application to the Bi-National Bridges and Borders Commission (the "Bi-National Commission") as applicable for any element of the Bi-National Authorization under its jurisdiction and in time for consideration, if necessary or appropriate, at the September 1998 meeting of the Bi-National Commission, and use diligent and good faith efforts to obtain approval of any such applicable element at such meeting of the Bi-National Commission, the Virginia Avenue crossing over the Tijuana River, in a manner consistent with the San Ysidro Community Plan, as a port of entry for pedestrian access only (the "El Chapparal/Virginia Avenue Application").

2. Use diligent and good faith efforts, in advance of the September 1998 meeting of the Bi-National Commission, if necessary or appropriate, to solicit cooperation and formal endorsement of the El Chapparal/Virginia Avenue Application from United States local, state and federal governmental agencies and officials (including without limitation the California Department of Business, Transportation and Housing), and from Mexican local, state and federal governmental agencies and officials (including without limitation the Consejo Desarrollo de Economico de Tijuana (CDT) and the City of Tijuana).
3. Use diligent and good faith efforts, in advance of the September 1998 meeting of the Bi-National Commission, if necessary or appropriate, to solicit formal support of the El Chapparal/Virginia Avenue Application from the Bi-National Border Port Council.
4. Cause appropriately senior officials of both the Agency and the City (at the level of Executive Director or his designee) to appear at the September 1998 meeting of the Bi-National Commission, if necessary or appropriate, to make a well-prepared presentation there in favor of the El Chapparal/Virginia Avenue Application, and orchestrate such presentation with those of other governmental agencies and officials from whom it has received cooperation and endorsement.

I. [§ 709] Coordination with Mexico

The Agency shall establish and maintain (and shall attempt to obtain from the City) regular, open lines of communication regarding the development under this Agreement with the Consejo Desarrollo de Economico (together with the City of Tijuana), including in-person meetings not less frequently than monthly (as appropriate, and if agreed to by CDT and the City of Tijuana), at which the Agency (together with the City) shall promote and encourage coordination by CDT and the City of Tijuana in the development and implementation of a plan of action in support of the development under this Agreement. The meetings shall be held alternately, if agreed to by CDT and the City of Tijuana, in San Diego and Tijuana.

J. [§ 710] City Permits

Within the time established therefor in the Schedule of Performance (Attachment No. 3), Developer shall use diligent and good faith efforts to obtain City approval of an integrated permit

package tailored to the Site (the "City Permit Package") including, without limitation, the permits listed on the "List of City Permits" which is incorporated herein and attached hereto as Attachment No. 9.

To the extent the City Permit Package omits a permit or approval which is required for the development of a specific Parcel or Parcels in accordance with Drawings approved by the Agency, because it was unknown or inapplicable at the time the City Permit Package was approved, within the times established respectively therefor in the Schedule of Performance, the Developer shall use diligent and good faith efforts to obtain a City permit or approval, or amend the City Permit Package, (each a "Subsequent City Permit"), as applicable to a specific Parcel or Parcels. Subject to the City's holding such hearings and taking such actions as may be required by law, the Agency shall cooperate with and assist the Developer in obtaining the City Permit Package and any Subsequent City Permits.

K. [§ 711] Federal/State Approvals

Within the time established therefor in the Schedule of Performance (Attachment No. 3), the Developer shall use diligent and good faith efforts to obtain approvals from all other United States federal agencies and California State agencies having jurisdiction over the development on the Site (the "Federal/State Approvals"), including without limitation:

1. California Coastal Commission approval of the height variances for the Site referred to in the List of City Permits (Attachment No. 9).
2. California Alcoholic Beverage Control ("ABC") approval of appropriate licenses for on-site consumption of alcoholic beverages.
3. United States Corps of Engineer approval, if required, of an appropriate Section 404 Permit for the River Pedestrian Bridge.
4. Such approvals as may be necessary for flood control at the Site.

The Agency shall cooperate with and assist the Developer in obtaining the Federal/State Approvals. Such cooperation shall include an attempt to coordinate submittals and processing by the federal and state agencies as appropriate, in order to achieve: (a) environmental clearances and timely approvals needed for the development on the Site; (b) acceptance by such agencies of similar packages of materials, in an effort to avoid having to submit substantially similar information to them in dissimilar forms; and (c) priority and dedicated staffing, where feasible.

L. [§ 712] GSA Cooperation Agreement

Within the times established respectively therefor in the Schedule of Performance (Attachment No. 3): (1) the Agency shall submit to the United State General Services Administration ("GSA") a proposal for GSA to enter into a cooperation agreement with the Agency (the "GSA Cooperation Agreement"), including without limitation substantially the terms and conditions contained in the GSA Term Sheet which is incorporated herein and attached hereto as Attachment No. 10; (2) the Agency shall use diligent and good faith efforts to obtain from GSA a commitment to negotiate such GSA Cooperation Agreement; and (3) the Agency shall use diligent and good faith efforts to negotiate and enter into such a GSA Cooperation.

M. [§ 713] Regional Transit Issues

The Developer acknowledges that the Agency intends to continue to analyze the transit and border crossing related problems and challenges affecting the San Ysidro area, and to explore potential solutions to such problems with the Metropolitan Transit Development Board of San Diego ("MTDB") and other applicable governmental agencies. Notwithstanding the foregoing, however, or anything to the contrary set forth in this Agreement or any attachments hereto, neither the Agency nor the Developer shall encourage, promote, support, or propose any plan, design or proposal, an intended consequence of which is (i) to relocate from San Ysidro Boulevard the San Diego trolley line or to materially deviate from the San Ysidro Intermodal Transportation Center approved by the MTDB or (ii) to close or relocate the existing non-toll pedestrian border crossing from its present location on the east side of Highway I-5; it being understood, however, that the development within the Site of the Virginia Avenue border crossing or the addition within the Site of trolley stops which do not require change of the present location of the San Diego trolley line, the planned Intermodal Transportation Center or the existing border crossing east of Highway I-5 shall not constitute a violation of this Section 713. The parties further acknowledge and agree that, while the Agency will seek development in accordance with the Redevelopment Plan and the San Ysidro Community Plan (which includes the location and redevelopment of the San Diego trolley line and trolley stations and preserving the pedestrian border crossing east of Highway I-5), many other governmental agencies (including state, federal and international agencies) may have input upon issues referenced in clauses (i) and (ii) above. Accordingly, nothing herein shall require the Agency (so long as it otherwise has complied with its obligations as previously set forth in this Section 713) or the Developer to take actions inconsistent with decisions ultimately reached by those other governmental agencies.

N. [§ 714] Agency Administration

In order to administer its responsibilities under this Agreement, and to coordinate with the City to carry out the development on the Site, the Agency shall designate a single person, chosen from either the Agency or the City, to serve as the responsible administrator (the "Project Head") for both the Agency and the City, commencing on the date of this Agreement and continuing for a period of not less than five (5) years thereafter. The Project Head shall have authority to give focus and direction to, and to insist upon coordination within, both the Agency and the City for all efforts undertaken by them pursuant to this Agreement or otherwise related to the development on the Site. The Project Head shall initially be Kurt Chilcott. Any person subsequently designated as Project Head shall be selected after consultation with the Developer.

Subject to its holding such hearings and taking such actions as may be required by law, the Agency agrees to administer this Agreement, and attempt to coordinate with other public agencies, in a way which will facilitate and not interfere with the Developer's performance under this Agreement, including without limitation:

1. Assistance in timely processing environmental clearances and approvals needed for the development.
2. Acceptance of similar packages of materials by various divisions within the Agency and the City, in an effort to avoid having to submit substantially similar information in dissimilar forms.
3. Establishment of priority and dedicated Agency staffing, where feasible.
4. Support and furnish staff resources, as appropriate, to seek assistance from the network of agencies created by NAFTA for regulation, promotion, financial assistance and other matters.

O. [§ 715] World Trade Center

The Agency shall cooperate with and assist the Developer in seeking either:

1. To acquire an option from the City and Port Authority, to purchase both the City's 50% interest in the World Trade Center of San Diego and the Port Authority's 50% interest in the World Trade Center of San Diego, at an option and purchase price equal

to the original cost of such interests to the City and Port Authority; or

2. Alternatively, if and only if approved by the Developer as an acceptable alternative to such an option, to enter into a cooperation agreement between the World Trade Center of San Diego and the World Trade Center of Tijuana, assuring their short-term and long-term cooperation and coordination of activities in furtherance of the development on the Site.

The Developer shall use diligent and good faith efforts to locate an office of the World Trade Center of San Diego within its development on Parcel E-2. The Agency's obligation to cooperate with and assist the Developer in its efforts under this Section shall terminate upon the earlier to occur of: (a) submission by the Developer of its second submission of evidence of financing (referred to in Section 214) with respect to Parcel E-2, or (b) termination of this Agreement with respect to Parcel E-2.

P. [§ 716] Purchase of Agreed Sales Parcels

Within the time established therefor in the Schedule of Performance (Attachment No. 3), the Developer shall cause all owners of properties comprising the Agreed Sales Parcels within Parcel A as provided for in the first paragraph of Section II.A.4., and in the first paragraph of Section III.C., of the Method of Financing (Attachment No. 2), to enter into a Purchase Agreement with the Agency in substantially the form which is incorporated herein and attached hereto as Attachment No. 12. The Agency agrees to use diligent and good faith efforts to acquire such Agreed Sales Parcels within Parcel A on or before the date established therefor in the Schedule of Performance, in accordance with the Purchase Agreement, and subject to the performance thereof by the owners of said Agreed Sales Parcels and the satisfaction of the conditions precedent provided for in the above referenced paragraphs of the Method of Financing.

Q. [§ 717] River Pedestrian Bridge Implementation Plan

Within the time established therefor in the Schedule of Performance (Attachment No. 3), the Developer shall: (1) prepare and adopt a detailed financing, construction, operation and disposition plan (the "Bridge Implementation Plan"), including without limitation substantially the terms and conditions contained in the River Pedestrian Bridge Term Sheet which is incorporated herein and attached hereto as Attachment No. 8; and (2) use diligent and good faith efforts to identify, structure and obtain firm commitments by all public and private entities necessary or appropriate for its implementation. The Bridge Implementation

Plan, and the identity, structure and commitments by such entities, shall be subject to approval by the Agency.

R. [§ 718] Public Use Leases to City

Within the times established respectively therefor in the Schedule of Performance (Attachment No. 3), the Developer shall use diligent and good faith efforts to enter into leases with the City, for the City to lease from the Developer certain portions of Parcels A, B and C needed for public parking. Each lease shall contain terms and conditions substantially in the form of the "Public Use Lease" which is incorporated herein and attached hereto as Attachment No. 13.

Before each Public Use Lease is entered into it shall be completed in accordance with the terms and conditions provided therefor in this Agreement, including without limitation: (1) the form of Public Use Lease (Attachment No. 13), which is prepared for Parcel A, shall be modified where references are to "A", to refer to "B" (as to Parcel B) or "C" (as to Parcel C), as applicable; (2) the Parking Area Description (Exhibit C) to each Public Use Lease shall be completed with a precise map and written description, and attached to the respective Public Use Lease, by the Developer selecting from within the "Available Parking Area" as illustrated on Temporary Exhibit C-1 to Attachment No. 13, for Parcel A, B or C as applicable, subject to the reasonable approval of the City, the location of the Parking Area to be leased (with substantially the area and number of parking spaces set forth in this Section 718), within the applicable Parcel; and (3) the Rent Schedule (Exhibit D) to each Public Use Lease shall be completed by attaching to the respective Public Use Lease, the Temporary Exhibit D-1 to Attachment No. 13, for Parcel A, B or C as applicable.

The use and rental provisions to be completed in the respective Public Use Lease applicable to each Parcel shall be as follows:

1. Parcel A - Parking Area: approximately 158,900 square feet and 454 parking spaces.

 Base Rent A: \$6,306,000.

 First Tier Base Rent A: \$1,145,000.

 Second Tier Base Rent A: \$5,161,000.

2. Parcel B - Parking area: approximately 83,650 square feet and 239 parking spaces.

 Base Rent B: \$3,089,000.

 First Tier Base Rent B: \$3,089,000.

Second Tier Base Rent B: -0-

3. Parcel C - Parking Area: approximately 138,950 square feet and 397 parking spaces.
- Base Rent C: \$5,329,000.
- First Tier Base Rent C: \$2,900,000.
- Second Tier Base Rent C: \$2,429,000.

S. [§ 719] Financing of Public Improvements

1. [§ 720] Public Works Financing Agreement

Within the time established therefor in the Schedule of Performance (Attachment No. 3), the Developer shall use diligent and good faith efforts to enter into a financing agreement with the City which provides for the planning, design, and construction of the Phase I Public Improvements required in connection with the development of the Site, and the financing of such work through either an assessment district or a community facilities district covering the Site. Such financing agreement shall contain terms and conditions substantially in the form of the "Public Works Financing Agreement" which is incorporated herein and attached hereto as Attachment No. 15.

2. [§ 721] Developer Advances

Between the date of this Agreement and the date on which the City receives the proceeds of the assessment district or community facilities district bonds to be issued and sold pursuant to the Public Works Financing Agreement referred to in Section 720, the Developer shall pay or shall advance to the City and/or the Agency, the following sums with respect to the Phase I Public Improvements:

- a. All costs reasonably incurred by the City, the Agency, and/or the Developer in forming the appropriate district and issuing and selling the bonds, including but not limited to the City's (or Agency's) costs incurred in hiring bond counsel, financial consultants, engineers, and underwriters in connection with providing the applicable Public Improvements under this Agreement and/or under the Public Works Financing Agreement; and
- b. All costs reasonably incurred by the City, the Agency, and/or the Developer in the planning, engineering, design, financing, construction, supervision, and inspection of the applicable Public Improvements.

Payments required to be made to the City and/or the Agency shall be made within thirty (30) days after the City or the Agency delivers written invoice to the Developer, together with such supporting documentation as may reasonably be requested by the Developer; provided, however, that the Developer shall not be responsible for paying or advancing to the City or the Agency any amounts for their respective administrative, in-house staff, or overhead expenses, except that the Developer shall be responsible for the cost of staff time (including non-salary personnel benefits as customarily determined by the City or Agency) devoted to the work described herein to be performed by the City and/or the Agency prior to the filing of the notice of completion accepting and approving each portion of the Public Improvements (with respect to such portion of the Public Improvements).

3. [§ 722] Permanent Financing by Developer

In the event that: (a) the Developer is unable despite diligent and good faith efforts, and within the time established therefor in the Schedule of Performance (Attachment No. 3), to enter into the Public Works Financing Agreement with the City, as referred to in Section 720; or (b) the City fails or refuses to form an assessment district to finance any of the Public Improvements required for development of the Site in accordance with the Scope of Development (Attachment No. 4) and the Public Works Financing Agreement, or (c) the City fails or refuses to issue and sell the bonds in conformance with the time set forth in the Public Works Financing Agreement, then the Developer shall privately finance the Phase I Public Improvements and keep this Agreement in full force and effect, subject to the Developer's ability to obtain financing for the Phase I of Public Improvements in accordance with Section 214 in connection with (and deemed under this Agreement to be included within) its financing for the Development Parcel with which such Public Improvements are to be constructed.

4. [§ 723] Option of Agency to Finance and/or Construct

Notwithstanding Sections 720 through 722 hereinabove, the Agency shall have the right to attempt to obtain financing for all or part of the Public Improvements to be constructed under the Scope of Development (Attachment No. 4). Such financing may come from any federal, state or local grant and/or loan to the Agency or City, whose terms and conditions are consistent with this Agreement, or with respect to which this Agreement may be amended to be consistent, and keep the Developer substantially in its same economic position hereunder.

The Developer agrees to cooperate with the Agency and assist the Agency and/or City as reasonably necessary to apply for, obtain and/or implement any such grant or loan, including without

limitation consent to any amendments to this Agreement meeting the criteria above. In the event the Agency determines it is necessary or appropriate in connection with obtaining a grant and/or loan as referred to above, the Agency may, at its election, assume the obligation to construct and install any or all of the applicable Public Improvements, in which case the Developer shall be released from such obligation.

The Agency's election to finance and/or construct any Public Improvements under this Section shall only be valid if written notice of such election is delivered to the Developer: (1) with respect to Phase I Public Improvements, at least sixty (60) days before the date established herein for the Developer to enter into the Public Works Financing Agreement (referred to in Section 720) with the City; and (2) with respect to Phase II Public Improvements, at least one hundred twenty (120) days before the date established in the Schedule of Performance (Attachment No. 3) for the Developer to submit to the Agency the Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for Parcel E-3; or (3) as otherwise mutually agreed by the Agency and the Developer.

VIII. [§ 800] ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

This Agreement shall be executed in five duplicate originals each of which is deemed to be an original. This Agreement includes sixty (60) pages and fifteen (15) attachments which constitute the entire understanding and agreement of the parties.

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the Site.

None of the terms, covenants, agreements or conditions set forth in this Agreement shall be deemed to be merged with any Grant Deed conveying title to a Sales Parcel and this Agreement shall continue in full force and effect with respect to each such Sales Parcel until after recordation of a Certificate of Completion for the applicable Sales Parcel as provided in Section 324.

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the Agency or the Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of the Agency and the Developer. This Agreement and any provisions hereof may be amended by mutual written agreement by the Developer and the Agency and such amendment shall not require the consent of any other fee owner, tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust, or any other person or entity having an interest in the Site, except as otherwise expressly provided in this Agreement.

IX. [§ 900] TIME FOR ACCEPTANCE OF AGREEMENT BY AGENCY; DATE OF AGREEMENT

This Agreement, when executed by the Developer and delivered to the Agency, must be authorized, executed and delivered by the Agency within sixty (60) days after this Agreement is signed by the Developer, or this Agreement may be terminated by the Developer on written notice to the Agency. The date of this Agreement shall be the date it is signed by the Agency.

LANDGRANT DEVELOPMENT UNLIMITED,
A California Corporation
(Developer)

Date: May 28th

By: [Signature]

Name: C. Sam Maraso

Title: President

Date: 5/28/98

By: [Signature]

Name: CARIS SMITH

Title: EX V.P.

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO (Agency)

Date: 5-29-98

By: [Signature]

Patricia K. Hightman
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY
ON THIS 1st day of JUNE, 1998.

CASEY GWINN
Agency General Counsel

By: [Signature]
Allisyn L. Thomas, Deputy

APPROVED:

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: Bruce D. Ballmer
Bruce D. Ballmer

SITE MAP


CAMINO DE LA PLAZA

BOSTON AVENUE

PARCEL A

TIA JUANA STREET

FLOOD CONTROL CHANNEL

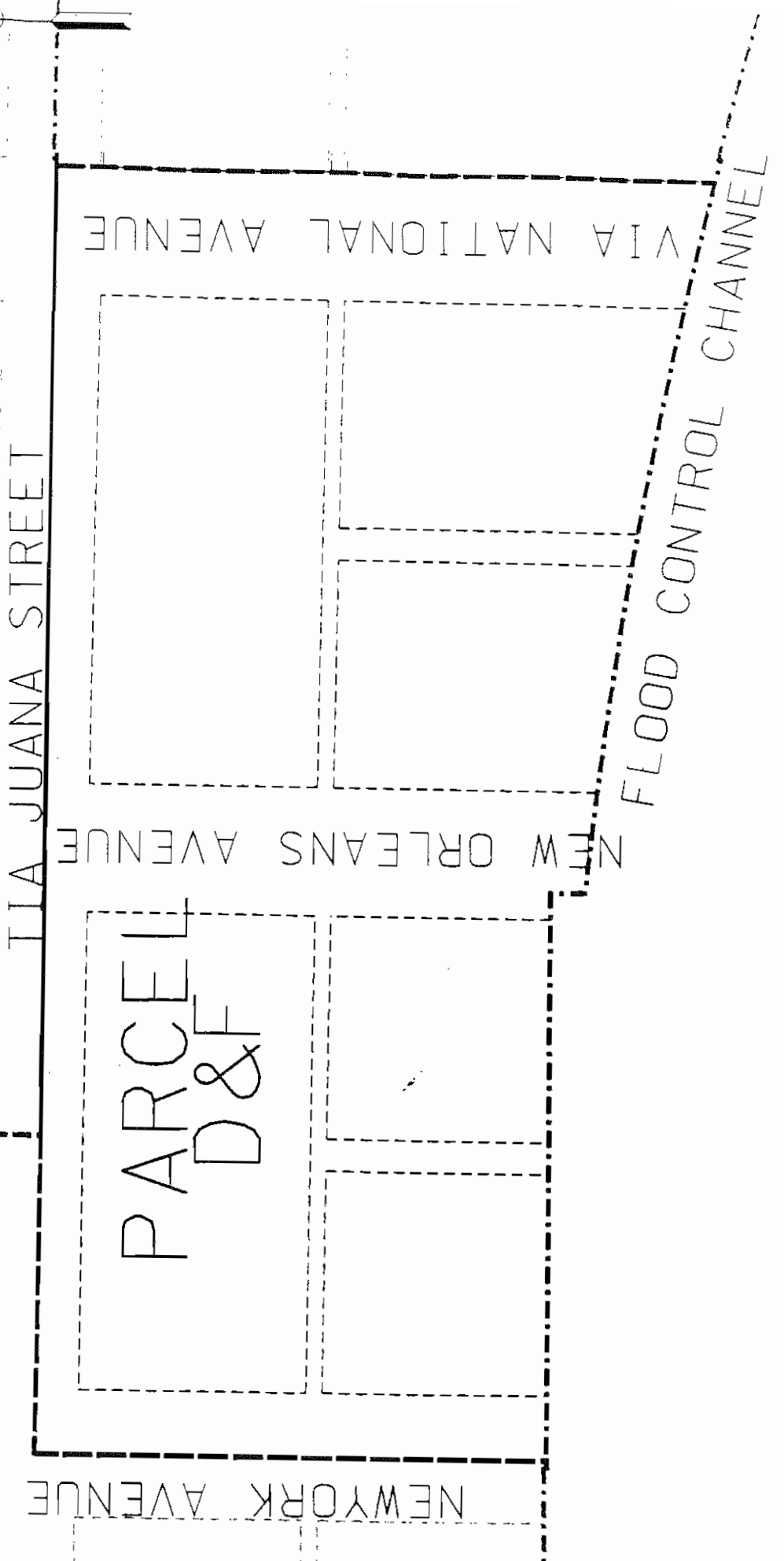
INTERNATIONAL GATEWAY OF THE AMERICAS		SCALE 1" = 300'
DEVELOPMENT PARCEL A RETAIL		CONTRACT NO. DRAWING NO./SHEET NO.
 LANDMARK DEVELOPMENT 1000 W. 10th St., Suite 212 Phoenix, AZ 85001-2814 Fax (602) 481-3108		
DESIGNED BY	DATE	
DRAWN BY		
CHECKED BY		
PROJ. ENG.		
NO.	DATE	REVISIONS
		BY CHK APRV


NOTE
 The San Diego Assessor's Map used to produce this exhibit contained the following caveat:
 "This map was prepared for assessment purposes only. No liability is assumed for the accuracy of the data shown. Assessors' information does not comply with local subdivision or building ordinances"

NOTE 1

The San Diego Assessor's Map used to produce this exhibit contained the following caveat:

"This map was prepared for assessment purposes only no liability is assumed for the accuracy of the data shown. Assessor's parcels may not comply with local subdivision or building ordinances."



NO.	DATE	REVISIONS	BY	CHK APPN
DESIGNED BY	DATE			
DRAWN BY				
CHECKED BY				
PROJ. ENG.				
				
2007 H.P. 2117, 2118, 2119, 2120, 2121, 2122 FROM THE 2007 AGS FOR (S.D.) FOR (S.D.)				
INTERNATIONAL GATEWAY OF THE AMERICAS SCALE 1" = 100' CONTRACT NO. _____ DRAWING NO. (SITE) 1 D - MULTI-MODAL TRANSIT CENTER F - PARKING STRUCTURE & CANDIDATE TROLLEY TERMINUS FOR REDUCED FLOOD CHANNEL SCALE IS IN NOTES				

ATTACHMENT NO. 1A

LEGAL DESCRIPTION

[The legal description for each Development Parcel shall be determined, based upon the Site Map (Attachment No. 1) and the Preliminary Subdivision Map (referred to in Section 704 of the Agreement), by the Final Subdivision Map or Subsequent Parcel Map applicable thereto, as provided for in Section 704 of the Agreement.]

ATTACHMENT NO. 2
METHOD OF FINANCING

I. DEVELOPER'S PURCHASE PRICE

A. Amount of Purchase Price

The Developer shall pay to the Agency the Purchase Price for each Sales Parcel, if any in a specific Development Parcel, as follows:

1. The Developer shall pay for the Sales Parcel within Parcel A the amount of One Hundred Dollars (\$100.00).
2. The Developer shall pay for the Sales Parcel within Parcel B the amount of One Hundred Dollars (\$100.00).
3. The Developer shall pay for the Sales Parcel within Parcel C the amount of One Hundred Dollars (\$100.00).
4. The Developer shall pay for the Sales Parcel within Parcel D the amount of One Hundred Dollars (\$100.00).
5. The Developer shall pay for the Sales Parcel within Parcel E-1 the amount of One Hundred Dollars (\$100.00).
6. The Developer shall pay for the Sales Parcel within Parcel E-2 the amount of One Hundred Dollars (\$100.00).
7. The Developer shall pay for the Sales Parcel within Parcel E-3 the amount of One Hundred Dollars (\$100.00).
8. The Developer shall pay for the Sales Parcel within Parcel E-4 the amount of One Hundred Dollars (\$100.00).

B. Payment of Purchase Price for Each Sales Parcel

The Purchase Price to be paid for all Sales Parcels within the Parcels to be acquired from the Agency by the Developer shall be deposited into the escrow (Section 202 of this Agreement) within the time and in the manner required by the Schedule of Performance

(Attachment No. 3), to be disbursed to the Agency upon the conveyance of title or possession of all Sales Parcels within the Parcels to the Developer.

II. DEVELOPER'S ADVANCE OF FUNDS

A. Advances by Developer

1. Letter(s) of Credit

Within the times established respectively therefor in the Schedule of Performance (Attachment No. 3), the Developer shall: (a) deliver to the Agency an unconditional irrevocable letter of credit with respect to the Added Sales Parcels in the amount of One Hundred Thousand Dollars (\$100,000) (the "Acquisition Letter of Credit"); and (b) increase or provide a substitute for the Acquisition Letter of Credit in a manner which provides an additional amount of Three Million Dollars (\$3,000,000). The initial Acquisition Letter of Credit in the amount of \$100,000 shall be used for inspecting and testing the condition of the properties (including contamination and geology), title work, appraisals and other related work preparatory to making offers to acquire the Added Sales Parcels.

The Acquisition Letter of Credit shall be issued by a financial institution or institutions acceptable to the Agency. The form of the Acquisition Letter of Credit shall be satisfactory to the Agency and its Counsel. Within thirty (30) days after written request therefor from the Agency, the Developer shall cause the amount of any Acquisition Letter of Credit to be increased, or a substitute Acquisition Letter of Credit to be issued, to raise the amount available to the Agency for the purposes for which draws may be used hereunder to amounts reasonably estimated by the Agency from time to time. The Agency shall use advances on the Acquisition Letter of Credit only to pay costs and expenses set out in Section II.A.3. below (and in Section 702). The Executive Director of the Agency, or his written designee, shall be authorized to make calls upon the Acquisition Letter of Credit as provided in this Section II.A. Any Acquisition Letter of Credit shall be renewed or a new Acquisition Letter of Credit delivered to the Agency at least thirty (30) days prior to its expiration or the Agency shall have the right to draw on the Acquisition Letter of Credit and hold and use the cash for the purposes specified herein.

The Agency shall give the Developer at least fifteen (15) days written notice of each call the Agency proposes to make on the Acquisition Letter of Credit. The Agency further shall provide Developer with detailed written reports at least once every two (2) months following the first call upon the Acquisition Letter of Credit by the Agency showing the specific nature and amount of each and every call made on said Acquisition Letter of Credit. The

Agency shall cooperate with the Developer and economically carry out its obligations under this Agreement in such a manner as to conserve the uncalled balance of the Acquisition Letter of Credit consistent with the purposes and objectives of this Agreement.

If, after payment of all costs and expenses properly incurred by the Agency pursuant thereto, there is any remaining balance in the Acquisition Letter of Credit, the Agency shall return to the Developer such uncalled balance remaining in the Acquisition Letter of Credit.

If this Agreement is terminated prior to the date the Agency has obtained title to all the properties within the Added Sales Parcels, then any balance in the Acquisition Letter of Credit not needed by the Agency to pay its obligations theretofore incurred in connection with the Added Sales Parcels shall be returned to the Developer, and any amounts which were deposited into court in connection with an action in eminent domain shall be repaid to the Developer as rapidly as the release of said amounts from the court can reasonably be effected. In the event the Agency is unable to recover any amounts which were deposited into court from the court or the property owner, the Agency agrees to diligently proceed with any eminent domain action until final judgment and to repay such unrecovered amounts as set forth in Section II.C. hereinbelow.

Any advances made to the Agency by the Developer pursuant to the Acquisition Letter of Credit (each an "Acquisition Advance"), shall be repaid by the Agency as set forth in Section II.C. herein below.

2. Cash or Cash Equivalents

Within the times established respectively in the Schedule of Performance (Attachment No. 3) for the Developer and Agency to execute and cause to be recorded the applicable Loan Agreement related thereto, the Developer shall advance to the Agency by depositing with the Agency in cash, or cash equivalents, the following amounts (each an "Acquisition Loan", and the Acquisition Loan related to each Parcel also denominated by its Parcel letter, such as the "Parcel A Loan" for the Acquisition Loan related to Parcel A, etc.):

<u>Acquisition Loan</u>	<u>Principal Amount</u>
Parcel A Loan	\$1,780,000
Parcel B Loan	\$ 650,000
Parcel C Loan	\$1,226,000
Parcel D Loan	\$ 70,000
Parcel E-1 Loan	\$ 720,000
Parcel E-2 Loan	\$ 455,000

Parcel E-3 Loan	\$ 990,000
Parcel F Loan	\$1,160,000

Such Acquisition Loans shall be repaid by the Agency as set forth in the Loan Agreements provided for in Section III.A. of this Method of Financing.

3. Uses of Draws on Acquisition Letter of Credit

The Agency shall make draws on the Acquisition Letter of Credit for the following purposes with respect to the applicable Added Sales Parcels:

a. Actual Amounts Paid to Present Owners and Occupants

The actual acquisition price paid to acquire all interests in any Added Sales Parcel, including but not limited to, amounts paid for the fee and improvements thereon (including underlying interests in adjacent streets not part of the Added Sales Parcel), leaseholds, tenants' improvements, fixtures and equipment, loss of goodwill, and administrative expenses, as reasonably determined by the Agency or its designated representative, or by a court of competent jurisdiction pursuant to the exercise of the power of eminent domain by the Agency, to be Agency obligations in connection with the acquisition, including all reasonable costs, attorneys' fees, appraiser or other expert witness fees which the Agency may be compelled by the court to pay present owners.

b. Expenses of Acquisition

Expenses of acquisition incurred by the Agency with respect to properties within any Added Sales Parcel, which shall consist of the following items (to the extent borne by the Agency):

- (1) Fees and actual expenses of acquisition agents;
- (2) Fees and actual expenses of attorneys, appraisers, engineers and other experts the employment of which is reasonably necessary to effect the acquisition of any Added Sales Parcel;
- (3) Court costs and fees required to prosecute an action in eminent domain, if required;
- (4) Costs necessary to place the title to each property acquired in a condition for conveyance to the Agency;
- (5) The entire escrow fee for each property acquired;

- property acquired;
- (6) The cost of drawing the deed for each
 - (7) Recording fees, if any;
 - (8) Notary fees and premiums for title insurance policies;
 - (9) Any state, county or city documentary stamps or transfer tax;
 - (10) Appraisal fees;
 - (11) Toxics analysis and soils testing;
 - (12) Costs necessary for maintenance of the properties comprising any Added Sales Parcel, or portion thereof, acquired by the Agency.

c. Expenses of Relocation

Costs and expenses incurred by the Agency to relocate occupants from any Added Sales Parcel (including, but not limited to, relocation payments made to displaced persons and businesses, pre- or post-relocation rental payments, fees and actual expenses of attorneys, relocation consultants and other experts employed to effect the relocation Of occupants, preparation of relocation plans, and administrative overhead) as reasonably determined by the Agency in connection with the relocations.

d. Expenses of Administration

Expenses of administration (excluding general overhead) incurred by the Agency with respect to properties within any Added Sales Parcel and the Development Parcel of which it is a part, including but not be limited to the following items:

- (1) The cost of administration incurred by the Agency in the negotiation, preparation, implementation and administration of agreements necessary to effect the acquisition of the properties comprising any Added Sales Parcel or Agreed Sales Parcel, and the relocation of occupants from the Site.
- (2) Fees and actual expenses of attorneys, financial consultants, engineers and other experts, the employment of which is reasonably necessary to effect the acquisition of the properties comprising

any Added Sales Parcel or Agreed Sales Parcel, and the relocation of occupants from the Site.

The Developer shall have the right, at its cost and expense, to inspect (once each calendar year) the books and records of the Agency as they pertain to the determination of the expenses of administration hereunder. Such right shall not excuse or delay the timely payment of the expenses as otherwise provided herein. This right to inspect shall terminate one year after issuance of a Certification of Completion by the Agency for the applicable Development Parcel.

4. Uses of Acquisition Loan Proceeds

The Agency shall use the proceeds of the Acquisition Loans for Parcels A, B and C, above the amount needed to refinance the Acquisition Advances for all Added Sales Parcels (referred to in Section II.C.1. below), to pay the purchase price to acquire certain Agreed Sales Parcels within Parcel A pursuant to the Purchase Agreement as referred to in Section 716 of this Agreement. The proceeds to be used to pay for each such Agreed Sales Parcel by the Agency shall be delivered to the Agency concurrently with closing of the mortgage loan and/or other financing for the development of Parcels A, B and C, and then to the concurrent escrow under the Purchase Agreement for delivery to the owners of the applicable Agreed Sales Parcels.

The Agency shall use the proceeds of the Acquisition Loans for Parcels D and E-1, to reimburse to the Developer the purchase price paid by the Developer to acquire certain Agreed Sales Parcels as part of the Participating Parcel within Parcel A, as referred to in Section 703 of this Agreement. The proceeds to be used to reimburse the Developer for each such Agreed Sales Parcel by the Agency shall be transferred to the Developer on the condition of, and concurrently with, execution and recordation of the Loan Agreements for the Parcel D Loan and the Parcel E-1 Loan, and closing of the mortgage loan and/or other financing for the development of Parcels D and E-1.

The Agency shall use the proceeds of the Acquisition Loans for Parcels E-3 and F, to reimburse to the Developer the purchase price paid by the Developer to acquire certain Agreed Sales Parcels as part of the Participating Parcel within Parcel A, as referred to in Section 703 of this Agreement. The proceeds to be used to reimburse the Developer for each such Agreed Sales Parcel by the Agency shall be transferred to the Developer on the condition of, and concurrently with, execution and recordation of the Loan Agreements for the Parcel E-3 Loan and the Parcel F Loan, and closing of the mortgage loan and/or other financing for the development of Parcel F.

The Agency shall use the proceeds of the Acquisition Loan for Parcel E-2, to reimburse to the Developer the purchase price paid by the Developer to acquire certain Agreed Sales Parcels as part of the Participating Parcel within Parcel A, as referred to in Section 703 of this Agreement. The proceeds to be used to reimburse the Developer for each such Agreed Sales Parcel by the Agency shall be transferred to the Developer on the condition of, and concurrently with, execution and recordation of the Loan Agreement for the Parcel E-2 Loan and closing of the mortgage loan and/or other financing for the development of Parcel E-2.

B. Promissory Note and Deed of Trust for Acquisition Advances

The following procedures shall be followed for evidencing and securing Acquisition Advances with respect to the Acquisition Letter of Credit.

At the time of the first call upon the Acquisition Letter of Credit, the Agency shall execute and tender to the Developer its promissory note applicable to the Added Sales Parcels, payable to the Developer (the "Acquisition Advance Note"). The Acquisition Advance Note shall be in the amount of the Acquisition Letter of Credit, but shall provide that amounts actually due thereunder shall only be equal at any time to the cumulative amount of Acquisition Advances the Agency has taken by drawing on the Acquisition Letter of Credit. The Acquisition Advance Note shall be cumulative and shall ultimately reflect the total amount of the Acquisition Advances with respect to the Added Sales Parcels. The Acquisition Advance Note shall be periodically endorsed to reflect the specific amounts of Acquisition Advances with respect to such Acquisition Advance Note. The Acquisition Advance Note shall be nonassignable (except to the bank or other entity providing the advance of funds and reassignable from said bank or other entity to the Developer) without consent of the Agency. The Acquisition Advance Note shall bear no interest.

As each property comprising any Added Sales Parcel is acquired by deed or order of immediate possession, the Agency shall record and deliver to the Developer a first deed of trust (each an "Acquisition Trust Deed") securing the Acquisition Advance Note and encumbering the Agency's interest in each such property comprising the Added Sales Parcel. Each Acquisition Trust Deed shall name the Developer as the beneficiary and the Title Company as the trustee, and shall be on the standard short form deed of trust and assignment of rents of the Title Company. Each Acquisition Trust Deed shall refer to the principal amount of the Acquisition Letter of Credit. At the time of delivery of each Acquisition Trust Deed, the Agency shall also deliver to the Developer a title insurance policy insuring the Acquisition Trust Deed in the amount of the acquisition price to the Agency for the encumbered property. The

cost of each recordation and title insurance policy shall be borne by the Developer.

The Agency's Acquisition Advance Note and the Acquisition Trust Deeds shall comprise the security for the Developer's Acquisition Advances.

C. Repayment of Acquisition Advances

1. Upon Conveyance of Sales Parcels

Upon the conveyance of all Sales Parcels (including all Added Sales Parcels therein) within the Parcels to the Developer pursuant to this Agreement, the Developer shall cancel the Acquisition Advance Note and reconvey the Acquisition Trust Deeds that were recorded to secure the principal amount of such Acquisition Advance Note. The Acquisition Advances received by the Agency hereunder with respect to the Added Sales Parcels and the Site, shall be refinanced by the Loan Agreements (Attachment No. 14) to be entered into by the Agency and the Developer concurrently with cancellation of the Acquisition Advance Note, and the Agency shall have no further obligations with respect thereto. Thereafter the Loan Agreements only shall govern.

2. Upon Termination of the Agreement

In the event that prior to the conveyance of all Sales Parcels (including all Added Sales Parcels therein) within the Parcels to the Developer, the Agency or the Developer shall terminate this Agreement, the Acquisition Advance Note shall be all due and payable five hundred forty (540) days after the other party receives written notice of such termination. During the five hundred forty- (540) day period provided for herein, the Agency shall not be deemed to be in default on the Acquisition Advance Note and the Developer shall not be entitled to institute any foreclosure proceedings with respect to any Acquisition Trust Deed, it being the intent of the parties that during said period, the Agency shall have the right to deal freely with the secured properties comprising the Added Sales Parcels, and every part thereof, as appropriate to accomplish its right to resell as provided below in the following paragraph.

During the five hundred forty- (540) day period provided for in the previous paragraph, the Agency shall use diligent and good faith efforts to sell the secured properties comprising the Added Sales Parcels, or any part thereof, as soon and in such manner as the Agency shall find feasible and consistent with the objectives of the Redevelopment Plan to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of making or completing the improvements, or such other improvements in their stead, as shall be satisfactory to the Agency

in accordance with the uses specified for the Added Sales Parcels in the Redevelopment Plan. Upon such resale of the secured properties comprising the Added Sales Parcels, or any part thereof, the proceeds of the sale of such properties shall be applied first to pay the Developer for the amount owing pursuant to the Acquisition Advance Note, and any balance of such proceeds remaining after such payment shall be retained by the Agency as its property.

The Acquisition Advance Note as provided for herein, shall not constitute a debt of the City of San Diego or any other public agency except the Agency, and the City of San Diego shall have no obligation whatsoever with respect to said Acquisition Advance Note. The obligation of the Agency to repay the amount of the Acquisition Advance Note shall be a special obligation of the Agency, payable only from and limited by the availability of funds to the Agency from the proceeds of the resale of the secured properties comprising the Sales Added Parcels, as provided for above in this Section II.C.2. and to that end the Developer shall have a lien on such proceeds to the extent of its interest therein. Nothing herein shall preclude the Agency from repaying the amount of the Acquisition Advance Note, or any part thereof, from any funds lawfully available to the Agency from time to time, provided that the Agency shall not be obligated to do so and this Agreement shall not create a pledge of tax increment or any other funds of the Agency to secure the Acquisition Advance Note (except the proceeds of a resale of the secured properties comprising the Added Sales Parcels, or the applicable portion thereof, as herein specifically set forth). Upon payment by the Agency to the Developer of the full amount of the Acquisition Advance Note, the Developer shall cause the cancellation of such Acquisition Advance Note and the reconveyance of the Acquisition Trust Deeds securing said Acquisition Advance Note. Subject to cancellation of the Acquisition Advance Note and reconveyance of the Acquisition Trust Deeds upon the conveyance of all Sales Parcels to the Developer as set forth in Section II.C.1., above, nothing herein shall be construed to require the Developer to cancel the Acquisition Advance Note or reconvey any Acquisition Trust Deeds except upon receipt of payment in full of the amount of the Acquisition Advance Note.

In the event the Agency has not paid the Developer the full amount of the Acquisition Advance Note within the five hundred forty- (540) day period, the Developer shall have the right to proceed against the land pertaining to such unpaid Acquisition Advance Note, in accordance with the Acquisition Trust Deeds provided by the Agency. Any purchaser of the secured properties comprising the Added Sales Parcels, or any part thereof, in foreclosure shall be required, and the Acquisition Trust Deeds shall so provide, to comply with all the provisions of the Redevelopment Plan and the Agency shall have the right to exercise

any and all of its powers with respect to the secured properties, and each part thereof, under the Redevelopment Plan and the California Community Redevelopment Law.

III. ACQUISITION OF SALES PARCELS

A. Source of Funds

The Agency's responsibilities under this Agreement include the following:

1. use its good faith efforts to acquire all interests in the properties which comprise the Sales Parcels;
2. relocate the occupants therefrom and from the Participating Parcels; and
3. administer those activities.

Notwithstanding the foregoing, the Agency's obligation to use its good faith efforts to acquire all interests in the properties which comprise the Sales Parcels shall be subject to the Agency's making certain findings and adopting a resolution of necessity, in its sole discretion, pursuant to Chapter 4, Article 2 of the California Eminent Domain Law prior to the commencement of an eminent domain action. In the event that the Agency does not make the required findings and adopt a resolution of necessity, or as to the GSA owned Added Sales Parcels, in the event GSA does not agree to, or does not, convey them to the Agency on terms and conditions consistent with this Agreement, then the Agency shall not be obligated to acquire the properties which comprise the Added Sales Parcels and this Agreement may be terminated pursuant to Sections 510 and 511.

The Agency's funds for items (1) through (3) above will come from the Acquisition Advances, and as to the purchase price for the Agreed Sales Parcels from the Acquisition Loans. The Acquisition Loans will also be used to refinance the Acquisition Advances. The Acquisition Loans shall be repaid to the Developer from the sources, over the period, and otherwise in accordance with the terms and conditions of a Loan Agreement for the Acquisition Loan pertaining to each applicable Parcel. Each Loan Agreement shall be substantially in the form of the "Loan Agreement" which is prepared for the Parcel A Loan, and which is incorporated herein and attached hereto as Attachment No. 14, except that before each Loan Agreement is entered into it shall be completed in accordance with the terms and conditions provided therefor in this Agreement, including without limitation: (1) the form of Loan Agreement (Attachment No. 14), which is prepared for Parcel A, shall be modified where references are to "A", to refer to "B" (as to Parcel B) or "C" (as to Parcel C) or otherwise for each applicable Parcel;

(2) the Map (Exhibit A) and Legal Description (Exhibit B) to each Loan Agreement shall be completed with a precise map and legal description, and attached to the respective Loan Agreement; and (3) the Amortization Schedule (Exhibit C) to each Loan Agreement, shall be completed by attaching to the respective Loan Agreement, the Temporary Exhibit C-1 to Attachment No. 14, for each Parcel subject to a Loan Agreement, as applicable. The Loan Agreements shall be executed and acknowledged by the Agency and the Developer, and recorded within the times established respectively therefor in the Schedule of Performance (Attachment No. 3).

B. Description of Added Sales Parcels

The Added Sales Parcels to be acquired by the Agency within each Development Parcel are illustrated generally on Exhibit A to this Method of Financing, and the amount of land therein is estimated to be (subject to refinement by survey prior to acquisition, and adjusting each area by increasing for proposed public rights-of-way, and decreasing for existing public rights-of-way, related to the applicable Added Sales Parcel) approximately as follows:

<u>Development Parcel</u>	<u>Land Area (Square Feet)</u>
Parcel A	None
Parcel B	14,168
Parcel C	170,614 (8,946 is GSA)
Parcel D	None
Parcel E-1	None
Parcel E-2	None
Parcel E-3	69,380 (all is GSA)
Parcel E-4	47,410 (all is GSA)

C. Description of Agreed Sales Parcels

The Agreed Sales Parcels to be acquired by the Agency within Development Parcel A from the proceeds of the Loan Agreements for Development Parcels A, B and C, shall be designated by the Developer from the Participating Parcel within Development Parcel A (and the Agency notified in writing thereof) at least thirty (30) days before the date established in the Schedule of Performance (Attachment No. 3) for the Developer to cause all owners of properties comprising such Agreed Sales Parcels to enter into the Purchase Agreement with the Agency therefor. The amount of land area to be so designated by the Developer as Agreed Sales Parcels shall be determined by subtracting from the Principal Amounts under the three Loan Agreements for Development Parcels A, B and C (that is: \$3,656,000), all actual costs and expenses related to acquiring and relocating occupants from the Added Sales Parcels (referred to in Section II.A.3.a. through d. of this Method of Financing), and from relocating occupants from the Participating Parcels and the

parts thereof designated as Agreed Sales Parcels (referred to in Section 702), and dividing the difference by \$6.00 per square foot. By way of illustration only, the amount of land area within Development Parcel A to be designated as Agreed Sales Parcels pursuant to this paragraph is estimated to be (subject to refinement by survey prior to acquisition, and determination of the actual costs and expenses of acquisition of the Added Sales Parcels and Agreed Sales Parcels (with respect to Agreed Sales Parcels, other than land cost), and relocation from the Site, approximately as follows: \$3,656,000, minus \$3,100,000 (estimated actual applicable costs and expenses of acquisition and relocation), or \$556,000, divided by \$6.00 per square foot, or 92,667 square feet.

The Agreed Sales Parcels identified to be acquired by the Developer within Development Parcel A, as part of the Participating Parcel therein, in contemplation that the Agency reimburse the Developer for its purchase price therefor if the mortgage loan and/or other financing for the development of Parcels D and E-1 closes, shall be designated by the Developer from the Participating Parcel within Development Parcel A (and the Agency notified in writing thereof) at least thirty (30) days before the date established in the Schedule of Performance (Attachment No. 3) for the Developer to cause all owners of properties comprising the Agreed Sales Parcels to be acquired by the Agency within Development Parcel A from the proceeds of the Loan Agreements for Development Parcels A, B and C, to enter into the Purchase Agreement with the Agency therefor. The amount of land area to be designated by the Developer as Agreed Sales Parcels within Development Parcel A pursuant to this paragraph, shall be the Principal Amount of the Parcel D Loan (that is, \$70,000), plus the Principal Amount of the Parcel E-1 Loan (that is: \$720,000), divided by \$6.00 per square foot, or 131,667 square feet.

The Agreed Sales Parcels identified to be acquired by the Developer within Development Parcel A, as part of the Participating Parcel therein, in contemplation that the Agency reimburse the Developer for its purchase price therefor if the mortgage loan and/or other financing for the development of Parcel F closes, shall be designated by the Developer from the Participating Parcel within Development Parcel A (and the Agency notified in writing thereof) at least thirty (30) days before the date established in the Schedule of Performance (Attachment No. 3) for the Developer to cause all owners of properties comprising the Agreed Sales Parcels to be acquired by the Agency within Development Parcel A from the proceeds of the Loan Agreements for Development Parcels A, B and C, to enter into the Purchase Agreement with the Agency therefor. The amount of land area to be designated by the Developer as Agreed Sales Parcels within Development Parcel A pursuant to this paragraph, shall be the Principal Amount of the Parcel E-3 Loan (that is: \$990,000), plus the Principal Amount of the Parcel F Loan (that is: \$1,160,000), divided by \$6.00 per square foot, or 358,333

square feet.

The Agreed Sales Parcels to be acquired by the Developer within Development Parcel A, as part of the Participating Parcel therein, in contemplation that the Agency reimburse the Developer for its purchase price therefor if the mortgage loan and/or other financing for the development of Parcel E-2 closes, shall be designated by the Developer from the Participating Parcel within Development Parcel A (and the Agency notified in writing thereof) at least thirty (30) days before the date established in the Schedule of Performance (Attachment No. 3) for the Developer to cause all owners of properties comprising the Agreed Sales Parcels to be acquired by the Agency within Development Parcel A from the proceeds of the Loan Agreement for Development Parcels A, B and C, to enter into the Purchase Agreement with the Agency therefor. The amount of land area to be designated by the Developer as Agreed Sales Parcels within Development Parcel A pursuant to this paragraph, shall be the Principal Amount of the Parcel E-2 Loan (that is: \$455,000), divided by \$6.00 per square foot, or 75,833 square feet.

If, prior to the acquisition by the Developer of the Sales Parcels in accordance with the Agreement, the actual costs and expenses of acquiring the Added Sales Parcels and the Agreed Sales Parcels change from those estimated at the time of the designation by the Developer of the Agreed Sales Parcels in Parcel A to be purchased by the Agency and the portions of the Participating Parcel in Parcel A to be purchased by the Developer in contemplation of later reimbursement from the Agency from the Acquisition Loans for Parcels D, E-1, E-2, E-3 and F, then the Developer shall make reasonable adjustments to such designations so as to cause, as nearly as reasonably possible, the appropriate square footage's of Parcel A to be purchased in each category in accordance with the formula set forth in this Section III.C. In connection with such adjustments, the Developer (with the consent of the Agency, which shall not be unreasonably withheld) shall amend the existing Purchase Agreement for portions of the Participating Parcel in Parcel A, or shall enter into a new Purchase Agreement for portions of the Participating Parcel in Parcel A, as appropriate.

IV. ADDITIONAL DEVELOPER FINANCING COMPONENTS AT CLOSING

A. Parcels A, B and C

Concurrently with the closing of the mortgage loan and/or other financing for the development of Parcels A, B and C, and as part of the Developer's second submission of evidence of financing with respect thereto (referred to in Section 214 of the Agreement), the Developer shall complete the following actions:

1. The rights to receive all Rent provided for in Article 1 of the Public Use Lease for Parcel B shall be assigned to or for the benefit of the Developer of Parcel A, by instrument reasonably satisfactory to the Agency (by its Executive Director or his designee).
2. The rights to receive a prorata portion of payments (including interest) by the Agency on account of Principal Amount B under the Loan Agreement pertaining to the Parcel B Loan, shall be assigned to or for the benefit of the Developer of Parcel A, based upon the proportion of \$160,000 to Principal Amount B, by instrument reasonably satisfactory to the Agency (by its Executive Director or his designee).
3. The rights to receive all Rent provided for in Article 1 of the Public Use Lease for Parcel C shall be assigned to or for the benefit of the Developer of Parcel A, by instrument reasonably satisfactory to the Agency (by its Executive Director or his designee).
4. The rights to receive all payments (including interest) by the Agency on account of Principal Amount C under the Loan Agreement pertaining to the Parcel C Loan, shall be assigned to or for the benefit of the Developer of Parcel A, by instrument reasonably satisfactory to the Agency (by its Executive Director or his designee).
5. A lump sum capital payment of \$200,000 shall be made on account of Parcel C to or for the benefit of the Developer of Parcel A, towards the development costs of Parcel A.

Notwithstanding any other provision of this Agreement, the Developer may elect, by delivering to the Agency written notice thereof concurrently with submission to the Agency of the Developer's second submission of evidence of financing (referred to in Section 214) with respect to Parcels A, B and C, to treat Parcels A, B and C as one consolidated parcel under this Agreement, provided that the Developer is in full compliance with this Agreement with respect to all of such Parcels at the time of the election. This election may only be made if the consolidated parcel is to be owned, developed, financed, held, operated and transferred as a whole, single development (subject to the sale, transfer, conveyance or assignment of individual pads in accordance with Section 316), as evidenced by an instrument reasonably satisfactory to the Agency (by its Executive Director or his designee).

designee). In the event of such an election, the Public Use Leases and Loan Agreements applicable to Parcels A, B and C shall be consolidated into one Public Use Lease and one Loan Agreement for the consolidated parcel, by summing the components of each Public Use Lease and each Loan Agreement so the totals for all three remain the same, and by making other conforming changes in the consolidated documents as the context may require.

B. Parcels D and E-1

Concurrently with the closing of the mortgage loan and/or other financing for the development of Parcels D and E-1, and as part of the Developer's second submission of evidence of financing with respect thereto (referred to in Section 214 of the Agreement), the Developer shall complete the following actions:

1. The rights to receive all payments (including interest) by the Agency on account of Principal Amount D under the Loan Agreement pertaining to the Parcel D Loan, shall be assigned to or for the benefit of the Developer of Parcel E-1, by instrument reasonably satisfactory to the Agency (by its Executive Director or his designee).
2. A lump sum capital payment of \$1,290,000 shall be made on account of Parcel D to or for the benefit of the Developer of Parcel E-1, towards the development costs of Parcel E-1.

C. Parcels E-3, F and/or E-2

Concurrently with the closing of the mortgage loan and/or other financing for the development of Parcel E-3, and as part of the Developer's second submission of evidence of financing with respect thereto (referred to in Section 214 of the Agreement), the Developer shall complete the following action:

1. The Developer shall pay to the Agency as Additional Purchase Price for the Sales Parcel within Parcel E-3 the amount of \$658,000.

Concurrently with the closing of the mortgage loan and/or other financing for the development of Parcel F, and as part of the Developer's second submission of evidence of financing with respect thereto (referred to in Section 214 of the Agreement), the Developer shall complete the following action:

1. The rights to receive all payments (including interest) by the Agency on account of Principal Amount E-3 under the Loan Agreement pertaining to the Parcel E-3 Loan, shall be assigned to or for

the benefit of the Developer of Parcel F, by instrument reasonably satisfactory to the Agency (by its Executive Director or his designee).

Concurrently with the closing of the mortgage loan and/or other financing for the development of Parcel E-2, and as part of the Developer's second submission of evidence of financing with respect thereto (referred to in Section 214 of the Agreement), the Developer shall complete the following action:

1. None.

SAN YSIDRO INVESTMENT CO INC.

NO.	APN	OWNER	ACRES	USE
1	666-272-12	WARREN H. OAKLAND	0.08	UNDEVELOPED
2	666-281-28	ALPHANSO LOPEZ	0.161	DEVELOPED
3	666-281-33	EDMUND WELCH	0.103	UNDEVELOPED
4	666-282-15	BAJA MEX INSURANCES SERVICES	0.40	DEVELOPED
5	666-342-31	BAJA MEX INSURANCES SERVICES	0.383	UNDEVELOPED
6	666-282-11	FRAZEE SAN YSIDRO PROP. L.T.O.	0.414	DEVELOPED
7	666-281-810	SAN YSIDRO INVESTMENTS, INC.	0.984	UNDEVELOPED
8	666-272-04	WARREN H. OAKLAND	0.58	UNDEVELOPED
9	666-272-10	SAN YSIDRO INVESTMENTS, INC.	0.08	UNDEVELOPED
10	666-281-04	EMILIO VERONICO BLANCARTE	0.161	DEVELOPED
11	666-281-03	JULIAN M. GARCIA	0.08	UNDEVELOPED
12	666-281-02	JULIAN M. GARCIA	0.161	DEVELOPED
13	666-341-06	U.S. GOVERNMENT	0.33	UNDEVELOPED

TOTAL - 3.95 ACRES

NOTE

The San Diego Assessor's Map used to produce this exhibit contained the following caveat:
 "This map was prepared for assessment purposes only no liability is assumed for the accuracy of the data shown. Assessor's parcels may not comply with local subdivision or building ordinances"

CAMINO DE LA PLAZA

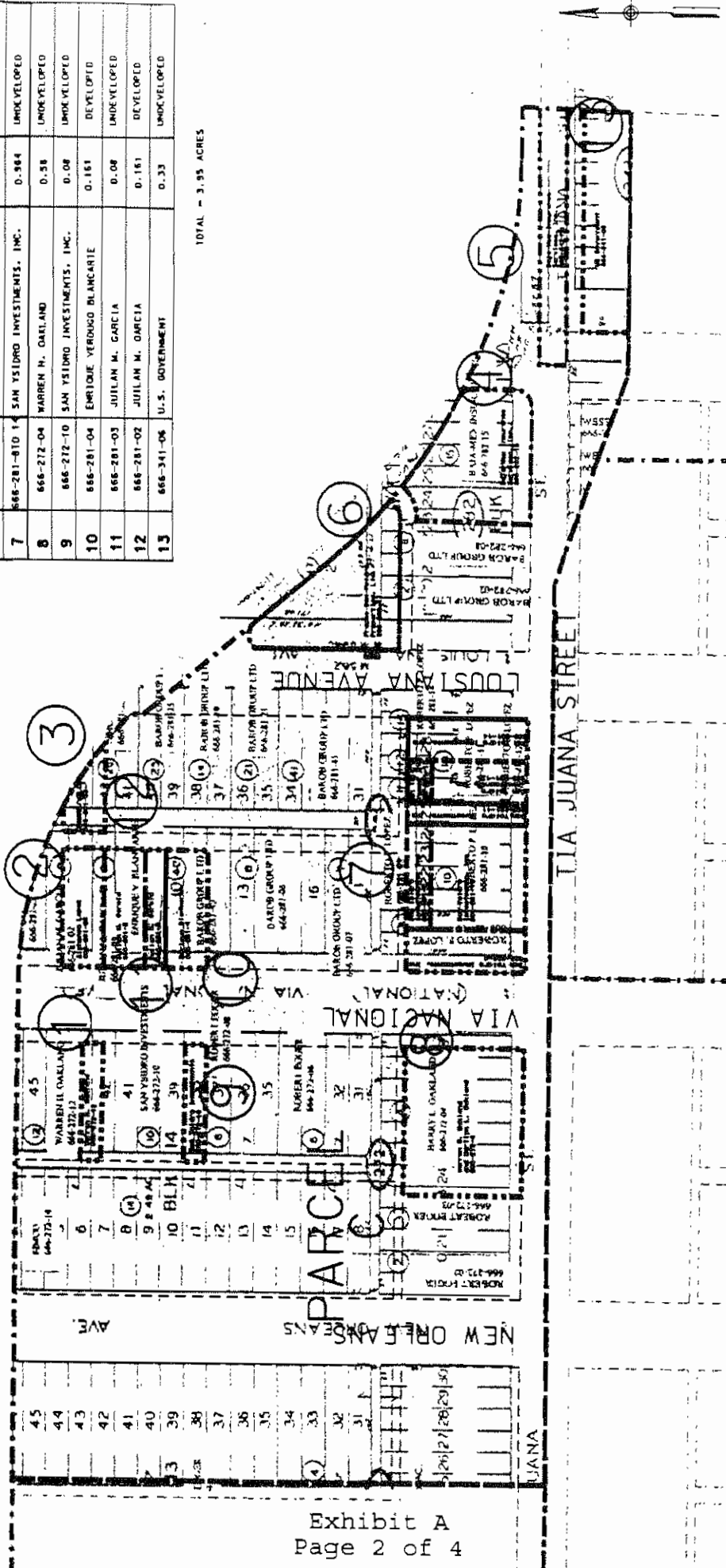


Exhibit A
Page 2 of 4

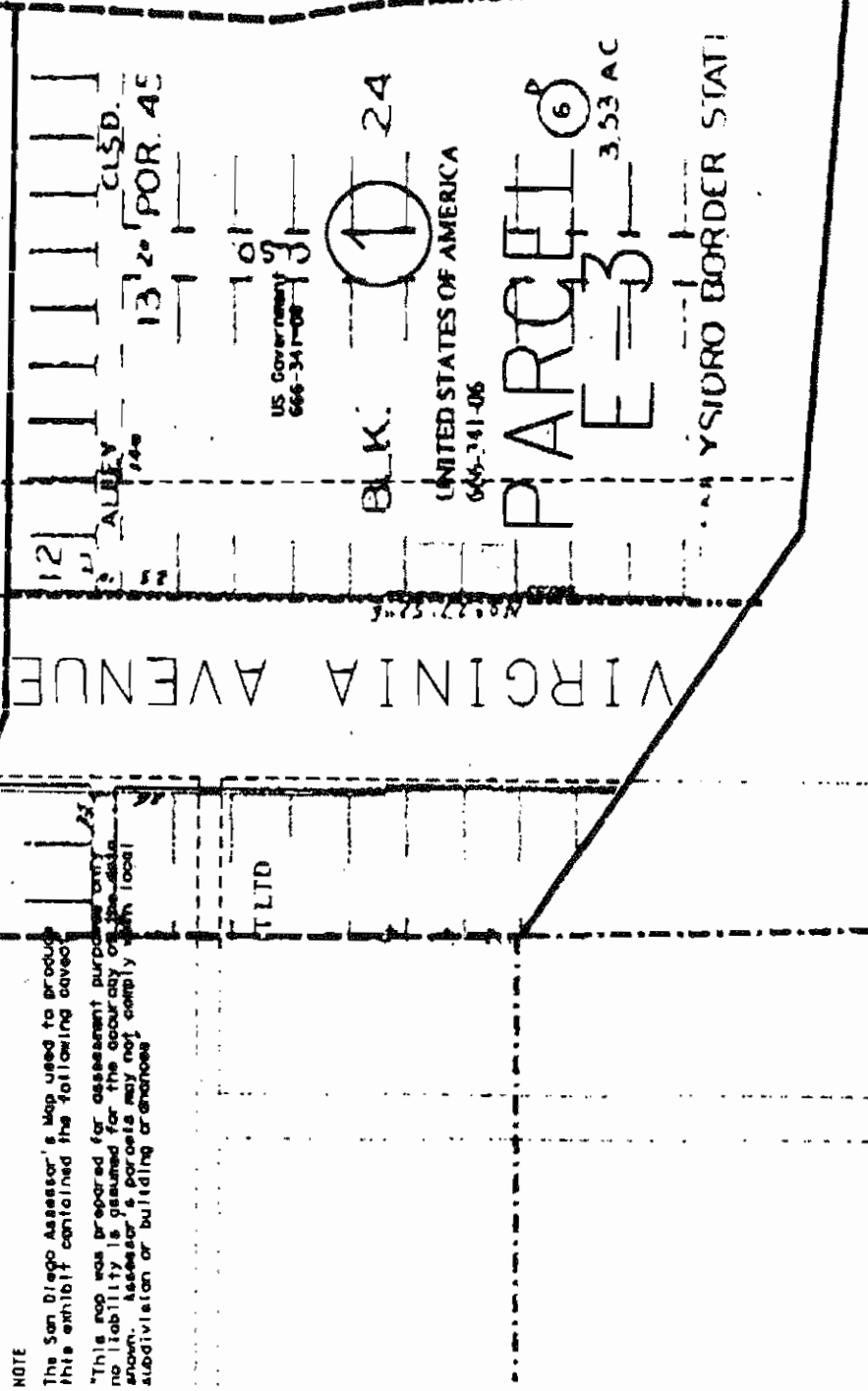
DESIGNED BY	DATE	INTERNATIONAL GATEWAY OF THE AMERICAS	SCALE 1" = 165'
DRAWN BY		ADDED SALES PARCELS	CONTRACT NO.
CHECKED BY		DEVELOPMENT PARCEL C	DRAWING NO/SHEET
PREP. ENG.		RETAIL	
NO. DATE	REVISIONS	BY	CHK

FOR REDUCED PLANS
ORIGINAL SCALE IS IN INCHES

TIA JUANA STREET

NO.	APN	OWNER	ACRES	USE
1	666-341-06	U.S. GOVERNMENT	2.22	

TOTAL = 2.22 ACRES



NOTE
The San Diego Assessor's Map used to produce this exhibit contained the following caveat:
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NO.	DATE	REVISIONS	BY	FOR

DESIGNED BY: []
 DRAWN BY: []
 CHECKED BY: []
 DATE: []

INTERNATIONAL GATEWAY OF THE AMERICAS
 BORDER TALKS PARCELS
 DEVELOPMENT MODEL E-3
 HOTEL/COMMERCE CENTER
 SCALE: 1" = 40'
 CONTRACT NO. []
 RECORDING/PROJECT NO. []



NO.	APN	OWNER	ACRES	USL
1	666-341-06	U.S. GOVERNMENT	1.09	

TOTAL = 1.09 ACRES

NOTE
 The San Diego Assessor's Map used to produce this exhibit contained the following caveat:
 "This map was prepared for assessment purposes only. No liability is assumed for the accuracy of the data shown. Assessor's parcels may not comply with local subdivision or building ordinances."

VIRGINIA AVENUE

SAN YSIDRO BORDER STATION

PARCEL E-14


POR. 30

29 20

140

U.S. / MEXICO BORDER

LOCATION OF FUTURE IMPROVEMENTS MAY CHANGE.

NO.	DATE	REVISIONS	BY	CHK	APRN	
DESIGNED BY		DATE				
DRAWN BY						
CHECKED BY						
PRJ. ENG.						
 <small>1985 San Diego State University Dept. of Planning Room 1010, 1616 La Jolla Village Drive, San Diego, CA 92161 Phone: (619) 481-3108</small>						
INTERNATIONAL GATEWAY OF THE AMERICAS ADDED SALES PARCELS			SCALE 1" = 60'			
CONTRACT NO.			DRAWING NO.			
DEVELOPMENT PARCEL E-4 UNIVERSITY/CULTURAL CENTER			FOR REVISION PLAN			
CONTRACT NO.			DRAWING NO.			
CONTRACT NO.			DRAWING NO.			

ATTACHMENT NO. 3

SCHEDULE OF PERFORMANCE

I. GENERAL PROVISIONS

1. Execution of Agreement by Agency. Agency shall hold a public hearing on this Agreement, shall authorize execution and execute this Agreement, and shall deliver this Agreement to Developer. Within sixty (60) days after the Agreement is executed by Developer and submitted to Agency.
2. Submission - Basic Concept Drawings. Developer shall submit to Agency for approval the Basic Concept Drawings and related documents for the Site. Prior to or concurrent with submission of the executed Agreement by Developer.
3. Approval - Basic Concept Drawings. Agency shall approve or disapprove the Basic Concept Drawings and related documents for the Site. Prior to or concurrent with execution of the Agreement by Agency.
4. Evidence of Predevelopment Financing. Developer shall submit to Agency, Developer's first submission of evidence of financing referred to in Section 214 of this Agreement with respect to the entire Site. Prior to or concurrent with submission of the executed Agreement by Developer.
5. Approval of Predevelopment Financing. Agency shall approve or disapprove Developer's first submission of evidence of financing and shall so notify Developer. Prior to or concurrent with execution of the Agreement by Agency.

II. PREDEVELOPMENT ACTIVITIES

1. Obtaining Bi-National Authorization for River Pedestrian Bridge. Agency (and City) and Developer shall commence and diligently attempt to obtain Bi-National Authorization for the River Pedestrian Bridge (referred to in Section 708). On or before September 30, 1998.
2. Submission - Master Architect and Civil Engineer. Developer shall submit to Agency for approval the name and qualifications of its Master Architect and Civil Engineer. Within thirty (30) days after Bi-National Authorization for the River Pedestrian Bridge.
3. Approval - Master Architect and Civil Engineer. Agency (by its Executive Director or his designee) shall approve or disapprove the Master Architect and Civil Engineer. Within fifteen (15) days after receipt of the name and qualifications of the Master Architect and Civil Engineer by Agency.
4. Submission - Overall Schematic Drawings and Design Criteria. Developer shall prepare and submit to Agency for approval Overall Schematic Drawings and Design Criteria for the Site. Within three hundred (300) days after Bi-National Authorization for the River Pedestrian Bridge.
5. Approval - Overall Schematic Drawings and Design Criteria. Agency shall approve or disapprove the Overall Schematic Drawings and Design Criteria for the Site. Within two hundred seventy (270) days after receipt by Agency.

6. Preliminary Subdivision Map. Developer shall commence (concurrently with submission of Overall Schematic Drawings and Design Criteria to Agency), and diligently attempt to obtain approval from the City of the Preliminary Subdivision Map with respect to the Site (referred to in Section 704).
On or before the date established herein for approval by Agency of the Overall Schematic Drawings and Design Criteria for the Site.
7. Public Works Financing Agreement. Developer shall commence negotiations with the City, and diligently attempt to enter into the Public Works Financing Agreement with the City (referred to in Section 720).
On or before the date established herein for approval by Agency of the Overall Schematic Drawings and Design Criteria for the Site.
8. City Permit Package. Developer shall commence and diligently attempt to obtain approval from the City of the City Permit Package with respect to the Site (referred to in Section 710).
On or before the date established herein for approval by Agency of the Overall Schematic Drawings and Design Criteria for the Site.
9. Submission - Proposal for GSA Cooperation Agreement. Agency shall prepare and submit to GSA a proposal for a GSA Cooperation Agreement (referred to in Section 712).
Within thirty (30) days after Bi-National Authorization for the River Pedestrian Bridge.
10. GSA Agreement to Negotiate. Agency shall diligently attempt to obtain a commitment by GSA to negotiate a GSA Cooperation Agreement.
Within two hundred ten (210) days after Bi-National Authorization for the River Pedestrian Bridge.
11. GSA Cooperation Agreement. Agency shall commence and diligently attempt to enter into a GSA Cooperation Agreement.
Within thirteen (13) months after Bi-National Authorization for the River Pedestrian Bridge.

III. PROPERTY ACQUISITION
RELOCATION AND SITE ASSEMBLY

1. Delivery of Developer's Advance. Developer shall deliver to Agency its Acquisition Letter of Credit pertaining to the Added Sales Parcels (referred to in Section II.A.1. of the Method of Financing), and the Agreed Sales Parcels and Participating Parcels (referred to in Section 702).

With respect to the initial Acquisition Letter of Credit in the amount of \$100,000, within fifteen (15) days after Bi-National Authorization for the River Pedestrian Bridge.

With respect to the increase in or substitute Acquisition Letter of Credit providing an additional \$3,000,000, at least fifteen (15) months prior to the date established herein for conveyance of all Sales Parcels within the Parcels to Developer.
2. Agency - Commencement of Acquisition of Added Sales Parcels. Subject to the prior satisfaction of all conditions precedent required by law, Agency shall commence and diligently prosecute the acquisition and obtaining possession of the real properties comprising the Added Sales Parcels.

Within fifteen (15) days after receipt of the increase in or substitute Acquisition Letter of Credit providing an additional \$3,000,000, by Agency.
3. Purchase Agreement for Agreed Sales Parcels. Developer shall cause all owners of properties comprising the Agreed Sales Parcels within each Development Parcel, as applicable, to enter into the Purchase Agreement with the Agency therefor (referred to in Section 716).

Within fifteen (15) days after receipt of the increase in or substitute Acquisition Letter of Credit providing an additional \$3,000,000, by Agency; provided, however, that if adjustments to the size of the Agreed Sales Parcels in Parcel A are required (as contemplated by the last paragraph of Section III.C of the Method of Financing (Attachment No. 2)), then the Developer shall have until the date

established herein for the conveyance to Developer of all Sales Parcels within the Parcels to enter into any amendments to any existing Purchase Agreement, or any new Purchase Agreement, in order to effect such adjustments.

4. Agency - Completion of Acquisition. Subject to the prior satisfaction of all conditions precedent required by law, Agency shall complete the acquisition of the real properties comprising the Sales Parcels, and shall complete the relocation of all occupants from the Sales Parcels.

On or before the date established herein for conveyance of all Sales Parcels within the Parcels to Developer.
5. Acquisition of Participating Parcels. Developer shall obtain title and possession to the real properties comprising the Participating Parcels with the Site (referred to in Section 703).

On or before the date established herein for conveyance of all Sales Parcels within the Parcels to Developer
6. Agency - Relocation from Participating Parcels. Agency shall complete the relocation of all eligible occupants from the Participating Parcels.

On or before the date established herein for conveyance of all Sales Parcels within the Parcels to Developer
7. Federal/State Approvals. Developer shall commence and diligently attempt to obtain the Federal/State Approvals with respect to the Site (referred to in Section 711).

On or before the date established herein for conveyance of all Sales Parcels within the Parcels to Developer

IV. CONVEYANCE AND CONSTRUCTION -
BY PARCEL

1. Submission - Architect, Landscape Architect and Civil Engineer for Each Parcel. Developer shall submit to the Agency for approval the name and qualifications of its Architect, Landscape Architect, and Civil Engineer for each applicable Parcel. At least one hundred five (105) days prior to the date established herein for Developer to submit to Agency for approval the Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for the applicable Parcel.
2. Approval - Architect, Landscape Architect and Civil Engineer. Agency (by its Executive Director or his designee) shall approve or disapprove the Architect, Landscape Architect, and Civil Engineer. Within fifteen (15) days after receipt of the name and qualifications of each such Architect, Landscape Architect, and Civil Engineer by Agency.
3. Submission - Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans. Developer shall prepare and submit to Agency for approval Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for each applicable Parcel. With respect to Parcels A, B and C, within ninety (90) days after approval by Agency of the Overall Schematic Drawings and Design Criteria for the Site.

With respect to Parcels D and E-1, within ninety (90) days after the later of:
(1) Agency and GSA have executed the GSA Cooperation Agreement; or
(2) approval by Agency of the Overall Schematic Drawings and Design Criteria for the Site.

With respect to Parcels E-2 and E-3, within twenty four (24) months after the applicable of the two dates (1) or (2) established above for submission of Schematic/Design Development Drawings and

Preliminary Landscaping and Grading Plans for Parcels D and E-1

With respect to Parcel F, on or before the date established herein for submission of Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for Parcel E-2.

With respect to Parcel E-4, within twenty-four (24) months after the applicable of the two dates (1) or (2) established above for submission of Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for Parcels D and E-1.

4. Approval - Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans. Agency (by its Executive Director or his designee, if there is no material change from the Overall Schematic Drawings and Design Criteria and no Subsequent City Permit is required) shall approve or disapprove the Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for each applicable Parcel.

Within sixty (60) days after receipt by Agency if by its Executive Director or his designee); or within ninety (90) days after receipt if by the Agency Board; but if any Subsequent City Permit is required, then on or before the date established herein for Developer to obtain approval from the City of any Subsequent City Permits with respect to the applicable Parcel.

5. Subsequent City Permits. Developer shall commence and diligently attempt to obtain approval from the City, for any Subsequent City Permits with respect to each applicable Parcel (referred to in Section 710).

As soon as reasonably possible after receipt by Agency of the Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for the applicable Parcel, but not more than two hundred seventy (270) days after such receipt.
 6. Submission - 50% Construction Drawings. Developer shall prepare and submit to Agency for approval the 50% Construction Drawings and Specifications for each applicable Parcel.

Within ninety (90) days after approval by Agency of the Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for the applicable Parcel.
 7. Approval - 50% Construction Drawings. Agency (by its Executive Director or his designee) shall approve or disapprove the 50% Construction Drawings and Specifications for each applicable Parcel.

Within thirty (30) days after receipt by Agency.
 8. Submission - Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans. Developer shall prepare and submit to Agency for approval the Final Construction Drawings and Specifications and the Final Landscaping and Finish Grading Plans for each applicable Parcel.

Within ninety (90) days after approval by Agency of the 50% Construction Drawings and Specifications for the applicable Parcel.
- Note: These drawings will be submitted in normal increments as they are completed.

9. Approval - Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans. Agency (by its Executive Director or his designee) shall approve or disapprove the Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for each applicable Parcel.
- Within forty (45) days after receipt by Agency.
- Note: These drawings will be approved in increments as they are submitted.
10. Evidence of Financing. Developer shall submit to Agency, Developer's second submission of evidence of financing referred to in Section 214 of this Agreement with respect to each applicable Parcel.
- At least sixty (60) days prior to the date established herein for closing of the mortgage loan and/or other financing for the applicable Parcel.
- Developer shall submit to Agency, Developer's third submission of evidence of financing referred to in Section 214 of this Agreement with respect to each applicable Parcel.
- At least thirty (30) days prior to the date established herein for closing of the mortgage loan and/or other financing for the applicable Parcel.
11. Approval of Financing. Agency shall approve or disapprove each submission of Developer's evidence of financing for each applicable Parcel and shall so notify Developer.
- Within thirty (30) days after receipt of each such submission of evidence of financing by Agency.
12. Opening of Escrow. Agency shall open an escrow for conveyance of all Sales Parcels within the Parcels.
- At least thirty (30) days prior to the date established herein for conveyance of title to such Sales Parcels to Developer.

17. Overall REA. Developer shall execute and record the Overall REA with respect to the Site (referred to in Section 706). Concurrently with conveyance of all Sales Parcels within the Parcels to Developer.
18. Subsequent Parcel Maps. Developer shall commence and diligently attempt to obtain approval from the City of each Subsequent Parcel Map (referred to in Section 704), and the Subsequent Parcel Map shall be recorded with respect to each applicable Parcel. Concurrently with closing of the mortgage loan and/or other financing for development of the applicable Parcel.
19. Subsequent REAs. Developer shall execute and record any Subsequent REA with respect to each applicable Parcel (referred to in Section 706). Concurrently with closing of the mortgage loan and/or other financing for development of the applicable Parcel.
20. Public Use Leases to City. Developer shall commence and diligently attempt to enter into Public Use Leases with the City with respect to each of Parcels A, B and C (referred to in Section 718). Concurrently with closing of the mortgage loan and/or other financing for development of Parcels A, B and C.

21. Loan Agreements. Developer and Agency shall execute and cause to be recorded with respect to each applicable Parcel, the Loan Agreement related thereto (referred in Section III. of the Method of Financing (Attachment No. 2) of the Agreement).

With respect to each of Parcels A, B and C, concurrently with closing of the mortgage loan and/or other financing for development of Parcels A, B and C.

With respect to Parcel E-1, concurrently with closing of the mortgage loan and/or other financing for development of Parcels D and E-1.

With respect to each of Parcels E-3 and F, concurrently with closing of the mortgage loan and/or other financing for development of Parcel F.

With respect to Parcel E-2, concurrently with closing of the mortgage loan and/or other financing for development of Parcel E-2.

22. Closing of Financing. Developer shall cause to be closed the mortgage loan and/or other financing for the development of each applicable Parcel.

With respect to Parcels A, B and C, all concurrently, and concurrently with conveyance of all Sales Parcels within the Parcels to Developer, and in any event within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Parcels A, B and C, or (2) thirty five (35) months (plus the period of time, up to nine (9) additional months, it may take to obtain City approval of any Subsequent City Permits with respect to Parcels A, B and C) after Bi-National Authorization for the River

Pedestrian Bridge.

With respect to Parcels D and E-1, both concurrently, and within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Parcels D and E-1, or (2) thirty five (35) months (plus the period of time, up to nine (9) additional months, it may take to obtain City approval of any Subsequent City Permits with respect to Parcels D and E-1) after Bi-National Authorization for the River Pedestrian Bridge.

With respect to Parcel E-3, within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Parcel E-3, or (2) fifty nine (59) months (plus the period of time, up to nine (9) additional months, it may take to obtain City approval of any Subsequent City Permits with respect to Parcel E-3) after Bi-National Authorization for the River Pedestrian Bridge.

With respect to Parcel F, only concurrently with or after Parcel E-3, and within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final

Landscaping and Finish Grading Plans for Parcel (or (2) fifty nine (59) months (plus the period of time, up to nine (9) additional months, it may take to obtain City approval of any Subsequent City Permits with respect to Parcel F) after Bi-National Authorization for the River Pedestrian Bridge.

With respect to Parcel E-2, only concurrently with or after Parcel F, and within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Parcel E-2, or (2) fifty nine (59) months (plus the period of time, up to nine (9) additional months, it may take to obtain City approval of any Subsequent City Permits with respect to Parcel E-2) after Bi-National Authorization for the River Pedestrian Bridge.

With respect to Parcel E-4, within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Parcel E-4, or (2) fifty nine (59) months (plus the period of time, up to nine (9) additional months, it may take to obtain City approval of any Subsequent City Permits with respect

to Parcel E-4) after Bi-National Authorization for the River Pedestrian Bridge.

23. Commencement of Construction. Developer shall commence construction of the improvements on each applicable Parcel.

Within thirty (30) days after closing of the mortgage loan and/or other financing for the development of the applicable Parcel.

24. Completion of Construction. Developer shall complete construction of the development of each applicable Parcel.

With respect to Parcels A, B, and C, within fifteen (15) months after closing of the mortgage loan and/or other financing for the development of such Parcels.

With respect to Parcels D, E-1, E-2, E-3, E-4 and F, within eighteen (18) months after closing of the mortgage loan and/or other financing for the development of the applicable Parcel.

25. Construction of Public Improvements. Developer shall commence and complete the construction of public improvement work referred to in the Scope of Development (Attachment No. 4) to be performed by Developer with respect to each applicable Phase.

With respect to Phase I Public Improvements, on a schedule which will coordinate with, and assure completion on or before, the construction schedule for the development of Parcels A, B and C by Developer.

With respect to Phase II Public Improvements, on a schedule which will coordinate with, and assure completion on or before, the construction schedule for the development of Parcel E-3 by Developer.

V. ACQUISITION AND CONSTRUCTION
- RIVER PEDESTRIAN BRIDGE

1. Bridge Implementation Plan. Developer shall prepare and adopt, and shall diligently attempt to obtain firm commitments by all public and private entities necessary or appropriate for implementation, and shall obtain approval by Agency, of the Bridge Implementation Plan (referred to in Section 717).

Within thirteen (13) months after Bi-National Authorization for the River Pedestrian Bridge.
2. Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans. Developer shall complete and approve Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for the River Pedestrian Bridge.

In accordance with the schedule set forth in the Bridge Implementation Plan, which in any event shall be not later than twenty four (24) months after the date that the Bridge Implementation Plan is approved by Agency.
3. Discretionary and Building Permits. Developer shall use diligent and good faith efforts to obtain approval of any discretionary and building permits (U.S. and Mexico) required for the construction of the River Pedestrian Bridge.

In accordance with the schedule set forth in the Bridge Implementation Plan, which in any event shall be not later than twenty four (24) months after the date that the Bridge Implementation Plan is approved by Agency.
4. Definitive Implementation Agreements. Developer shall commence and diligently attempt to enter into all definitive implementation agreements (e.g. fiduciary trust, construction contract, franchise, etc.) needed to implement the River Pedestrian Bridge.

In accordance with the schedule set forth in the Bridge Implementation Plan, which in any event shall be not later than twenty four (24) months after the date that the Bridge Implementation Plan is approved by Agency.

5. Completion of Acquisition and Relocation. Developer shall diligently attempt to complete the acquisition of the real properties and/or rights-of-way necessary for the River Pedestrian Bridge, and complete the relocation of all occupants from the applicable properties.

In accordance with the schedule set forth in the Bridge Implementation Plan, which in any event shall be not later than the date established herein for commencement of construction of the River Pedestrian Bridge by Developer.
6. Commencement of Construction. Developer shall commence construction of the River Pedestrian Bridge.

In accordance with the schedule set forth in any Bridge Implementation Plan, which in any event shall be not later than twenty six (26) months after the date that the Bridge Implementation Plan is approved by Agency.
7. Completion of Construction. Developer shall complete construction of the River Pedestrian Bridge.

In accordance with the schedule set forth in the Bridge Implementation Plan, which in any event shall be not later than nine (9) months after commencement of construction of the River Pedestrian Bridge.

ATTACHMENT NO. 4

SCOPE OF DEVELOPMENT

A. Developer Responsibilities

1. Development of Parcels

The Developer, at its cost and expense, shall construct or cause to be constructed on each Development Parcel:

a. Parcel A - Retail

Parcel A is the Gateway project's largest Development Parcel. It represents a gross land area of 25.0 acres, and is situated on the western third of the project. It is a triangular parcel bounded on the south by the Tijuana River levee; on the north by the relocated alignment of Camino de la Plaza; and on the west by unimproved right-of-way for Willow Road, as it exists today.

Parcel A will be developed with approximately 243,000 square feet of retail, entertainment, and food services on the southern half of the Parcel fronting generally toward Camino de la Plaza, and several free standing retail pads adjacent to Camino de la Plaza. Anticipated uses may include one or more "big box" anchor tenants, a multi-screen movie theater, and several mid-scale retail users.

Proposed parking will exceed 4 spaces per 1,000 square feet of gross leasable area (GLA), and will contain approximately 1,320 parking spaces on site.

Parcel A will be connected to other Development Parcels by way of a pedestrian promenade.

b. Parcel B - Retail

Parcel B represents a gross land area of 11.2 acres, and is situated in the middle third of the project. It is a rectangular parcel bounded on the south by the Tijuana River levee; on the north by Camino de la Plaza; and on the west by unimproved right-of-way for Saint Louis Street, as it exists today.

Parcel B will be developed with approximately 98,000 square feet of retail commercial uses, set on the southern half of the Parcel and several free standing retail pads adjacent to Camino de la Plaza. The specific uses for Parcel B will be coordinated with the uses obtained for Parcels A and C, as well as progress in implementing the Virginia Avenue port of entry.

Proposed parking will exceed 4 spaces per 1,000 square feet of gross leasable area (GLA), and will contain approximately 552 parking spaces on site.

Parcel B will be connected to other Development Parcels by way of a pedestrian promenade.

c. Parcel C - Retail

Parcel C is the Gateway project's second largest Development Parcel. It represents a gross land area of 18.8 acres, and is situated within the northeast quadrant of the Site. It is an irregular parcel. Parcel C is generally bounded by Camino de la Plaza on the north, the realignment of Virginia Avenue on the east; Parcel B on the west, and Parcels D, F, E-1 and E-3 on the south.

Parcel C will be developed with a gross leasable area of approximately 210,500 square feet, set on the southern half of the project site fronting generally north and outward. It is anticipated that the primary use of Parcel C will be retail, with the opportunity for some medium sized uses on the eastern half of the property.

Proposed parking will exceed 4 spaces per 1,000 square feet of gross leasable area (GLA), and will contain approximately 936 parking spaces on site.

Parcel C will be connected to other Development Parcels by way of a pedestrian promenade.

d. Parcel D - Multi-modal Transit Center

Parcel D is envisioned as the site for a multimodal transit center and, potentially, the source of air rights (Parcel F) for a future garage. Parcel D. is approximately 6.4 acres.

The multimodal transit center will provide organized space and facilities to support drop off and pick up of bus passengers; modal transfers between private auto, taxi, public transit, bus, and pedestrian traffic; and sale of tickets to the various modes of travel provided therein. Parcel D lies generally south of Parcels B and C and west of Parcel E-1. Its southern boundary is the Tijuana River Flood Control Channel.

Parcel D will be developed in coordination with Parcel E-1, and it will be operated with ingress and egress along Tia Juana Street with connections to Camino de la Plaza to the east and west.

Parcel D will be connected to other Development Parcels by way of a pedestrian promenade.

Prior to the time for commencement of construction of the foregoing improvements, Parcel D may be improved and operated on a temporary basis, as a parking lot and ancillary uses.

e. Parcel E-1 - Gateway

Parcel E-1 represents a gross land area of 5.8 acres, and is situated immediately east of Parcel D and south of the Lincoln Glorietta -- within the west half of Parcel E.

Parcel E-1 will be developed for general office space and to provide space for Federal Inspection Service Agencies (FISA) for the operation of the Virginia Avenue port of entry functions. The development of Parcel E-1 will occur in a manner to create an enclosed public plaza on United States soil whose only access to the United States is through FISA controlled stations. In addition to FISA, other uses may include local police facilities, City and/or County public services, office, and ground floor retail. It is estimated that these uses will occupy approximately 90,000 square feet.

Proposed parking will exceed 4 spaces per 1,000 square feet of gross leasable area (GLA), and will contain approximately 360 parking spaces located either temporarily on the surface of Parcels E-2, E-3 and/or E-4, and/or permanently within the parking garage on Parcel F.

Parcel E-1 will surround a public plaza that represents the focal point of the International Gateway of the Americas promenade and esplanade system of pedestrian circulation. The plaza will also be the initial entry point into the United States for users of the proposed River Pedestrian Bridge.

f. Parcel E-2 - Office Tower

Parcel E-2 represents a gross land area of 1.3 acres and is situated approximately midpoint in Parcel E, along the Tijuana River levee. It is a generally rectangular parcel.

Parcel E-2 will be developed with a mid-rise office tower of approximately 100,000 square feet, with parking furnished in the Parcel F parking garage. Proposed parking will exceed 4 spaces per 1,000 square feet of gross leasable area (GLA), and will contain approximately 400 parking spaces within the parking garage on Parcel F.

Parcel E-2 will be connected to other Development Parcels by way of a pedestrian esplanade.

g. Parcel E-3 - Hotel and Conference Center

Parcel E-3 represents a gross land area of 3.3 acres, and is situated at the eastern boundary of the Site, along the relocated Virginia Avenue. It is a generally triangular parcel.

Parcel E-3 will be developed with a business and tourist-oriented hotel and conference center with approximately 300 rooms and approximately 50,000 square feet of conference space. It is anticipated that the hotel and conference center will include sufficient on-site parking to meet code requirements for on-site guest parking.

Parking E-3 will be connected to other Development Parcels by way of a pedestrian esplanade.

h. Parcel E-4 - University/Cultural

Parcel E-4 represents a gross land area of 2.0 acres, and is situated south of Parcel E-3. It is an irregularly shaped parcel. Parcel E-4 is generally bounded by Parcel E-3 on the north, the United States and Mexico International Border on

the south, and the Tijuana River levee on the southwest.

Parcel E-4 will be developed with a cultural and/or institutional use with a gross leasable area of approximately 50,000 square feet. Typical of such uses are centers for advanced studies, facilities for major cultural exchanges and exhibits, and public functions to celebrate the diversity of cultures that interact along the common border.

Proposed parking for Parcel E-4 will be furnished in the Parcel F parking garage, and may also be served by arrangement with existing parking lots to the east.

Parcel E-4 will face a wide pedestrian esplanade to the southwest. This esplanade is part of a project-wide pedestrian circulation program. It is envisioned that the esplanade will link the planned Tren Ligero light rail transit station at the southern end of El Chaparral with the FISA building, multimodal transit center, and retail uses in the western half of the project.

i. Parcel F - Air Rights Garage

Parcel F is an "air rights" Development Parcel that will consist of a multi-story parking garage, for the benefit of visitors to the project, to and from Mexico, and employees in the various uses throughout the project. It is anticipated that the garage will furnish gate secured parking for approximately 2,000 vehicles, including secure storage for FISA vehicles.

2. Urban Design Standards

The proposed development, including its architectural design concepts, landscape features and off-site improvements, shall be subject to design review by the Agency in accordance with adopted procedures. The Developer shall conform to the San Ysidro Redevelopment Plan, and the San Ysidro Community Plan. These standards, together with the following specific conditions, will be used as a basis for evaluating development through all stages of the design review process.

a. Architectural Standards

The architecture of the development shall establish a high quality of design and be sensitive to the existing development of adjacent properties.

b. Energy Considerations

Energy efficient features shall be incorporated into the design of the structures. The Developer shall be required to demonstrate consideration of such energy features as a part of the design review process.

c. Landscape

The landscape of the development shall establish a high quality of design. Off-site improvements shall implement the standard established in the San Ysidro Community Plan, including curbs, sidewalk paving, street trees, tree grates, ornamental street lighting and trash receptacles.

The quality of off-site improvements shall be coordinated with the quality of on-site improvements and no distinction shall be made at the property lines.

d. On-Site Open Space Improvements

On-site improvements, particularly the open space of plazas, promenades and esplanades, shall be designed to unify the Site and its proposed development, particularly the transition between the different Development Parcels.

3. Site Preparation

The Developer, at its cost and expense, shall prepare the Site and each Development Parcel, for development. Such site preparation shall consist of the following:

- a. Complete demolition and removal to the surface elevation of the adjoining ground of all existing buildings, other structures and improvements including the removal of all bricks, lumber, pipes, equipment and other material and all debris and rubbish resulting from such demolition.

- b. Complete removal of all subsurface improvements, foundations, walls, slabs, basements, tanks and abandoned utilities as necessary to construct the development.
- c. Disconnection, capping and removal of utility lines, installations, facilities and related equipment within or on the Site. Utilities located within existing rights-of-way shall be relocated if and as required by the Water Utilities Department. Such cost of relocation shall be the responsibility of the Developer.
- d. Removal of all paving (including catch basins, curbs, gutters, drives and sidewalks) within or on the Site and within the portions of adjacent public rights-of-way which are not to be retained.

All of Items a. through d. inclusive shall be performed in accordance with City requirements.

4. City Utilities (Sewer, Water, and Storm Drain)

The Developer shall upgrade all nonfranchise City utilities as required by the Water Utilities and Engineering Departments as necessary to serve the proposed development.

The Developer shall be responsible for the connection of on-site sewer, water and storm drain systems from the development to the City utilities located within the public rights-of-way.

Sewer, water and roof drain laterals shall be connected to the appropriate utility mains within the street and beneath the sidewalk. The Developer may use existing laterals if acceptable to the City, and if not, Developer shall cut and plug existing laterals at such places and in the manner required by the City, and install new laterals.

Fire hydrants shall be provided pursuant to requirements of Fire and Water Utilities Departments.

Curb and gutter with catch basins adequate to meet anticipated drainage requirements shall be provided as required by the Development Services Department.

The Developer shall submit a plan which illustrates installation or relocation of sewers, water and drains within the project as well as the connection of these

utilities to public infrastructure adjoining the Site at the Design Development Drawings stage.

5. Franchise Public Utilities

The Developer shall be responsible for the installation or relocation of franchise utility connections including, but not limited to, gas, electric, telephone and cable, to the project and all extensions of those utilities in public streets. The Developer shall submit a plan which illustrates installation or relocation of gas, electric, telephone and cable distribution lines within the project as well as the connection of these utilities to franchise infrastructure adjoining the Site.

6. Off-Site Improvements

The Developer, at its cost and expense, shall design and construct or caused to be designed and constructed, all public improvements within and related to streets necessary or appropriate for the development of the Site, including: curbs, gutters and sidewalks, street trees, tree grates, irrigation systems, street lights, trash receptacles, fire hydrants, and all other like public improvements as may be required by the City of San Diego.

The Developer shall construct or cause to be constructed concurrently with each applicable Development Parcel as specified in the Schedule of Performance (Attachment No. 3), the following off-site public improvements:

a. Phase I Public Improvements

The following facilities shall be constructed as the Phase I Public Improvements:

- (1) Construction of realigned Tia Juana Street from Camino de la Plaza, east to Willow Road, as a minor collector street, as shown on Exhibit A to this Scope of Development.
- (2) Construction of Tia Juana Street as a minor arterial from Willow Road, east to Virginia Avenue, as shown on Exhibit A to this Scope of Development.
- (3) Construction of the remaining Camino de la Plaza connection to Dairy Mart Road, between Sipes Lane and Bibler Lane, as a minor arterial, as shown on Exhibit A to this Scope of Development.

- (4) Construction of the south half of Camino de la Plaza from Willow Road to Virginia Avenue as a minor arterial, as shown on Exhibit A to this Scope of Development.
- (5) Construction of two traffic signals, including one at Camino de la Plaza and Willow Road and one at Tia Juana Street and Camino de la Plaza, as shown on Exhibit A to this Scope of Development.
- (6) Construction of the Lincoln Glorietta to provide traffic distribution within the Site, as shown on Exhibit A to this Scope of Development.
- (7) Construction of a traffic signal at Camino de la Plaza and the relocated Virginia Avenue, as shown on Exhibit A to this Scope of Development.
- (8) Relocation of Virginia Avenue, south of Camino de la Plaza as a minor collector street, as shown on Exhibit A to this Scope of Development.

The obligation to construct and pay for the Phase I Public Improvements shall be borne by Parcel A as to sixty-eight percent (68%), and Parcel C as to thirty-two percent (32%), respectively. By way of illustration only, if the cost of the Phase I Public Improvements is \$6,937,500, then the amount of \$4,717,500 (that is, 68%) shall be borne by Parcel A, and the amount of \$2,220,000 (that is, 32%) shall be borne by Parcel C. If the assessment or special tax levied on Parcels A, B and/or C pursuant to the Public Works Financing Agreement (referred to in Section 720 of the Agreement) is allocated other than as provided above in this paragraph, then, at the time of such levy, the Developer shall provide for the reimbursement of costs among Parcels A, B and/or C, by instrument reasonably satisfactory to the Agency (by its Executive Director or his designee), so that Parcels A and C share the ultimate cost of the Phase I Public Improvements (including any financing costs) in the proportions hereinabove set forth.

b. Phase II Public Improvements

The following facilities shall be constructed as the Phase II Public Improvements:

- (1) The widening of Dairy Mart Road between the Dairy Mart/Interstate 5 interchange and the Camino de la Plaza/Dairy Mart intersection, as shown in Exhibit A to this Scope of Development.
- (2) Dairy Mart and I-5 west-side ramp improvements, as shown on Exhibit A to this Scope of Development.
- (3) Construction of a traffic signal at Dairy Mart Road and the Interstate 5 on and off ramps, as shown on Exhibit A to this Scope of Development.

The obligation to construct and pay for the Phase II Public Improvements shall be borne by Parcel E-3.

7. Public Rights-of-Way Vacations

The Developer shall prepare and process through the City of San Diego, the vacation of all streets, alleys and other public rights-of-way within the Site, which are not needed for rights-of-way to remain or be created consistent with the Final Subdivision Map, or a Subsequent Parcel Map, as referred to in Section 704 of the Agreement. The public rights-of-way to be vacated in order to create the Development Parcels under this Agreement are shown generally on Exhibit B to this Scope of Development. The Developer shall, as part of this proposed vacation, prepare plans for the relocation of all public nonfranchise and franchise utilities within the vacation area and implement those plans satisfactory to the City of San Diego. The Agency shall cooperate with the Developer to obtain such street vacation.

8. Street Dedications

The Developer shall dedicate public rights-of-way to create the streets and related improvements consistent with the Final Subdivision Map, or a Subsequent Parcel Map, as referred to in Section 704 of the Agreement, and as required by the City Traffic Engineer. The public rights-of-way to be dedicated in order to create and serve the Development Parcels under this Agreement are shown generally on Exhibit B to this Scope of

Development.

9. Removal and/or Remedy of Soil and/or Water Contamination

The Developer, at its own cost and expense, shall remove and/or otherwise remedy as provided by law and implementing rules and regulations, and sufficiently to adequately protect the public health and safety (including the health and safety of occupants of the Site and adjacent properties), any contaminated or hazardous soil and/or water conditions on the Site. Such work shall include without limitation the following:

- a. Remove (and dispose of) and/or treat any contaminated soil and/or water on the Site (and adjacent public rights of way which the Developer is required to improve) as necessary to comply with applicable governmental standards and requirements.
- b. Design and construct all improvements on the Site in a manner which will assure protection of occupants and all improvements from any contamination, whether in vapor or other form, and/or from the direct and indirect effects thereof.
- c. Prepare a site safety plan and submit it to the appropriate governmental and other authorities for approval in connection with obtaining a building permit for the construction of improvements on the Site. Such site safety plan shall assure workers and other visitors to the Site of protection from any health and safety hazards during development and construction of the improvements. Such site safety plan shall include monitoring and appropriate protective action against vapors and/or the effect thereof. Such site safety plan shall be updated with respect to each Development Parcel, and re-submitted for approval, thirty (30) days prior to closing of the mortgage loan and/or other financing for the applicable Development Parcel.
- d. Obtain from the County of San Diego and/or California Regional Water Quality Control Board and/or any other authorities required by law any permits or other approvals required in connection with the removal and/or remedy of soil and/or water contamination, in connection with the development and construction on the Site.

The Developer agrees that the Agency, and its consultants and agents, shall have the right (but not the obligation) to enter upon the Site at any time to monitor the excavation and construction on the Site, to test the soils and/or water on the Site, and to take such other actions as may be reasonably necessary to assure compliance with this Section 9. of the Scope of Development. Nothing herein (including without limitation the Agency's right to inspect) shall be construed to make the Agency, the City, or their respective officers, employees, contractors and agents liable for the responsibilities under Section 212 and this Section 9, and the provisions and requirements of Section 309 of the Agreement shall apply with respect thereto.

10. Nondiscrimination and Equal Opportunity

- a. The Developer shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Developer shall provide equal opportunity in all employment practices. The Developer shall ensure that its contractor and subcontractors comply with the City of San Diego's Equal Opportunity Program.
- b. The Developer has received, read, understands and agrees to be bound by City of San Diego Municipal Code Division 27 (Equal Opportunity Program) and the City Manager's Policies and Procedures implementing that Program, contained in the Equal Opportunity Packet provided by the Agency.
- c. The Developer has submitted, and the Agency acknowledges, receipt of either a Work Force Report or an Equal Opportunity Plan, as required by Section 22.2705 of the City of San Diego Municipal Code.
- d. The Developer has received, read and understands the Equal Opportunity Contracting Information Packet provided by the Agency.
- e. The Developer has submitted, and the Agency acknowledges receipt of, an initial Equal Opportunity Report. The Developer agrees periodically to provide updated reports as requested by the Agency.

11. Americans with Disabilities Act (ADA)

The Developer acknowledges and agrees that it is aware of and will comply with City of San Diego Council Policy 100-04, adopted by Resolution No. 282153 relating to the federally-mandated Americans with Disabilities Act (ADA).

12. Archeological Protection

Concurrently with submission of Design Development Drawings to the Agency with respect to each Development Parcel, the Developer shall submit the results and backup information of a records search and determination of potential archaeological significance of the applicable Parcel completed by a qualified archaeologist. If the applicable Parcel is determined by the Agency to have a potential for significant subsurface resources, the Developer shall conduct appropriate site monitoring during grading, testing and data recovery as approved by the Agency.

13. Development Identification Signs

Prior to commencement of construction on the Site, the Developer shall prepare and install, at its cost and expenses, sign(s) around the Site which identify the development. There shall be at least one sign on each street frontage of every Development Parcel as it is developed, and one sign applicable to development of the entire Site located on Camino de la Plaza. Frontages where the development covers more than three hundred (300) lineal feet shall contain two signs. Each sign shall be at least four (4) feet by six (6) feet and be visible to passing pedestrian and vehicular traffic. The design of all signs as well as their proposed location shall be submitted to the Agency for review and approval prior to installation. All signs shall at a minimum include:

- Color rendering of the development
- Development name
- Developer
- The phrase:

A Project of the Redevelopment Agency of the City of San Diego

Mayor Susan M. Golding

Councilmembers: Harry Mathis
Byron Wear
Christine Kehoe
George Stevens
Barbara Warden

Valerie Stallings
Judy McCarty
Juan Vargas

-- Completion Date _____.
-- For information call _____.

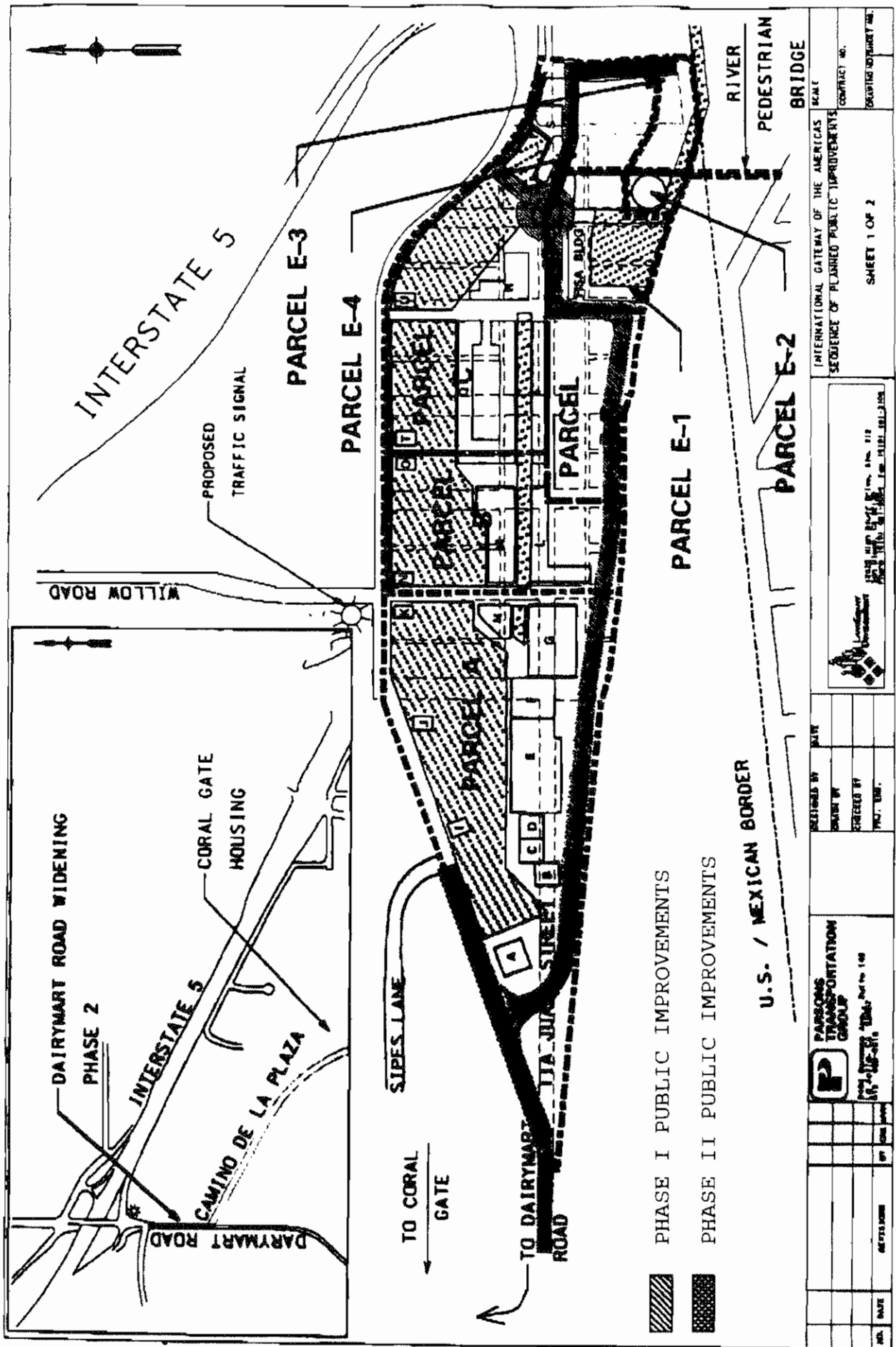
The Developer shall obtain a current roster of Redevelopment Agency members before signs are printed.

14. Fees and Assessments

The Developer shall be responsible for all fees required by the City or other public agency for the construction of the proposed project.

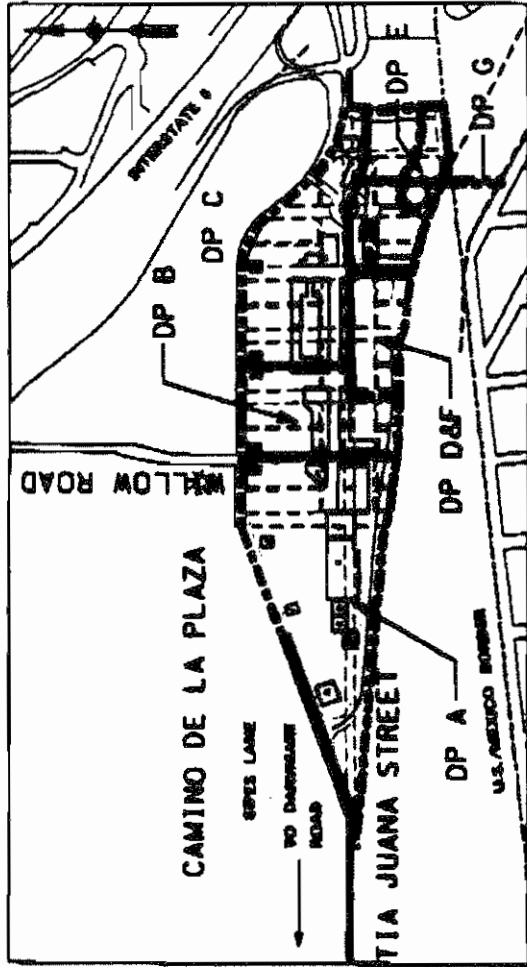
B. Easements

The Agency and the Developer shall grant and permit all necessary and appropriate easements and rights for the development of the Site or any Development Parcels within the Site, including, but not limited to, easements and rights of vehicular access, pedestrian access and all utility services on such terms and conditions as the Agency and the Developer may agree.



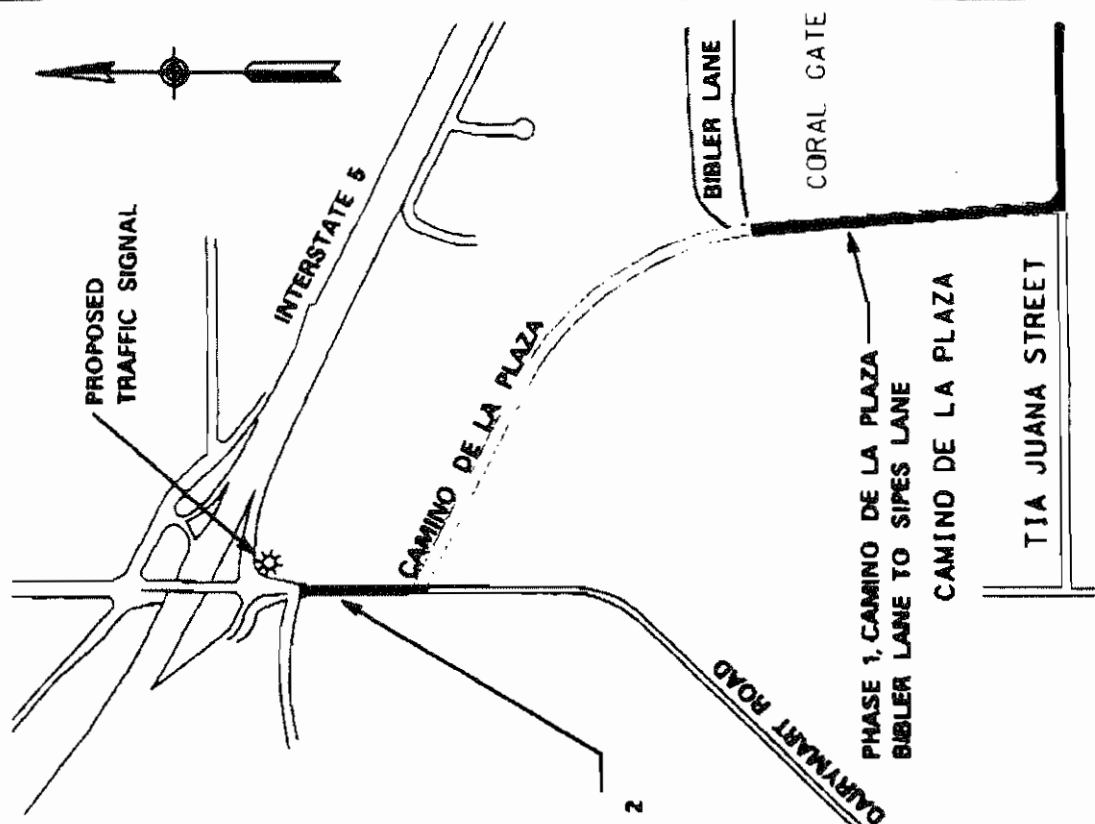
 PARSONS TRANSPORTATION GROUP 1100 J Street, N.W., Suite 1100 Washington, D.C. 20004-2912 TEL: 202-391-2300 FAX: 202-391-2301		DESIGNED BY DRAWN BY CHECKED BY PROJ. MGR.	DATE DATE DATE DATE
INTERNATIONAL GATEWAY OF THE AMERICAS SEQUENCE OF PLANNED PUBLIC IMPROVEMENTS CONTRACT NO.		SHEET 1 OF 2 DRAWING NUMBER:	

int_gate\sh1\ghk1 sht Apr 27, 1998 13:25:21



DARYMART ROAD
WIDENING, PHASE 2

-  PHASE I PUBLIC IMPROVEMENTS
-  PHASE II PUBLIC IMPROVEMENTS





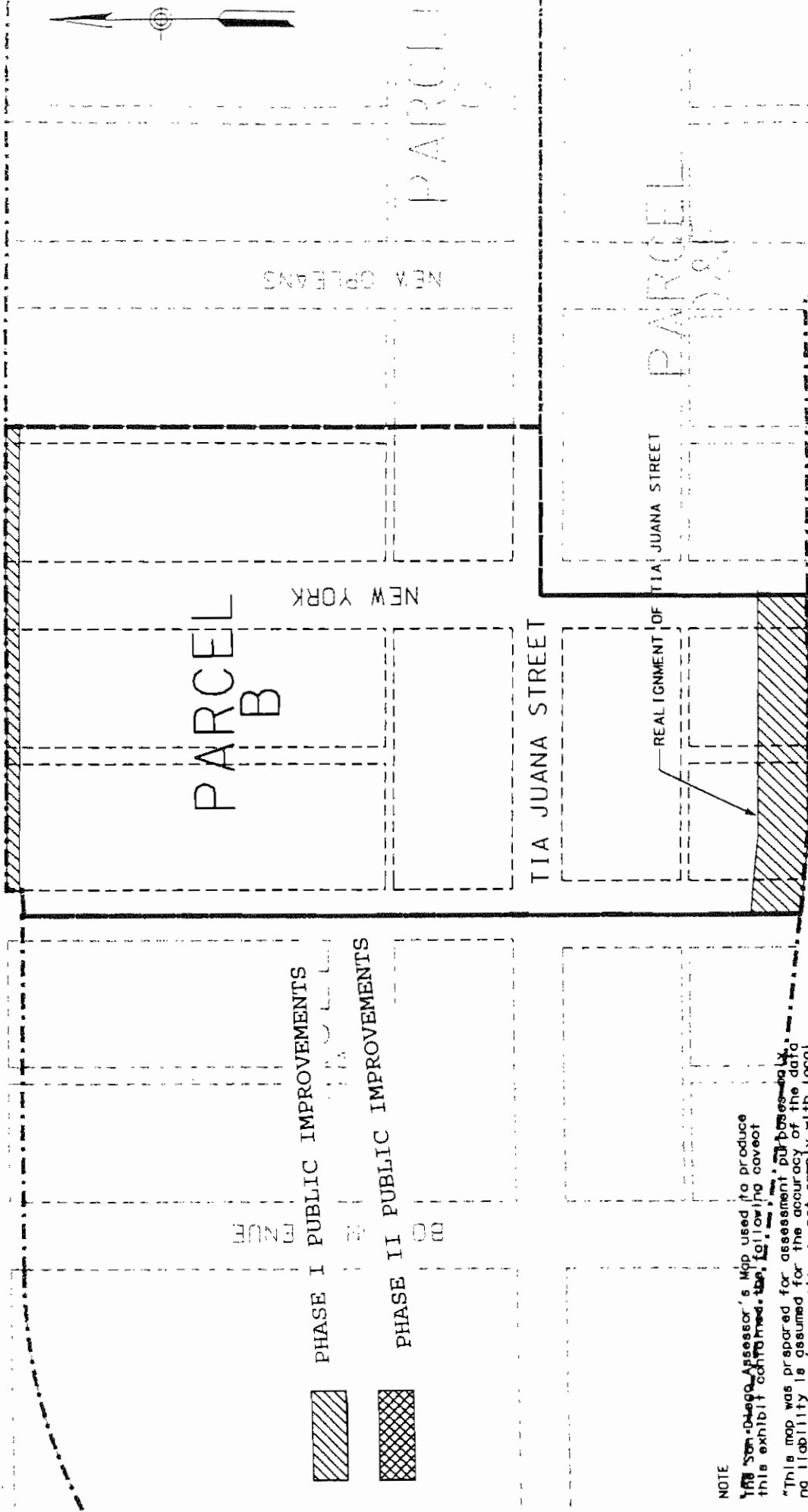
NO.	DATE	BY	REVISIONS
 PARSONS TRANSPORTATION GROUP <small>1000 P STREET, N.W. WASHINGTON, D.C. 20004-2900</small>			
DESIGNED BY		DATE	
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CHECKED BY			
IN CHARGE			
			
INTERNATIONAL GATEWAY OF THE AMERICAS SEQUENCE OF PLANNED PUBLIC IMPROVEMENTS SHEET 2 OF 2 <small>FOR RELATED PLANS CONTRACT NO. DRAWING NUMBER 00</small>			

Exhibit A
Page 2 of 7

CAMINO DE LA PLAZA



PHASE I PUBLIC IMPROVEMENTS

PHASE II PUBLIC IMPROVEMENTS

NOTE

The Son-Diego Assessor's Map used to produce this exhibit contained the following caveat:

"This map was prepared for assessment purposes only. No liability is assumed for the accuracy of the data shown. Assessor's parcels may not comply with local subdivision or building ordinances."

NO.	DATE	REVISIONS	BY	CHK	APRN
DESIGNED BY	DATE				
DRAWN BY					
CHECKED BY					
PRJ. ENG.					
 LANDMARK DEVELOPMENT 1000 High Street, Suite 212 San Diego, CA 92108 Phone: (619) 481-8888 Fax: (619) 481-3108					
INTERNATIONAL GATEWAY OF THE AMERICAS SEQUENCE OF PLANNED PUBLIC IMPROVEMENTS DEVELOPMENT PARCEL B RETAIL FOR REDUCED PLANS ORIGINAL SCALE IS IN INCHES					
SCALE 1" = 200' CONTRACT NO. DRAWING NO. SHEET 1					



Exhibit A

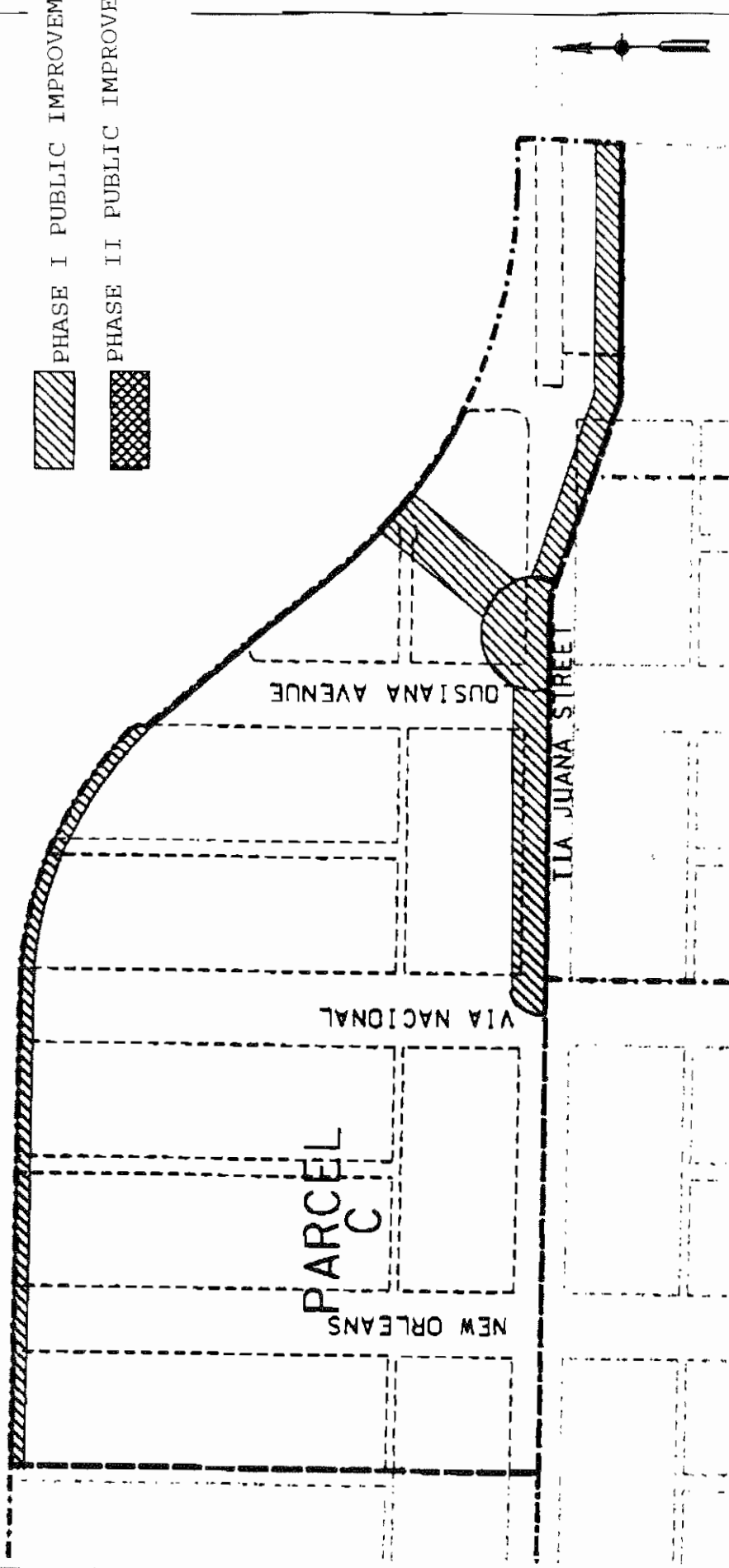
NOTE

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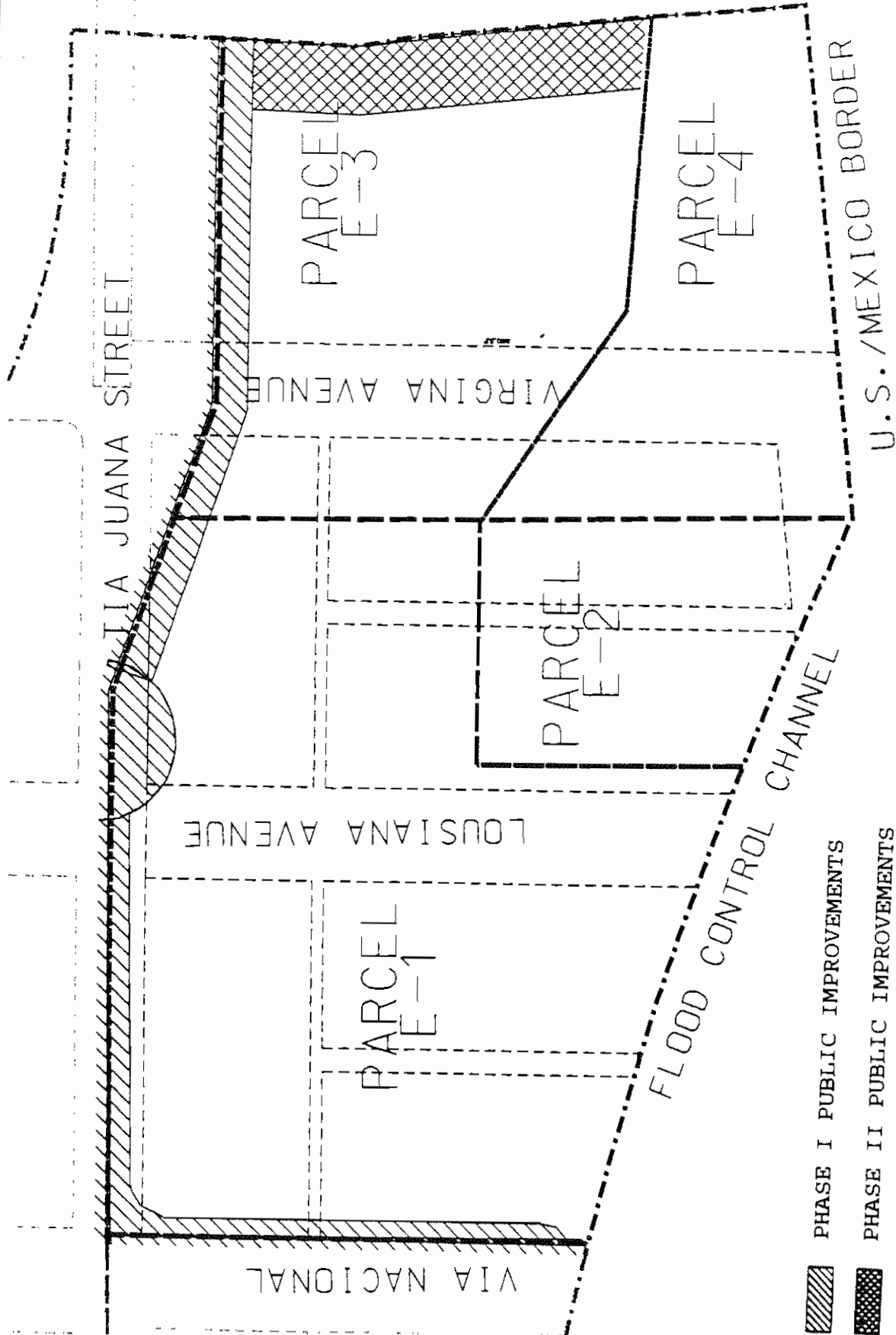
"This map was prepared for assessment purposes only. No liability is assumed for the accuracy of the data shown. Assessor's parcels may not comply with local subdivision or building ordinances."

CAMINO DE LA PLAZA

-  PHASE I PUBLIC IMPROVEMENTS
-  PHASE II PUBLIC IMPROVEMENTS



		INTERNATIONAL GATEWAY OF THE AMERICAS SEQUENCE OF PLANNED PUBLIC IMPROVEMENTS CONTRACT NO.	
DEVELOPMENT PARCEL C RETAIL		SCALE 1" = 115'	
PREPARED BY DATE	CHECKED BY DATE	REVISIONS NO. DATE REVISIONS	



- PHASE I PUBLIC IMPROVEMENTS
- PHASE II PUBLIC IMPROVEMENTS

Exhibit A
Page 7 of 7

NO.	DATE	REVISIONS	BY	CHK	APPR	DESIGNED BY	DATE	DRAWN BY	CHECKED BY	PAUL ENG.

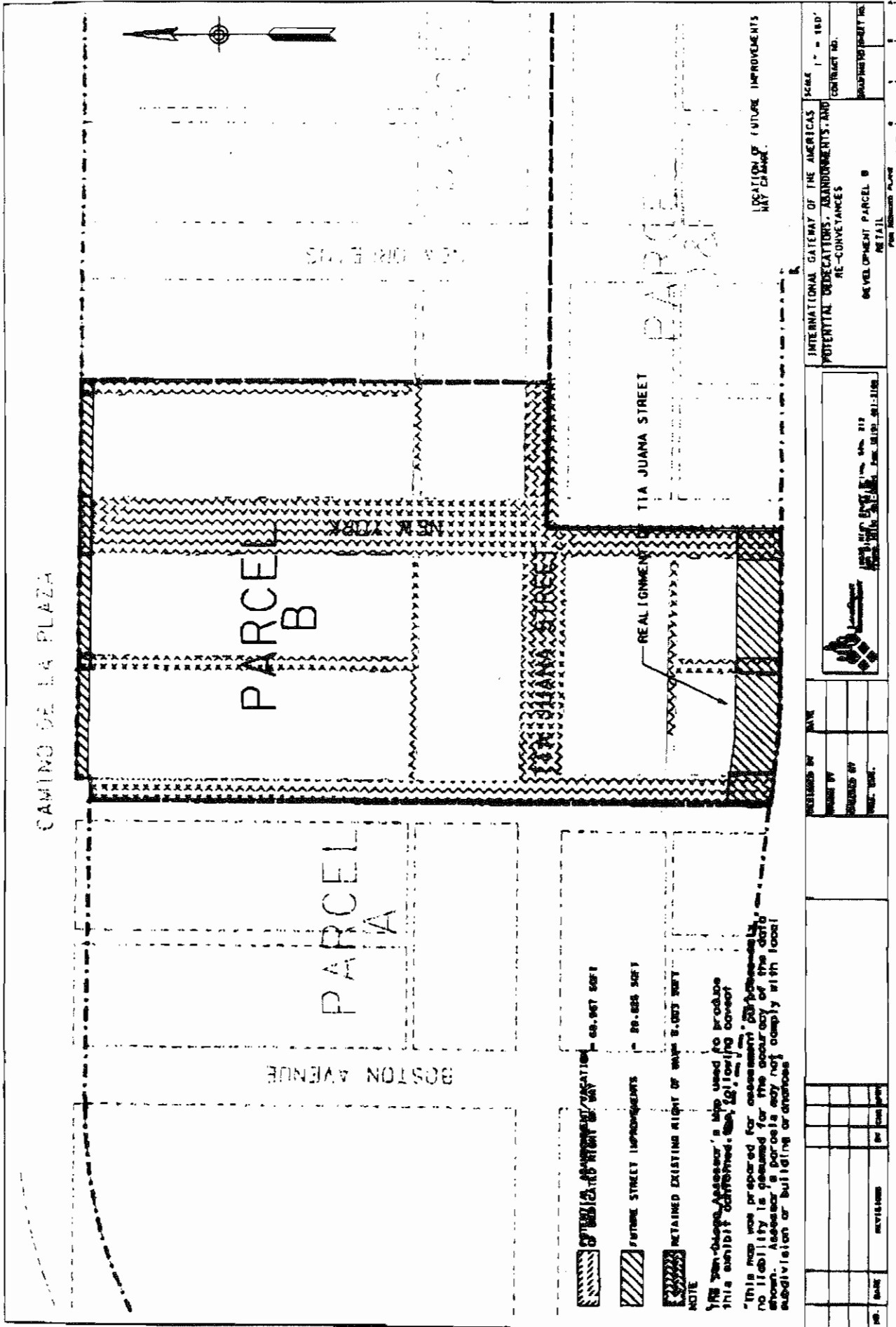
		1998 MAP 2111 1998 MAP 2111 1998 MAP 2111
INTERNATIONAL GATEWAY OF THE AMERICAS SEQUENCE OF PLANNED PUBLIC IMPROVEMENTS		DEVELOPMENT PARCELS E-1 TO E-4 E-1 U.S. BUILDING E-2 OFFICE TOWER E-3 HOTEL/CONFERENCE CENTER E-4 UNIVERSITY/CULTURAL CENTER

FOR REVISIONS: 0 1 2 3 4 5 6 7 8 9

SCALE: 1" = 100'

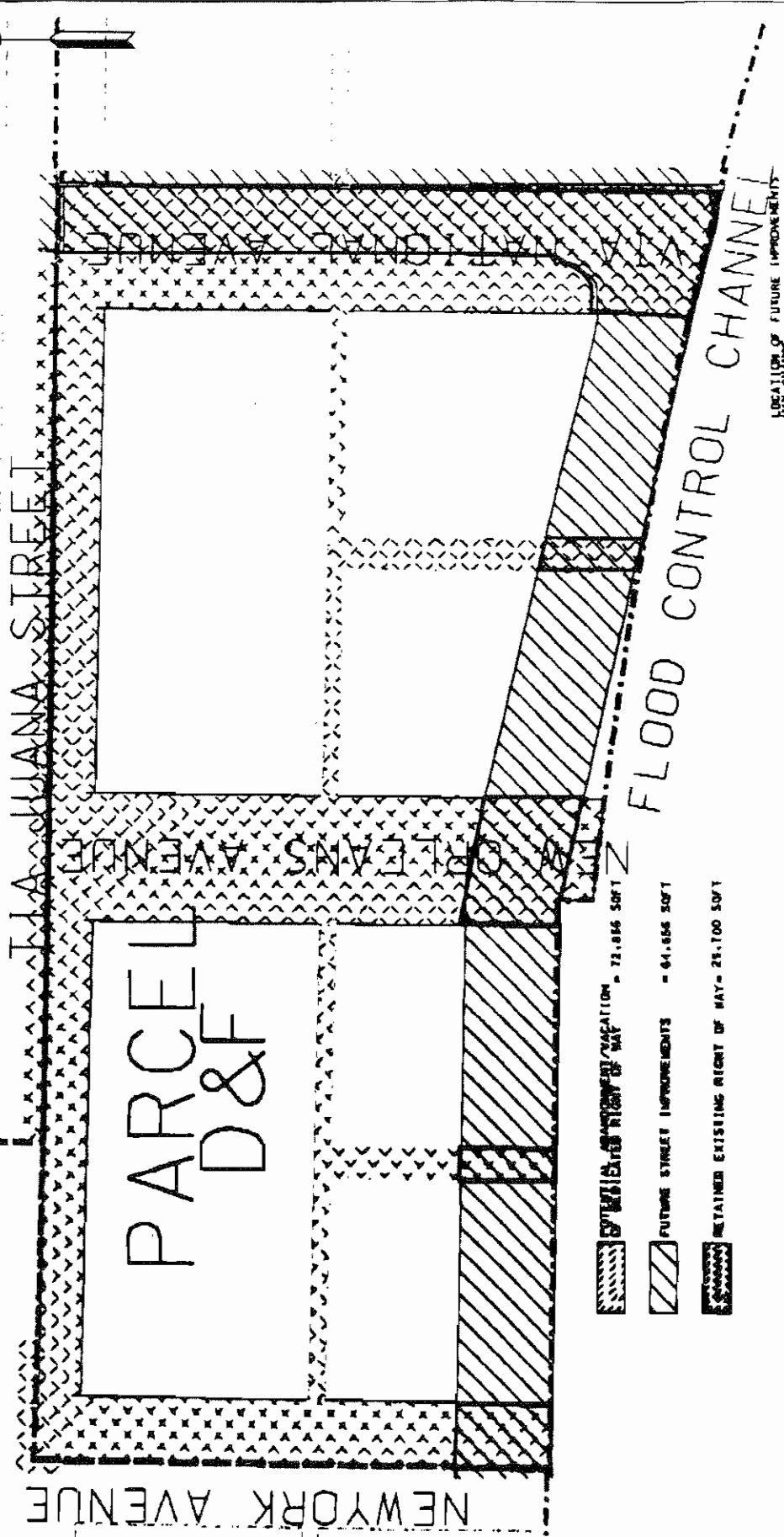
CONTRACT NO. 140




DRAWING NO. SHEET NO.



NOTE

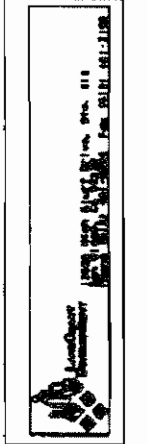
The San Diego Assessor's Map used to produce this exhibit contained the following caveat:
 "This map was prepared for assessment purposes only. No liability is assumed for the accuracy of the data shown. Assessor's parcels may not comply with local subdivision or building ordinances."



-  POTENTIAL EXISTING RIGHT OF WAY = 72,856 SQ FT
-  FUTURE STREET IMPROVEMENTS = 64,856 SQ FT
-  RETAINED EXISTING RIGHT OF WAY = 29,100 SQ FT

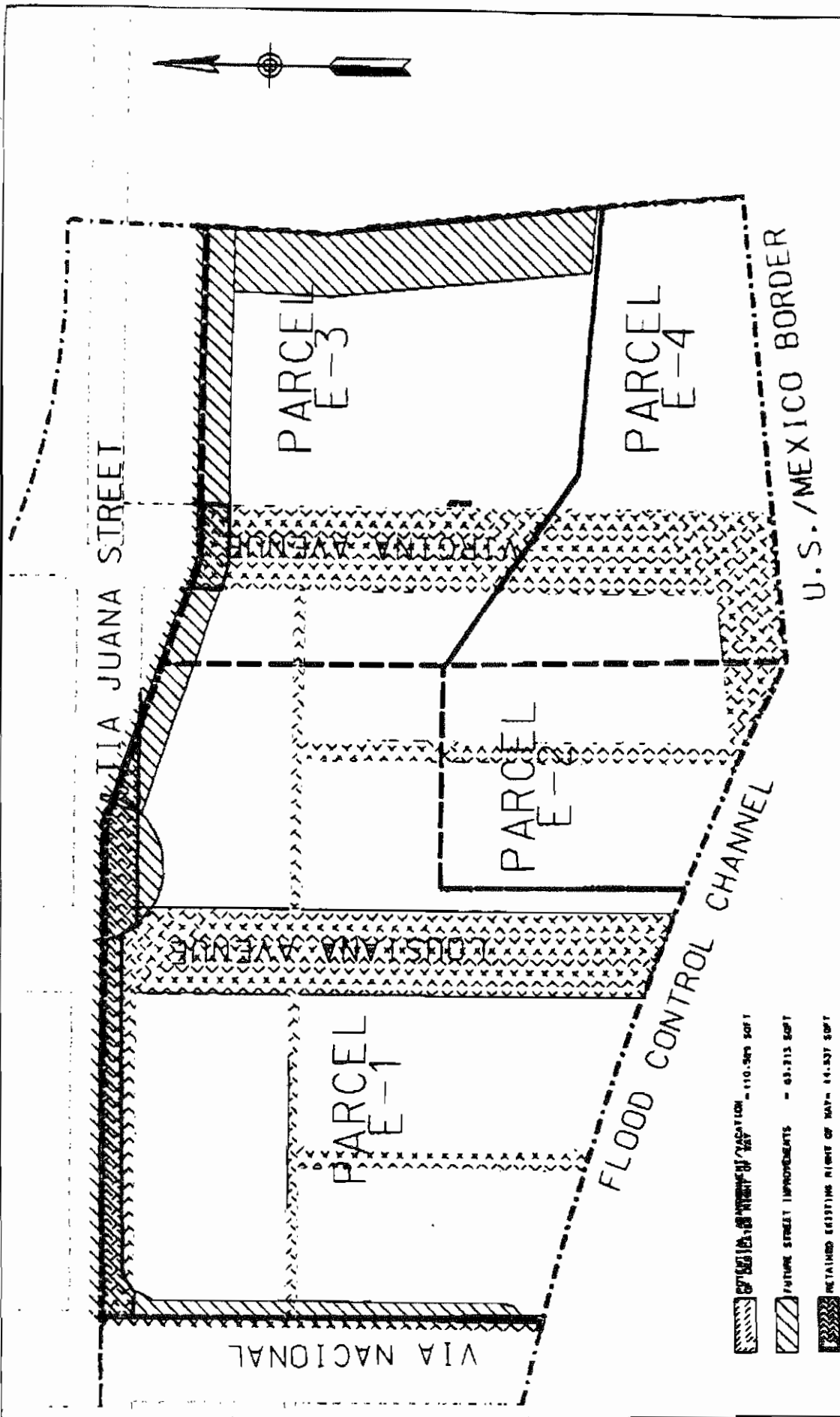
LOCATION OF FUTURE IMPROVEMENTS MAY CHANGE.




INTERNATIONAL GATEWAY OF THE AMERICAS
 POTENTIAL 'DECATATORS' IMPROVEMENTS AND
 RE-CONVEYANCES
 D - MULTI-MODAL TRANSIT CENTER
 F - PARKING STRUCTURE & CANDIDATE
 TRACKS TERMINUS



DATE	REVISIONS	BY	FOR

SCALE 1" = 100'
 CONTRACT NO.
 DEPARTMENT PROJECT NO.



-  EXISTING IMPROVEMENTS - 110.000 SFT
-  FUTURE STREET IMPROVEMENTS - 65.715 SFT
-  RETAINED EXISTING RIGHT OF WAY - 44.537 SFT

NO.	DATE	REVISION	BY	CHK	APPV

DESIGNED BY	DATE
DRAWN BY	
CHECKED BY	
PROJ. ENG.	

INTERNATIONAL GATEWAY OF THE AMERICAS	SCALE
POTENTIAL OBSERVATIONS, MEASUREMENTS AND	1" = 10'
RE-CORRECTIONS	
DOCUMENT PARCELS E-1 TO E-4	
E-1 FISA BUILDING / E-2 OFFICE BLDG	
E-3 HOTEL/COMPLIANCE CENTER	
E-4 UNIVERSITY/CLINICAL CENTER	

ATTACHMENT NO. 5

Recording Requested by:

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

When Recorded Return to and
Mail Tax Statements to:

SPACE ABOVE THIS LINE FOR
RECORDING USE

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic of the State of California, herein called "Grantor", acting to carry out the Redevelopment Plan for the San Ysidro Redevelopment Project, herein called "Redevelopment Plan", under the Community Redevelopment Law of the State of California, hereby grants to _____, herein called "Grantee", the real property, hereinafter referred to as the "Property", described in the document attached hereto, labeled Exhibit "A" and incorporated herein by this reference.

(1) Grantor excepts and reserves any existing street, proposed street, or portion of any street or proposed street lying outside the boundaries of the Property which might otherwise pass with a conveyance of the Property.

(2) Said Property is conveyed in accordance with and subject to the Redevelopment Plan for the San Ysidro Redevelopment Project which was approved and adopted on April 16, 1996, by Ordinance No. 081295 of the City Council of the City of San Diego, and the Disposition and Development Agreement (the "Agreement") entered into by and between Grantor and Grantee on _____, both of which documents are public records on file in the offices of the City Clerk of the City of San Diego and the Secretary of Grantor, and are by reference thereto incorporated herein as though fully set forth herein.

(3) The Property is conveyed to Grantee at a purchase price herein called "Purchase Price", determined in accordance with the uses permitted. Therefore, Grantee hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property that Grantee, such successors and such assigns, shall develop, maintain, and use the Property only as follows:

- (a) The Property shall be devoted only to the development permitted and the uses specified in the applicable provisions of the Redevelopment Plan and this Grant Deed, whichever document is more restrictive.
- (b) There shall be constructed upon the Property and the contiguous real property hereinbelow described in paragraph (3)(d), [Insert description consistent with the Scope of Development] and appropriate landscaping, all in accordance with plans and specifications prepared by Grantee and approved by Grantor.
- (c) During construction and thereafter, Grantee shall maintain the improvements on the Property and in the public rights-of-way (curb to property line) on all sides of the Property, and shall keep the Property and such public rights-of-way free from any accumulation of debris or waste materials. During construction and thereafter, Grantee shall also maintain the required landscaping on the Property and in such public rights-of-way in a healthy condition.
- (d) The Property shall only be used as herein provided in conjunction with that certain contiguous real property in the City of San Diego, County of San Diego, State of California legally described in the attached Exhibit "B."

The Property is also conveyed to Grantee by virtue of substantial public aids that have been made available by law and by the government for the purpose of making redevelopment of the Property (and the contiguous real property referred to in paragraph (3)(d) above) possible, including without limitation the use and/or pledge of expected receipts of ad valorem property tax revenues allocated to the Agency pursuant to Article XVI, Section 16 of the California Constitution and Health & Safety Code §§ 33670 et seq. Therefore, Grantee hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property that Grantee, such successors and such assigns, shall not contest the validity or the amount, in part or in full, whether by property tax assessment appeal or otherwise, of any property tax assessment imposed upon the Property (or any interest therein) by the San Diego County Assessor or other official responsible for such assessments, which is the basis for property taxes which it is obligated to pay in connection with its ownership of any interest in the Property, and which contest would result in a property tax assessment applicable to any Parcel within the Property and the contiguous real property referred to in paragraph (3)(d) above, as

such Parcel is described in the document attached hereto, labeled Exhibit "C" and incorporated herein by this reference, being less for the applicable Fiscal Year (July 1 to the next June 30) than the amount projected therefor in the table attached hereto, labeled Exhibit "D" and incorporated herein by this reference. For purposes of such table, the first Fiscal Year therein with respect to each Parcel, shall be the Fiscal Year commencing on the Amortization Commencement Date determined in the Loan Agreement recorded with respect thereto pursuant to the Agreement. Each such Loan Agreement is also a public record on file in the office of the Secretary of Grantor.

(4) Prior to the recordation of a Certificate of Completion issued by Grantor for the improvements to be constructed on the Property or on any part thereof:

- (a) Grantee shall not make any sale, transfer, conveyance or assignment of the Property or any part thereof or the buildings or structures thereon, without the prior written approval of Grantor, except as expressly permitted by the Agreement. In the event that Grantee does sell, transfer, convey or assign any part of the Property or buildings or structures thereon, prior to the recordation of a Certificate of Completion, in violation of this Grant Deed, Grantor shall be entitled to increase the Purchase Price paid by Grantee by the amount that the consideration payable for such sale, transfer, conveyance or assignment is in excess of the Purchase Price paid by Grantee, plus the cost of acquisition of the contiguous real property referred to in paragraph (3)(d) above and the cost of improvements and development theretofore made to the Property and the contiguous real property, including carrying charges and costs related thereto. The consideration payable for such sale, transfer, conveyance or assignment to the extent it is in excess of the amount so authorized shall belong and be paid to Grantor and until paid Grantor shall have a lien on the Property and any part involved for such amount. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Property, nor shall it prohibit granting any security interests permitted by paragraph (4)(b) of this Grant Deed for financing the acquisition and development of the Property. The lien created hereby shall be subordinate and subject to any such security interests.

- (b) Grantee shall not place or suffer to be placed on the Property any lien or encumbrance other than mortgages, deeds of trust, conveyances and leases back or any other form of conveyance required for any reasonable method of financing of the acquisition of the Property and the contiguous real property referred to in paragraph (3)(d) above, the construction of improvements on the Property and the contiguous real property, and any other expenditures necessary and appropriate to develop the Property and the contiguous real property as permitted by the Agreement. Grantee shall notify Grantor in advance of any such conveyance for financing if Grantee proposes to enter into the same prior to recordation of a Certificate of Completion for the improvements to be constructed on the Property and the contiguous real property. Grantee shall not enter into any such conveyance for financing without prior written approval of Grantor, which approval Grantor agrees to give if any such conveyance is to a responsible financial or lending institution or other acceptable person or entity.

(5) Prior to the recordation of a Certificate of Completion issued by Grantor for the improvements to be constructed on the Property or on any part thereof:

- (a) Grantor shall have the right at its option to reenter and take possession of the Property hereby conveyed (or portion thereof) with all improvements thereon, and to terminate and revest in Grantor the Property hereby conveyed (or portion thereof) to Grantee if Grantee (or its successors in interest) shall:
- (i) Fail to commence construction of the improvements on the Property and/or the contiguous real property referred to in paragraph (3)(d) above, as required by the Agreement for a period of three (3) months after written notice to proceed from Grantor, provided that Grantee shall not have obtained an extension or postponement to which Grantee may be entitled; or
 - (ii) Abandon or substantially suspend construction of the improvements on the Property and/or the contiguous real property referred to in paragraph (3)(d) above, for a continuous period of three (3) consecutive months after

written notice of such abandonment or suspension from Grantor, provided that Grantee shall not have obtained an extension or postponement to which Grantee may be entitled pursuant to the Agreement; or

- (iii) Assign or purport to assign the Agreement, or any rights therein, or transfer, or suffer any involuntary transfer of, the Property, or the contiguous real property referred to in paragraph (3)(d) above, or any part thereof, in violation of this Grant Deed, and such violation shall not be cured within thirty (30) days after the date of the receipt of written notice thereof by Grantor to Grantee.
- (b) The right to reenter, repossess, terminate and revest, and the provisions below regarding the application of proceeds, shall be subject to and be limited by and shall not defeat, render invalid, or limit:
 - (i) Any mortgage or deed of trust or other security interest permitted by paragraph (4)(b) of this Grant Deed; or
 - (ii) Any rights or interests provided for the protection of the holders of such mortgages, deeds of trust, or other security interests.
- (c) The right to reenter, repossess, terminate and revest shall not apply to the Property, or portions thereof, for which a Certificate of Completion has been issued by Grantor and recorded.
- (d) Subject to the rights of holders of security interests as stated in this paragraph (5), in the event title to the Property or any part thereof is revested in Grantor as provided in this paragraph (5), Grantor shall, pursuant to its responsibilities under state law, use its diligent and good faith efforts to resell the Property or such part thereof as soon and in such manner as Grantor shall find feasible and consistent with the objectives of such law and of the Redevelopment Plan to a qualified party or parties (as determined by Grantor) who will assume the obligation of making or completing the improvements or such other improvements in their stead as shall be satisfactory to Grantor and in accordance with the uses specified for such Property or part thereof in

the Redevelopment Plan. Upon such resale of the Property and satisfaction of obligations owed to the holder of any mortgage, deed of trust or other security interest authorized by the Agreement, the proceeds thereof shall be applied:

- (i) First, to reimburse Grantor, on its own behalf or on behalf of the City of San Diego for all substantiated costs and expenses incurred by Grantor, including but not limited to salaries to personnel engaged in such action, in connection with the recapture, management, and resale of the Property or part thereof (but less any income derived by Grantor from the Property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges, if any and if applicable, with respect to the Property or part thereof (or, in the event the Property is exempt from taxation or assessment or such charges during the period of ownership thereof by Grantor, then such taxes, assessments, or charges, as would have been payable if the Property were not so exempt); any payments made or necessary to be made to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults, or acts of Grantee, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the agreed improvements or any part thereof on the Property or part thereof; and any amounts otherwise owing to Grantor by Grantee and its successor or transferee; and
- (ii) Second, to reimburse Grantee, its successor or transferee, up to the amount equal to: the sum of (1) the Purchase Price paid to Grantor by Grantee for the Property (or allocable to the part thereof), and (2) the costs incurred for the development of the Property (or such part thereof) and for the improvements existing thereon at the time of reentry and repossession; less (3) any gain or income withdrawn or made by Grantee from the Property (or such part thereof) or from the improvements thereon. For purposes of this paragraph the term "cost incurred" shall include direct, out-of-pocket expenses of development, but shall exclude Grantee's

general overhead expense.

(iii) Any balance remaining after such reimbursements shall be retained by Grantor as its property.

(e) To the extent that this right of reverter involves a forfeiture, it must be strictly interpreted against Grantor, the party for whose benefit it is created. This right is to be interpreted in light of the fact that Grantor hereby conveys the Property to Grantee for development and not for speculation in undeveloped land.

(6) Grantee covenants and agrees for itself, its successors, its assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall Grantee itself or any person claiming under or through it, 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, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land.

(7) All deeds, leases or contracts made relative to the Property, improvements thereon, or any part thereof, shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: "The grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee itself or any person claiming under or through it, 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, subtenants, sublessees, or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

- (b) In leases: "The lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, 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 sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the leasing, subleasing, renting, transferring, use, occupancy, tenure or enjoyment of the land herein leased, nor shall lessee itself, or any person claiming under or through it, establish or permit 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 land herein leased."

- (c) In contracts: "There shall be no discrimination against or segregation of any person or group of persons on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee itself or any person claiming under or through it, 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, subtenants, sublessees, or vendees of the land."

(8) All conditions, covenants and restrictions contained in this Grant Deed shall be covenants running with the land, and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by Grantor, its successors and assigns, and the City of San Diego and its successors and assigns, against Grantee, its successors and assigns, to or of the Property conveyed herein or any portion thereof or any interest therein, and any party in possession or occupancy of said Property or portion thereof.

(9) The conditions contained in paragraphs (4) and (5) of this Grant Deed, and all rights and obligations under the Agreement referred to in paragraph (2) hereof, shall terminate and become null and void upon recordation of a Certificate of Completion issued by Grantor for the Property or the applicable portion thereof. Except as set forth in the following two sentences, every

covenant and condition and restriction contained in this Grant Deed shall remain in effect during the duration of the Redevelopment Plan, until April 16, 2026. The covenants against contesting any property tax assessments imposed upon the Property set forth in the second full paragraph of paragraph (3) of this Grant Deed shall remain in effect during the time limit for Grantor to receive property taxes under the Redevelopment Plan pursuant to Section 33670, until April 16, 2041. The covenants against discrimination set forth in paragraphs (6) and (7) of this Grant Deed shall remain in perpetuity.

(10) In amplification and not in restriction of the provisions set forth hereinabove, it is intended and agreed that Grantor shall be deemed a beneficiary of the agreements and covenants provided hereinabove both for and in its own right and also for the purposes of protecting the interests of the community. All covenants without regard to technical classification or designation shall be binding for the benefit of Grantor, and such covenants shall run in favor of Grantor for the entire period during which such covenants shall be in force and effect, without regard to whether Grantor is or remains an owner of any land or interest therein to which such covenants relate. Grantor shall have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

(11) No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust or security interest permitted by paragraph (4)(b) of this Grant Deed; provided, however, that any subsequent owner of the Property shall be bound by such remaining covenants, conditions, restrictions, limitations, and provisions, whether such owner's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

(12) None of the terms, covenants, agreements or conditions heretofore agreed upon in writing in other instructions between the parties to this Grant Deed with respect to obligations to be performed, kept or observed by Grantee or Grantor in respect to said Property or any part thereof after this conveyance of said Property shall be deemed to be merged with this Grant Deed until such time as a Certificate of Completion issued by Grantor is recorded for the Property conveyed hereby or such part thereof.

(13) The covenants contained in this Grant Deed shall be construed as covenants running with the land and not as conditions which might result in forfeiture of title, except for the covenant and condition contained in paragraph (5) of this Grant Deed.

IN WITNESS WHEREOF, Grantor and Grantee have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized this _____ day of _____, 19__.

Grantor-Agency:

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

By: _____

Grantee hereby accepts the written deed, subject to all of the matters hereinbefore set forth.

Grantee-Developer:

By: _____

By: _____

Exhibit A

Description of Property

[To be added.]

Exhibit B

Description of Contiguous Real Property

[To be added.]

Exhibit C

Description of Parcels

[To be added.]

Exhibit D

Table of Minimum Property Tax Assessments

[To be added.]

Recording Requested by:

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

When Recorded Return to:

SPACE ABOVE THIS LINE FOR
RECORDING USE

SAN YSIDRO REDEVELOPMENT PROJECT

AGREEMENT TO BE RECORDED AFFECTING REAL PROPERTY

THIS AGREEMENT is entered into this _____ day of _____, 19____, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic (hereinafter referred to as "Agency") and _____ (hereinafter referred to as "Developer") with reference to the following:

A. Developer is the present owner of the real property (the "Property") located in the City of San Diego, County of San Diego, State of California legally described in the attached Exhibit "A".

B. The Property is within the San Ysidro Redevelopment Project area (the "Project") in the City of San Diego and is subject to the provisions of the Redevelopment Plan for the Project adopted by Ordinance No. 018295 on April 16, 1996 by the City Council of the City of San Diego.

C. This Agreement is entered into and recorded in accordance with the Redevelopment Plan and pursuant to the terms and provisions of that certain "Disposition and Development Agreement" entered into between Agency and Developer on _____, 199_.

NOW, THEREFORE, AGENCY AND DEVELOPER AGREE AS FOLLOWS:

1. Developer hereby covenants and agree for itself, its successors, its assigns, and every successor in interest to the Property that the Property shall be developed and used in accordance with the Redevelopment Plan and pursuant to the terms and provisions of the Disposition and Development Agreement.

2. Developer hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property that Developer, such successors and such assigns, shall develop, maintain, and use the Property only as follows:

- a. The Property shall be devoted only to the development permitted and the uses specified in the applicable provisions of the Redevelopment Plan and this Agreement to be Recorded Affecting Real Property, whichever document is more restrictive.
- b. There shall be constructed upon the Property and the contiguous real property hereinbelow described in paragraph 2.d., [Insert description consistent with the Scope of Development] and all appropriate landscaping, all in accordance with plans and specifications prepared by Developer and approved by Agency.
- c. During construction and thereafter, Developer shall maintain the improvements on the Property and in the public rights-of-way (curb to property line) on all sides of the Property, and shall keep the Property and such public rights-of-way free from any accumulation of debris or waste materials. During construction and thereafter, Developer shall also maintain the required landscaping on the Property and in such public rights-of-way in a healthy condition.
- d. The Property shall only be used as herein provided in conjunction with that certain contiguous real property located in the City of San Diego, County of San Diego, State of California legally described in the attached Exhibit "B".

The Property is held by Developer by virtue of substantial public aids that have been made available by law and by the government for the purpose of making redevelopment of the Property (and the contiguous real property referred to in paragraph 2.d. above) possible, including without limitation the use and/or pledge of expected receipts of ad valorem property tax revenues allocated to the Agency pursuant to Article XVI, Section 16 of the California Constitution and Health & Safety Code §§ 33670 et seq. Therefore, Developer hereby covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Property that Developer, such successors and such assigns, shall not contest the validity or the amount, in part or in full, whether by property tax assessment appeal or otherwise, of any property tax assessment imposed upon the Property (or any interest therein) by the San Diego County Assessor or other official responsible for such

assessments, which is the basis for property taxes which it is obligated to pay in connection with its ownership of any interest in the Property, and which contest would result in a property tax assessment applicable to any Parcel within the Property and the contiguous real property referred to in paragraph 2.d. above, as such Parcel is described in the document attached hereto, labeled Exhibit "C" and incorporated herein by this reference, being less for the applicable Fiscal Year (July 1 to the next June 30) than the amount projected therefor in the table attached hereto, labeled Exhibit "D" and incorporated herein by this reference. For purposes of such table, the first Fiscal Year therein with respect to each Parcel, shall be the Fiscal Year commencing on the Amortization Commencement Date determined in the Loan Agreement recorded with respect thereto pursuant to the Disposition and Development Agreement. Each such Loan Agreement is also a public record on file in the office of the Secretary of Agency.

3. Developer covenants and agrees for itself, its successors, its assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall Developer itself or any person claiming under or through it, 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, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land.

4. All deeds, leases or contracts made relative to the Property, improvements thereon, or any part thereof, shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

- a. In deeds: "The grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee itself or any person claiming under or through it, 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, subtenants, sublessees, or vendees in the

land herein conveyed. The foregoing covenants shall run with the land."

- b. In leases: "The lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, 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 sex, sexual orientation, marital status, race, color, creed, religion, national origin or ancestry in the leasing, subleasing, renting, transferring, use, occupancy, tenure or enjoyment of the land herein leased, nor shall lessee itself, or any person claiming under or through it, establish or permit 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 land herein leased."

- c. In contracts: "There shall be no discrimination against or segregation of any person or group of persons on account of sex, sexual orientation, marital status, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land, nor shall the transferee itself or any person claiming under or through it, 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, subtenants, sublessees, or vendees of the land."

5. All conditions, covenants and restrictions contained in this Agreement shall be covenants running with the land, and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by Agency, its successors and assigns, and the City of San Diego and its successors and assigns, against Developer, its successors and assigns, to or of the Property or any portion thereof or any interest therein, and any party in possession or occupancy of said Property or portion thereof.

6. Except as set forth in the following two sentences, every covenant and condition and restriction contained in this Agreement shall remain in effect during the duration of the Redevelopment

Plan, until April 16, 2026. The covenants against contesting any property tax assessment imposed upon the Property set forth in the second full paragraph of paragraph 2. of this Agreement shall remain in effect during the time limit for Agency to receive property taxes under the Redevelopment Plan pursuant to Section 33670, until April 16, 2041. The covenants against discrimination set forth in paragraphs 3. and 4. of this Agreement shall remain in perpetuity.

7. In amplification and not in restriction of the provisions set forth hereinabove, it is intended and agreed that Agency shall be deemed a beneficiary of the agreements and covenants provided hereinabove both for and in its own right and also for the purposes of protecting the interests of the community. All covenants without regard to technical classification or designation shall be binding for the benefit of Agency and such covenants shall run in favor of Agency for the entire period during which such covenants shall be in force and effect, without regard to whether Agency is or remains an owner of any land or interest therein to which such covenants relate. Agency shall have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

IN WITNESS WHEREOF, Agency and Developer have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized this _____ day of _____, 19____.

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO
(Agency)

By: _____

(Developer)

By: _____

By: _____

Exhibit A

Description of Property

[To be added.]

Exhibit B

Description of Contiguous Real Property

[To be added.]

Exhibit C

Description of Parcels

[To be added.]

Exhibit D

Table of Minimum Property Tax Assessments

[To be added.]

ATTACHMENT NO. 7
GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT (the "Guaranty") is made and entered into by LANDGRANT CORPORATION, a California corporation, ("Guarantor") to and for the benefit of the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO ("Agency"), and its successors and assigns.

R E C I T A L S:

A. LandGrant Development Unlimited, a California corporation ("Developer") and Agency have entered into that certain Disposition and Development Agreement dated _____, 1998, executed concurrently herewith by and between Developer and Agency (referred to herein as the "DDA") pursuant to which Developer is required to construct and develop certain improvements (the "Improvements") upon real property more particularly described in the DDA as the "Site". All of the terms and provisions of the DDA are fully incorporated herein by this reference as though fully set forth herein.

B. Guarantor, as the sole owner of LandGrant Development Unlimited, a California corporation, has a substantial financial interest in the business and affairs of Developer and it will receive substantial economic benefit should Developer be permitted to develop the Site in the manner and in accordance with the terms of the DDA. Guarantor acknowledges that this Guaranty is required by Agency as a condition precedent and as an inducement to Agency to enter into the DDA and to convey by grant deed title to each "Sales Parcel" to Developer and to carry out its obligations in accordance with the terms of the DDA.

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration given by Agency to Guarantor, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of and to induce Agency to execute the grant deeds and perform its obligations under the DDA, Guarantor does hereby irrevocably warrant, guarantee and agree as follows:

1. Guarantor acknowledges receipt of a copy of the DDA and all of the instruments described therein and/or attached thereto.

2. If for any reason, other than acts of Agency or the City of San Diego ("City"), Developer should fail to perform any of its obligations under the DDA, including but not limited to failure to complete its construction of the Improvements on or before the date required by the DDA in all respects and in accordance with and in the manner set forth in the DDA and the plans and specifications approved by Agency, (which obligations shall be subject to any conditions thereon set forth in the DDA and, as so conditioned, are hereinafter referred to as the "Performance Obligations"), then Agency at its option, and upon thirty (30) days written notice to

Guarantor, shall call upon Guarantor and Guarantor shall assume each and all of the outstanding obligations of Developer constituting the Performance Obligations, and shall promptly commence and diligently prosecute to completion all such Performance Obligations in accordance with the terms of the DDA.

3. If for any reason Developer fails to timely meet any of its financial obligations under the DDA or to pay any amounts for which Developer may become liable under the DDA, including but not limited to the amounts payable by Developer as set forth in the Method of Financing, Attachment No. 2., of the DDA, (which obligations shall be subject to any conditions thereon set forth in the DDA and, as so conditioned, are collectively and hereinafter referred to as the ("Payment Obligations")), then Agency at its option, and upon thirty (30) days written notice to Guarantor, shall call upon Guarantor and Guarantor shall assume each and all of the outstanding financial obligations of Developer constituting the Payment Obligations, and promptly pay each and all of the outstanding balances of the Payment Obligations in accordance with the terms of the DDA as they become due and payable.

4. Guarantor's performance of the Performance Obligations may be excused during periods of delay caused by Agency or by the occurrence of events described in Section 604 of the DDA.

5. To the full extent of Developer's responsibility therefor, Guarantor will pay and discharge all mechanic's and materialmen's liens or claims therefor imposed against the Site and/or Improvements and there shall be no mechanic's, materialmen's or other like liens or claims outstanding against those portions of the Site and/or the Improvements for which Developer is responsible for the construction financing of the Improvements, excepting the lien of a first priority deed of trust for the construction financing of the Improvements approved in advance and in writing by Agency and any such liens which shall have been bonded over or for which adequate surety has been posted, all to the satisfaction of Agency, and except as otherwise specifically permitted under the DDA.

6. This Guaranty is a present, absolute and continuing guaranty; the execution by Agency of the DDA shall conclusively evidence the reliance by Agency upon this Guaranty and the obligations and agreements of Guarantor as set forth herein.

7. Guarantor waives (i) any right to require that any action be brought against Developer or any other person, or to require that resort be first had to any security for the performance of Developer's obligations prior to the enforcement of this Guaranty by Agency, and (ii) any right to pursue any remedy in Developer's power whatsoever; and if any right of action shall accrue to Agency by reason of the failure of Developer to perform any obligation or pay any sum of money required of Developer pursuant to the DDA

then, unless such default shall be cured by the Guarantor as aforesaid, Agency, at its election, may proceed against: (A) Guarantor, together with Developer (B) against Guarantor, and Developer, severally; or (C) Guarantor only, in each case, without having commenced any action or having obtained any judgment against Developer and whether or not Developer is a party in any such action.

8. The joint and several obligations of Guarantor shall not be discharged, impaired or otherwise affected by (i) any sale, transfer, assignment, pledge, surrender, indulgence, forbearance, alteration, substitution, exchange, change in, amendment, revision, modification or other disposition of the DDA, Site, and/or Improvements; (ii) the acceptance by Agency of any security for or other guarantors with respect to the Performance Obligations and/or Payment Obligations guaranteed hereunder (collectively the "Guaranteed Obligations"); (iii) any failure, negligence or omission on the part of Agency to enforce the terms of the DDA or otherwise protect the Site and/or Improvements; or (iv) the release by Agency of any security for the performance of the Guaranteed Obligations or the release by Agency of any person (including any other guarantor) from liability upon the Guaranteed Obligations; it being expressly understood and agreed that the undertakings, liabilities and obligations of Guarantor shall not be affected, discharged, impaired or varied by any act, omission or circumstance whatsoever (whether or not specifically enumerated herein) except the due and punctual performance of the Guaranteed Obligations.

9. Guarantor hereby expressly waives (a) notice of acceptance of this Guaranty; (b) all notices to which Guarantor might otherwise be entitled, except as required herein; (c) any defense arising (i) by reason of any disability of Developer or (ii) by reason of the cessation from any cause whatsoever (except a defense available to Developer under the DDA) of the liability of Developer other than full performance of the Guaranteed Obligations; (d) diligence in enforcement and any and all formalities which might otherwise be legally required to charge Guarantor with liability; and (e) all diligence in collection or protection and all presentment, demand, protest and notice of protest, notice of dishonor and notice of default.

10. In the event that Guarantor should fail to fully perform the Guaranteed Obligations promptly as herein provided, Agency shall have the following remedies:

(a) at its option and without any obligation so to do, but upon prior thirty (30) days written notice to Guarantor, proceed to perform and/or pay on behalf of Guarantor any and all of the Guaranteed Obligations; and Guarantor shall, upon demand, pay to Agency all such sums expended by Agency in such performance on behalf of Guarantor; and

(b) from time to time and without first requiring full performance of any of the Guaranteed Obligations by Developer and without being required to exhaust any or all security held by Agency, to require (subject to Paragraph 4 hereof) performance by Guarantor of all of the Guaranteed Obligations (or any part thereof) pursuant to the terms hereof, by action at law or in equity or both, and further to collect in any such action compensation for all loss, cost, damage, injury and expense sustained or incurred by Agency as a consequence of such breach.

11. This Guaranty is a guaranty of the performance and payment of certain obligations contained and provided for herein by Guarantor, and Guarantor shall be personally liable for any claims by Agency against Developer with respect to the Guaranteed Obligations. Nothing contained herein shall limit or otherwise impair Guarantor's obligation to pay to Agency, upon demand, all fees and costs (including, without limitation, attorneys' fees and disbursements) incurred by Agency in instituting and/or maintaining any action for damages or specific performance against Guarantor pursuant to the terms of this Guaranty.

12. As of the date of execution of this Guaranty, (i) Guarantor warrants that it has full authority to execute this Guaranty and comply with its terms, and (ii) Guarantor declares to and covenants with Agency and its successors and assigns, that Guarantor knows of no defense whatsoever to any action, suit or proceeding, at law or otherwise, that may be instituted on this Guaranty.

13. No failure on the part of Agency to pursue any remedy hereunder or under the DDA shall constitute a waiver on its part of the right to pursue said remedy on the basis of the same or a subsequent breach.

14. Guarantor shall promptly advise Agency in writing of any material adverse change in its business or financial condition.

15. Until the Guaranteed Obligations have been performed in full, Guarantor shall have no right of subrogation, and hereby waives any right to enforce any remedy that Agency now has or may hereafter have against Developer and waives the benefit of, and any right to participate in, any security now or hereafter held by Agency from Developer, except to the extent such security remains after full performance of the Guaranteed Obligations.

16. This Guaranty shall terminate upon completion of the Improvements in accordance with the DDA and the Uniform Building Code and full payment of the financial obligations constituting the Payment Obligations.

17. This Guaranty shall be binding upon Guarantor jointly and severally, and its successors and assigns.

18. Each reference herein to "Agency" shall be deemed to include the Redevelopment Agency of the City of San Diego in its capacity as Agency under the DDA, and each of its successors and assigns; and all of the provisions of this Guaranty shall run in favor of said named Agency and its said successors and assigns.

19. Guarantor agrees that it will reimburse Agency for all expenses, including reasonable attorneys' fees, incurred by Agency in enforcing Developer's performance of the Guaranteed Obligations or incurred by Agency in the enforcement of this Guaranty. Any sums required to be paid by Guarantor to Agency pursuant to the terms hereof shall bear interest at the rate of three percent (3%) over the Bank of America reference rate (up to the maximum rate permitted by law) on the due date from the date said sums shall be due to Agency until the same shall have been paid in full.

20. This Guaranty shall be governed by and construed in accordance with the laws of the State of California.

21. In addition to any other rights or remedies, the parties hereto may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Guaranty. Such legal actions must be instituted in the Superior Court of the County of San Diego, State of California, in any other appropriate court of that county, or in the Federal District Court in the Southern District of California.

22. In the event that any legal action is commenced by Guarantor against Agency, service of process on Agency shall be made by personal service upon the Executive Director or Chair of Agency, or in such other manner as may be provided by law. In the event such legal action is commenced by Agency against Guarantor, service of process on Guarantor shall be made by personal service upon the President, Secretary or other officer of Guarantor, and shall be valid whether made within or without the State of California, or in such manner as may be provided by law.

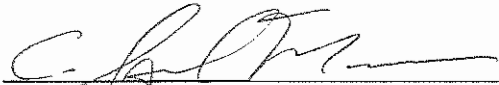
23. Time is of the essence hereof.

24. If any term, provision, covenant or condition hereof or any application thereof should be held by a court of competent jurisdiction to be invalid, void or unenforceable, all terms, provisions, covenants and conditions hereof, and all applications thereof not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

IN WITNESS WHEREOF, Guarantor has executed this Agreement as of the date first above written.

LANDGRANT CORPORATION
A California Corporation

Date: 5/28/98

By: 

Name: MASCA

Title: President

Date: 5/28/98

By: 

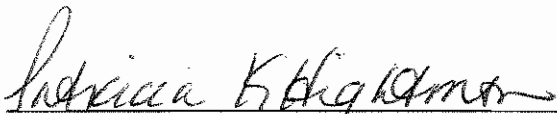
Name: CHRIS SMITH

Title: EX V.P.

Agency hereby accepts this Guaranty Agreement in accordance with the terms and conditions contained herein.

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

Date: June 1, 1998

By: 

Patricia K. Hightman
Deputy Executive Director

RIVER PEDESTRIAN BRIDGE
TERM SHEET

The essential provisions of the Bridge Implementation Plan referred to in Section 717 of this Agreement shall include without limitation:

1. Identification and a schedule and procedure for obtaining all necessary approvals from all United States local, state and federal governmental agencies, and from all Mexican local, state and federal governmental agencies, having jurisdiction over the River Pedestrian Bridge, or whose approval is or may be necessary in order to construct and operate it, including without limitation:
 - (a) Building permits necessary for construction of the River Pedestrian Bridge as may be required from all United States local, state and federal governmental agencies, and rights to place footings as required north of the Tijuana River.
 - (b) Building permits necessary for construction of the River Pedestrian Bridge as may be required from all Mexican local, state and federal governmental agencies, and rights to place footings as required south of the Tijuana River.
 - (c) Approvals necessary or appropriate to establish the legal regime for financing and operation of the River Pedestrian Bridge as described generally in paragraph 2. below.
2. Formulation and detailed description of a legal regime for financing and operation of the River Pedestrian Bridge, including without limitation:
 - (a) Establishment of the River Pedestrian Bridge as a private toll bridge franchise.
 - (b) Execution of a franchise agreement by which Developer may operate the River Pedestrian Bridge for a term of approximately twenty-five (25) years, the exact term to be determined upon refinement of details regarding the development and financing of the River Pedestrian Bridge.

- (c) Agreement upon the economic terms of such franchise, including without limitation provisions for (i) the payment of operating expenses, and reserves for capital replacements and improvements, (ii) the payment of principal and interest on debt to finance construction of the River Pedestrian Bridge, (iii) an estimated cumulative annual return to Developer of not more than thirty percent (30%) of its equity per year, and (iv) a right to use remaining toll revenues (and/or proceeds of any capital borrowings based thereon) through the fiduciary trust or trusts referred to in subparagraph (d) below, two-thirds by the City of Tijuana and one-third by the City of San Diego, to make such improvements as they may respectively elect near the River Pedestrian Bridge crossing in their respective jurisdictions.
 - (d) Creation of a fiduciary trust or trusts for the San Ysidro and Zona Norte communities, to be funded from the excess toll revenues referred to in subparagraph 2.(c)(iv) above.
 - (e) Agreement upon uses of toll revenues after expiration of the franchise.
3. Establishment of a neighborhood/community improvement program approved by the City of Tijuana and the City of San Diego within their respective jurisdictions, calling for the expenditure, through the fiduciary trust or trusts referred to in subparagraph 2.(d) above, of an agreed portion of the excess toll revenues (and/or the proceeds of any capital borrowings based thereon), from the operation of the River Pedestrian Bridge as provided in subparagraph 2.(c)(iv) above, for neighborhood/community improvements (e.g. public art, frontage road improvements, store front improvements, etc.) to enhance (a) the Site, (b) related areas in San Ysidro, (c) El Chapparal and (d) related areas in Zona Norte. Such improvements shall be selected and administered by Developer, subject to such objective guidelines as may be set out in the neighborhood/community improvement program and the approved trust documents.
4. Identification and procedures to acquire necessary rights-of-way, support easements and related rights in Mexico and the United States as necessary to construct and operate the River Pedestrian Bridge.
5. The River Pedestrian Bridge shall be located generally as shown on Exhibit A hereto.

6. Sequential preparation by Developer and submittal for approval to affected jurisdictions, of Basic Concept Drawings, Schematic/Design Development Drawings (with a physical model), and Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans, for the River Pedestrian Bridge. The design shall be prepared by an internationally recognized bridge designer. [The design shall reflect positive values important to the people of San Ysidro and Tijuana, as well as visitors from throughout the Americas, the Pacific Rim, and the World.]
7. If possible, have the franchise agreement limit any grant of permission to build another pedestrian bridge connecting the two countries within one mile on each side of the River Pedestrian Bridge.
8. Establish procedures and parameters in the franchise agreement for the Developer to set the schedule of tolls for use of the River Pedestrian Bridge, which may be differentiated by market segment, and which shall be consistent with the objectives and intentions for the River Pedestrian Bridge as expressed in this Term Sheet.

EXHIBIT A
(Attachment No. 8)

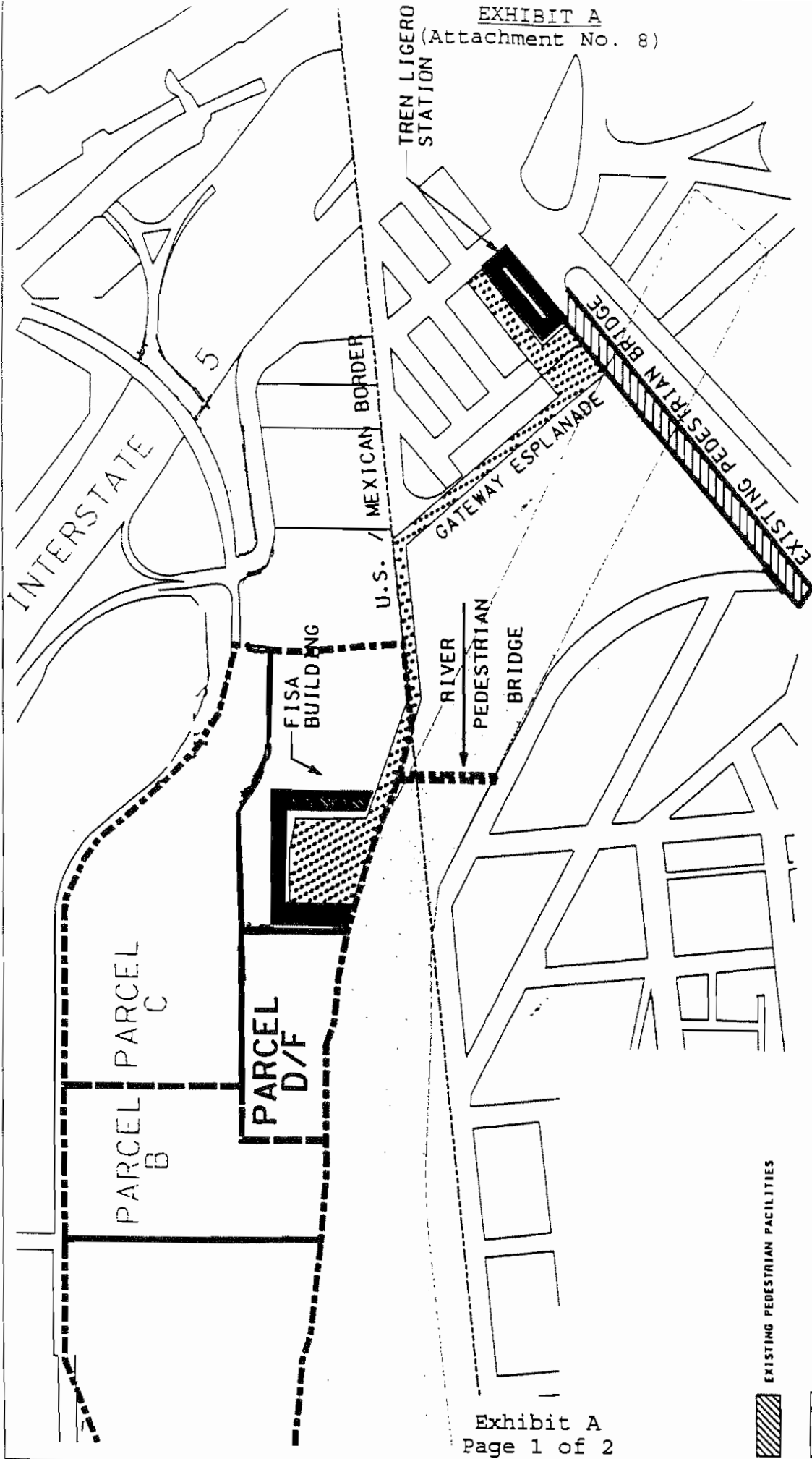



Exhibit A
Page 1 of 2

NO. DATE REVISIONS		BY		DATE		DESIGNED BY		DATE		INTERNATIONAL GATEWAY OF THE AMERICAS		SCALE
						DRAWN BY				PEDESTRIAN BRIDGE SCHEME		CONTRACT NO.
						CHECKED BY				PEDESTRIAN BRIDGE SCHEME		DRAWING NO. SHEET 14
						PRJ. ENG.				 Parsons Transportation Group 1401 Broadway, Suite 1400 New York, NY 10018-1400 Tel: 212 512-2000 Fax: 212 512-2001		FOR REDUCED PLANS ORIGINAL SCALE IS IN INCHES

U. S. BORDER
MEXICAN BORDER

RIVER PEDESTRIAN
BRIDGE



AVE. REVOLUCION

Exhibit A
Page 2 of 2

NOTE

The San Diego Assessor's Map used to produce this exhibit contained the following caveat:

"This map was prepared for assessment purposes only. No liability is assumed for the accuracy of the data shown. Assessor's parcels may not comply with local subdivision or building ordinances."

NO.	DATE	REVISIONS	BY	CHK	APPN	DESIGNED BY	DATE	 PARSONS TRANSPORTATION GROUP <small>1400 Broadway, Suite 140 San Diego, CA 92101 619-594-8811</small>	 <small>Professional Seal No. 10000 Exp. 12/31/00 JAN. 08/07 481-8100</small>	INTERNATIONAL GATEWAY OF THE AMERICAS	SCALE 1" = 70'
						DRAWN BY				RIVER PEDESTRIAN BRIDGE	CONTRACT NO.
						CHECKED BY				USER FINANCED PEDESTRIAN BRIDGE	DRAWING NO. SHEET 1
						PLT. TMR.				FOR REDUCED PLANS CONSULT SCALE IN NOTES	

ATTACHMENT NO. 9

LIST OF CITY PERMITS

The City Permit Package referred to in Section 710 of this Agreement shall include without limitation:

1. A parking variance for the Site, defining the allocation of parking spaces between specific Parcels and establishing the aggregate number of parking spaces required for Developer's full build-out of each of the Parcels of the Site.
2. A height variance for the Site, accommodating the motion picture theater and other buildings planned for each of the Parcels of the Site.
3. A master signage program for the Site, reasonably acceptable to Developer.
4. A master drainage plan for the Site.
5. Any changes to the Community Plan, zoning, Local Coastal Program or other City land use regulations applicable to the Site, which are required to implement the development under the Agreement.

ATTACHMENT NO. 10

GSA TERM SHEET

The essential terms and conditions of the GSA Cooperation Agreement referred to in Section 712 of this Agreement shall include without limitation:

1. Agency and Developer shall cooperate with the United States General Services Administration ("GSA") and the Federal Inspection Services Agencies ("FISA"), to plan, program, and design an expanded pedestrian border inspection facility (the "Facility") that meets the current needs of the FISA, allows for near-term planned expansion and/or improvement in FISA services, and support the development of walk-through activity of San Ysidro FISA services at the Virginia Avenue Facility. The agreement shall include a technical design memorandum. The technical design memorandum shall address any unique requirements the FISA may have, including secure parking, emergency access, and other requirements.
2. Obtain GSA approval that, so long as the parties are proceeding under paragraph 1. above, GSA will refrain from taking any action that might lead to removal of the property from consideration as a pedestrian crossing, including the use of the site for commercial inspections.
3. Upon agreement as provided for in paragraph 1., Agency shall acquire fee title to the United States property east of Virginia Avenue (that is, the GSA owned Added Sales Parcel).
4. Agency shall convey title to the above property to Developer, subject to an agreement by Developer to build to suit, and agreement by GSA to sublease, on terms satisfactory to investors and lenders, a full service pedestrian border crossing facility.
5. The Facility located on Parcel E-1, and the location, shall be satisfactory to FISA.
6. Agency shall agree to lease the FISA space from Developer concurrently with closing of the mortgage loan and/or other financing for development of Parcel E-1, under terms of the technical design memorandum. The lease between Agency and Developer shall be at a lease rate (including periodic adjustments), and under lease terms (including a period contemplated to be at least 25 years), sufficient to induce investors and lenders to participate in project finance.

7. The Facility is intended to be a model of operational efficiency, and incorporate state of the art technology and management systems associated with the law enforcement mission of FISA.
8. The Facility shall be designed around an access-restricted public plaza. The public plaza shall be physically within the United States of America, and accessible from Mexico by the River Pedestrian Bridge on the Virginia/Revolution alignment, and along a project esplanade from the proposed Tren Ligero station south of El Chapparal. The public plaza will be patterned as an open airport security zone, including shops, services, and other items of interest to border customers.
9. The parties will attempt to agree on the GSA Cooperation Agreement, and implement it, on schedules consistent with the Disposition and Development Agreement, with a working target to agree even earlier; that is, as soon as possible but in any event within ninety (90) days after Bi-National Authorization for the River Pedestrian Bridge.

ATTACHMENT NO. 11

[INTENTIONALLY OMITTED.]

PURCHASE AGREEMENT

This Purchase Agreement (the "Agreement") entered into by and between [Owners of Agreed Sales Parcels] (each the "Seller" with respect to its Agreed Sales Parcel as defined below) and the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO ("Buyer").

Seller agrees to sell and convey, and Buyer agrees to purchase, the real property situated in the City of San Diego, San Diego County, California (hereafter referred to as "Parcel __," "Parcel __," "Parcel __" and "Parcel __" or individually as an "Agreed Sales Parcel"), and more particularly described in Exhibit A, which is attached to this Agreement and hereby incorporated by reference, on the following terms and conditions:

This Agreement is entered into pursuant to Section 716 of that certain Disposition and Development Agreement, dated _____, 199_, by and between Buyer and _____, a _____ (the "Developer") (the "Disposition and Development Agreement").

ARTICLE 1. PURCHASE PRICE

Amount and Terms of Payment

Section 1.01. The total purchase price of each Agreed Sales Parcel, which shall be paid at the close of escrow with respect to the applicable Agreed Sales Parcel, is as follows: [Insert purchase price determined by multiplying \$6.00 per square foot times the number of square feet in the applicable Agreed Sales Parcel.]

Parcel __:	_____
	Dollars (\$_____)
Parcel __:	_____
	Dollars (\$_____)
Parcel __:	_____
	Dollars (\$_____)
Parcel __:	_____
	Dollars (\$_____)

This purchase price shall be payable in cash or by certified or cashier's check drawn to the order of Seller. The purchase price with respect to each Agreed Sales Parcel shall be the entire amount that Buyer shall be obligated to pay with respect to each Agreed

Sales Parcel. Buyer shall not be liable to Seller for the cost of relocating the occupants of any Agreed Sales Parcel or for loss of goodwill due to the closure or relocation of any business located on any Agreed Sales Parcel.

ARTICLE 2. ESCROW

Opening of Escrow

Section 2.01. Buyer agrees to open an escrow in accordance with this Agreement at First American Title Insurance Company. This Agreement constitutes the joint escrow instructions of Buyer and Seller, and Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to do all acts necessary to close this escrow with respect to each Agreed Sales Parcel within the time set forth therefor in Section 2.02.

Prior to the date for close of escrow, Seller shall execute and hand a deed to Buyer. Buyer will deposit the executed deed, with Certificate of Acceptance attached, with Escrow Agent on Seller's behalf. Buyer agrees to deposit each purchase price upon demand of Escrow Agent made immediately before close of escrow. Buyer and Seller agree to deposit with Escrow Agent any additional instruments as may be necessary to complete this transaction.

All funds received in this escrow shall be deposited with other escrow funds in a general escrow trust account(s) and may be transferred to any other such escrow trust account in any State or National Bank doing business in the State of California. All disbursements shall be made by check from such account.

ESCROW AGENT IS AUTHORIZED AND INSTRUCTED TO COMPLY WITH THE FOLLOWING TAX ADJUSTMENT PROCEDURE:

- A. Pay and charge Seller for any unpaid delinquent taxes and/or any penalties and interest thereon, and for any delinquent or non-delinquent assessments or bonds against the applicable Agreed Sales Parcel;
- B. Escrow is not to be concerned with pro-ration of Seller's taxes for the current fiscal year if this escrow closes between July 1 and November 1 unless current tax information is available from title insurer between October 15 and November 1. In the event said tax information is available, Seller's taxes shall be pro-rated in accordance with Paragraph C below. From July 1 and the ensuing period, when tax information is NOT available, referred to above, Seller's pro-rata portion of taxes due to close of escrow, shall be cleared and paid by Seller, outside of escrow, pursuant to provisions

of Sections 5082 through 5090 of the Revenue and Taxation Code of the State of California;

- C. From the date that tax information is available, as per Paragraph B above, up to and including June 30th, Seller's current taxes, if unpaid, shall be pro-rated to date of close of escrow on the basis of a 365-day year in accordance with Tax Collector's pro-ration requirements, together with penalties and interest if said current taxes are unpaid after December 10 and/or April 10. At close of escrow, a check payable to the County Tax Collector for Seller's pro-rata portion of taxes shall be forwarded to Buyer with closing statement;
- D. Any taxes which have been paid by Seller, prior to opening of this escrow, shall not be pro-rated between Buyer and Seller, but Seller shall have the sole right, after close of escrow, to apply to the County Tax Collector of said County for refund of such taxes which may be due Seller for the period after Buyer's acquisition pursuant to Revenue and Taxation Code Section 5096.7.

ESCROW AGENT IS AUTHORIZED TO, AND SHALL:

- E. Pay and charge Seller for any amount necessary to place title in the condition necessary to satisfy Section 3.02 of this Agreement;
- F. Pay and charge Seller for any escrow fees, charges and costs payable under Section 2.04 of this Agreement;
- G. Disburse funds and deliver deed when conditions of this escrow have been fulfilled by Buyer and Seller.

The term "close of escrow," if and where written in these instructions, shall mean the date necessary instruments of conveyance are recorded in the office of the County Recorder. Recordation of instruments delivered through this escrow is authorized if necessary or proper in the issuance of said policy of title insurance.

All time limits within which any matter herein specified is to be performed may be extended by mutual agreement of the parties hereto. Any amendment of, or supplement to, any instructions must be in writing.

TIME IS OF THE ESSENCE IN THESE INSTRUCTIONS. If (except for deposit of money by Buyer, which shall be made by Buyer upon demand of Escrow Agent immediately before close of escrow) this escrow is not in condition to close with respect to an Agreed Sales Parcel

within the time set forth in Section 2.02, any party who then shall have fully complied with its instructions may, in writing, demand the return of its money or property; but if none have fully complied, no demand for return thereof shall be recognized until five (5) days after Escrow Agent shall have mailed copies of such demand to all other parties at their respective addresses shown in these escrow instructions, and if any objections are raised within said five (5) day period, Escrow Agent is authorized to hold all papers or documents until instructed by a court of competent jurisdiction or mutual instructions. If no demands are made, Escrow Agent shall proceed with closing this escrow as soon as possible.

Responsibility of Escrow Agent under this Agreement is expressly limited to Sections 1.01, 2.01 through 2.04, inclusive, 3.01 through 3.04, inclusive, 5.01 through 5.04, inclusive, and 6.01 through 6.13, inclusive, and to its liability under any policy of title insurance issued in regard to this transaction.

Closing Date

Section 2.02. The escrow shall be closed on the date each deed is recorded. The escrow shall be considered to be in a condition to close when the escrow holder is authorized under the escrow instructions, and when the escrow holder is otherwise able, to record the grant deed. The escrow shall close at the time all Sales Parcels within the Development Parcels (as defined in the Disposition and Development Agreement) are conveyed from Buyer to the Developer and in any event no later than the date established in the Disposition and Development Agreement for such conveyance, as such date may be extended by Section 604 of the Disposition and Development Agreement, or by mutual consent or agreement of Buyer and the Developer.

Notwithstanding the foregoing, in the event that the Disposition and Development Agreement is terminated with respect to the Development Parcels, this Agreement shall remain in effect with respect to the Agreed Sales Parcels for the five hundred forty- (540) day period referred to in Section II.C.2. of the Method of Financing (Attachment No. 2) of the Agreement. At any time, and from time to time, during such five hundred forty- (540) day period, Buyer may, at its option exercised by written notice to Seller, elect to acquire Parcel ___, Parcel ___, Parcel ___ and/or Parcel ___ pursuant to all of the terms and conditions of this Agreement. The escrow shall close with respect to any Agreed Sales Parcel specified in the applicable notice within the time set forth in the notice (which shall not be more than one hundred twenty (120) days after the delivery of the applicable notice). The election may be made as to each Agreed Sales Parcel separately at any time during the five hundred forty- (540) day period, or in any combination at different times, or all at one time. The election

provided for in this paragraph is at the option of Buyer, and unless exercised, Buyer shall have no obligation to acquire any Agreed Sales Parcel or Parcels for which it does not give timely notice. Buyer may also at any time during the five hundred forty- (540) day period terminate this Agreement with respect to any as yet unacquired Agreed Sales Parcels. At the end of the five hundred forty- (540) day period, this Agreement shall automatically terminate with respect to any as yet unacquired Agreed Sales Parcels. The provisions of Section 3.03 of this Agreement shall govern in the event of a termination by Buyer or an automatic termination under this paragraph.

Prorations

Section 2.03. The following shall be prorated between Seller and Buyer on the basis of a 30-day month as of the date on which escrow closes: real property taxes, special assessments, and premiums on any insurance policies that are transferred to Buyer pursuant to Section 5.03.

Closing Costs

Section 2.04. Seller shall pay any transfer taxes, the costs of the preliminary report and title insurance policy required by this Agreement, any reconveyance fees charged for the reconveyance of any deed of trust shown on the preliminary title report required by this Agreement, any recording fees for the reconveyance of any such deed of trust, the cost of preparing, executing, and acknowledging the grant deed and all other instruments necessary to convey title to Buyer, the cost of recording the grant deed and any other instruments required to convey title to Buyer, and all escrow fees.

ARTICLE 3. ADDITIONAL TERMS AND CONDITIONS

Preliminary Title Report

Section 3.01. At any time following execution of this Agreement, Buyer may request in writing that Seller furnish Buyer with a preliminary California Land Title Association report of the title to the applicable Agreed Sales Parcel and each document shown as an exception or encumbrance in the report. Within fifteen (15) days after Buyer so requests in writing, Seller shall furnish Buyer with a preliminary California Land Title Association report of the title to the specified Agreed Sales Parcel and each document shown as an exception or encumbrance in the report. This shall be done at the expense of Seller. Within fifteen (15) days after the delivery of the report and related documents to Buyer, Buyer shall notify Seller in writing of any objection to any exception therein. If Buyer makes a timely objection to any exception and the

exception is not eliminated (at the sole cost and expense of Seller) within thirty (30) days of Seller's receipt of the objection, this Agreement may be terminated with respect to the affected Agreed Sales Parcel at the option of Buyer pursuant to Section 3.04. Buyer's failure to object in this manner to any exception shall be an approval by Buyer of that exception.

Miscellaneous Conditions

Section 3.02. The close of escrow opened pursuant to Section 2.01, and Buyer's obligation to purchase each Agreed Sales Parcel pursuant to this Agreement, are subject to the satisfaction of the following conditions, which are solely for Buyer's benefit unless otherwise indicated:

Marketable Title

(a) The conveyance to Buyer of good and marketable title to the Agreed Sales Parcel, as evidenced by a California Land Title Association standard coverage title insurance policy issued by a title company satisfactory to Seller and Buyer in the full amount of the purchase price insuring that title to the Agreed Sales Parcel is vested in Buyer free and clear of all title defects, liens, encumbrances, conditions, covenants, restrictions, and other adverse interests of record or known to Seller, subject only to those exceptions approved by Buyer in writing and the following: a lien for current real property taxes and any exceptions shown on the preliminary title report described in Section 3.01 that are not disapproved by Buyer pursuant to that Section.

Delivery of Possession

(b) The delivery of possession of the Agreed Sales Parcel to Buyer immediately on the close of escrow free and clear of all uses and occupancies except those approved in writing by Buyer.

Conveyance under Disposition and Development Agreement

(c) The conveyance by Buyer to the Developer of the Sales Parcel of which the Agreed Sales Parcel is a part in accordance with all of the terms, covenants and conditions of the Disposition and Development Agreement.

Failure of Condition and Seller's Breach of Warranty

Section 3.03. Except as provided in Section 3.04, if any of the conditions set forth in this Agreement fails to occur, or if Buyer notifies Seller in writing prior to the close of escrow of Seller's breach of any of Seller's warranties set forth in this Agreement, then Buyer may cancel the escrow, terminate this Agreement, and recover the amounts paid by Buyer to the escrow

holder toward the purchase price of the applicable Agreed Sales Parcel. Buyer shall exercise this power to terminate by complying with any applicable notice requirements specified in the relevant condition and, in all other cases, by providing written notice to Seller and the escrow holder at any time prior to close of escrow. The exercise of this power shall not waive any other rights Buyer may have against Seller for breach of this Agreement. Seller shall instruct the escrow holder, in an amendment of escrow instructions delivered pursuant to Section 2.01, to refund to Buyer all money and instruments deposited in escrow by Buyer pursuant to this Agreement upon failure of a condition or conditions or breach of a warranty or warranties and receipt of a termination notice. This instruction shall be irrevocable. In the event of such a termination, all costs and expenses of escrow shall be paid by Seller in accordance with Section 2.04.

Seller's Election to Remedy Defects

Section 3.04. Notwithstanding any provision of this Agreement to the contrary, Seller shall have the right to remedy certain violations of this Agreement prior to the close of escrow. This right to remedy shall be subject to the following requirements and restrictions:

(a) Buyer shall immediately notify Seller in writing of Buyer's discovery, prior to the close of escrow, of a violation of any of the following provisions of this Agreement: Sections 3.02(a) or 4.02. For these purposes the foregoing violations shall be referred to as "defects."

(b) If Buyer fails to give notice, Buyer shall waive the defect and the defect shall not be a violation of this Agreement. If Buyer gives notice, Seller may elect to remedy the defect by giving Buyer written notice of this election within ten (10) days of receiving Buyer's notice. Seller's notice of election to remedy may include a request for postponement of escrow closing and a specification of the number of days (if any), up to a maximum of thirty (30), that escrow be postponed so that Seller may remedy the defect. Buyer, at its sole discretion, may give its written approval of such postponement. If Buyer fails to respond to such request within three (3) days of such request or the scheduled close of escrow shall occur prior to any response from Buyer, then Buyer shall be deemed to have rejected the request for postponement. If Seller fails to provide a timely notice of election or fails to remedy the defect prior to the close of escrow (including any extension of escrow pursuant to this Section), then Buyer, at Buyer's election, may do either of the following:

- (1) Terminate the Agreement, either in its entirety or solely with respect to the applicable Agreed Sales

Parcel, without any liability on the part of either party; or

- (2) Purchase the applicable Agreed Sales Parcel without a reduction in the purchase price and without any liability for the unremedied defect or defects on the part of Seller.

The failure by Buyer to make such an election shall be deemed an election of option (2).

(c) Seller shall instruct the escrow holder, in an amendment to escrow instructions delivered pursuant to Section 2.01, to immediately refund to Buyer all money and instruments deposited in escrow by Buyer pursuant to this Agreement on termination of this Agreement pursuant to this Section, and on receipt of notice of that termination from Buyer. In the event of such a termination, any costs and expenses of the escrow shall be paid by Seller in accordance with Section 2.04.

ARTICLE 4. RIGHTS AND WARRANTIES

Right of Buyer to Enter Agreed Sales Parcels

Section 4.01. Seller grants to Buyer, or Buyer's agents, the right, at any time and from time to time after the opening of the escrow for this transaction, to enter onto the applicable Agreed Sales Parcel to conduct tests or investigations, provided that:

(a) The acts shall be conducted at the sole cost and expense of Buyer;

(b) The acts do not unreasonably interfere with Seller's possession;

(c) Buyer shall indemnify and hold Seller harmless from any costs or liability resulting from the acts, and, if the escrow is canceled for a reason that is not the fault of Seller, for any damage to the applicable Agreed Sales Parcel resulting from the acts; and

(d) Buyer shall give Seller written notice of the intention to enter two (2) days prior to the date of the planned entry.

Warranties of Seller

Section 4.02. Seller warrants that:

(a) Seller owns the applicable Agreed Sales Parcel, free and clear of all liens, licenses, claims, encumbrances, easements, encroachments on the Agreed Sales Parcel from adjacent properties,

encroachments by improvements on the Agreed Sales Parcel onto adjacent properties, and rights-of-way of any nature, not disclosed by the public record.

(b) There is no pending litigation involving the applicable Agreed Sales Parcel.

(c) There is no rental agreement, tenancy or lease (written, unwritten, recorded or unrecorded) with respect to the applicable Agreed Sales Parcel.

(d) As of the close of escrow, there will not be any then existing violation of, or unsatisfied notice concerning defects or noncompliance with, any applicable building code or other code, statute, regulation, ordinance, judicial order, or judicial holding pertaining to the applicable Agreed Sales Parcel.

(e) Seller is not in default under any contract, note, or encumbrance relating to the applicable Agreed Sales Parcel.

(f) As of the close of escrow, the applicable Agreed Sales Parcel and the improvements on the applicable Agreed Sales Parcel will be in good condition, reasonable wear and tear excepted, and there will not be any material defect in the property.

(g) Seller will maintain the applicable Agreed Sales Parcel in good repair and in the same condition, reasonable wear and tear excepted, it was in when this Agreement was executed.

Survival of Warranties

Section 4.03. All warranties, covenants, and other obligations described in this Article and elsewhere in this Agreement shall survive delivery of each deed.

ARTICLE 5. ENVIRONMENTAL PROVISIONS

Indemnification by Seller

Section 5.01. Effective as of the closing date, Seller shall defend, indemnify and hold harmless Buyer from and against any and all claims, damages or liabilities (whether or not caused by negligence), including civil or criminal fines, arising out of or relating to any of the following:

(a) Any generation, processing, handling, transportation, storage, treatment or disposal of solid wastes or hazardous wastes by Seller, including, but not limited to, any of such activities occurring on the applicable Agreed Sales Parcel;

(b) Any releases (including, but not limited to, any releases as defined under the Comprehensive Environmental Response, Compensation and Liability Act of 1980) to the extent occurring or existing prior to closing, including, but not limited to such releases to land, ground water, surface water or into the air.

Representations and Warranties

5.02. As an inducement to Buyer to enter into this Agreement, Seller represents and warrants that:

(a) Throughout the period of ownership of the applicable Agreed Sales Parcel by Seller, there has been no notice, directive, violation report or action by any local, state or federal department or agency concerning environmental laws or regulations;

(b) There are no soil or geological conditions which might impair or adversely affect the current use or future plans for use of the Agreed Sales Parcel;

(c) None of the Agreed Sales Parcel is located in an area identified by an agency or department of federal, state or local governments, or identified by Seller, as having special flood or mudslide hazards or wetlands;

(d) The business and operations of Seller have at all times been conducted in compliance in all material respects with all applicable federal, state, local or foreign laws, ordinances, regulations, orders and other requirements of governmental authorities with respect to matters relating to the environment;

(e) There has been no spill, discharge, release, cleanup or contamination of or by any hazardous or toxic waste or substance used, generated, treated, stored, disposed of or handled by Seller at the Agreed Sales Parcel;

(f) There are not now, nor have there ever been any underground storage tanks located at, on or under the Agreed Sales Parcel;

(g) No hazardous or toxic substances or wastes are located at, or have been removed from the Agreed Sales Parcel.

Broad Condition Precedent

5.03. (a) As a condition precedent to Buyer's obligation to purchase the applicable Agreed Sales Parcel, Seller shall have received not less than thirty (30) days prior to the anticipated close of escrow with respect to each Agreed Sales Parcel, from a governmental authority ("authority"), pursuant to any environmental cleanup responsibility law (the "Cleanup Law") affecting the Agreed

Sales Parcel or the transfer of the Agreed Sales Parcel, either (i) a determination by the authority that the transaction is not subject to the law, or (ii) a determination that the transaction satisfies the requirements of the Cleanup Law without the need for any cleanup of hazardous substances or wastes at the premises. If this condition precedent shall not be satisfied, then Buyer shall have the right to void this Agreement on notice to Seller.

(b) Seller shall promptly furnish to Buyer true and complete copies of all documents, submissions and correspondence provided by Seller to the authority, and all documents, reports, directives and correspondence provided by the authority to Seller in line with environmental compliance under subparagraph (a) above. Seller shall also promptly furnish to Buyer true and complete copies of all sampling and test results obtained from samples and tests taken at and around the Agreed Sales Parcel.

(c) Seller shall, upon request of Buyer, provide to Buyer a description of all operations, past and present, known by Seller to have been undertaken at the Agreed Sales Parcel and any existing maps and diagrams in Seller's possession or control designating the location of past and present operations and past and present storage of hazardous substances and wastes, above and below ground, at the Agreed Sales Parcel.

(d) Buyer shall have the right after execution of this Agreement and prior to closing, at Buyer's own expense, to undertake sampling at any of the applicable Agreed Sales Parcel or any operations located thereon, for which purpose Seller shall allow Buyer and Buyer's agents reasonable access. Should Buyer's sampling reveal that there has been a spill or discharge of hazardous substances or wastes at the applicable Agreed Sales Parcel or the operations thereon, then Buyer shall have the right to void this Agreement on notice to Seller.

(e) Seller represents and warrants to Buyer that the applicable Agreed Sales Parcel and the operations thereon comply fully with all state and federal environmental laws.

(f) Seller shall indemnify and defend Buyer from and against any and all liabilities, losses and costs, including Buyer's reasonable counsel fees, which Buyer may incur because of Seller's failure to perform all of its obligations under any Cleanup Law affecting the applicable Agreed Sales Parcel or Seller's breach of the representations and warranties set forth above.

Seller's Cleanup Obligations

Section 5.04. (a) No later than thirty (30) days prior to the anticipated close of escrow with respect to each Agreed Sales Parcel, Seller shall, at Seller's own expense, comply with any

Cleanup Law, and shall obtain the necessary approvals from the appropriate governmental authority permitting the transaction to be completed.

(b) Should a cleanup of any applicable Agreed Sales Parcel be required under the Cleanup Law, and should the authorities permit closing of this transaction prior to the cleanup and Buyer agrees at its sole discretion to closing of this transaction, then closing shall proceed and Seller shall fully complete all required cleanups and post-cleanup sampling required by the authorities on or before six (6) months after the date of closing. Should Seller fail to obtain final approval of cleanup from the authorities on or before that date, then notwithstanding closing of this transaction, Buyer shall be indemnified and defended from all costs, expenses and damages resulting from Seller's failure to obtain final approval.

(c) Seller shall indemnify and defend Buyer from and against all liabilities, losses and costs, including Buyer's reasonable counsel fees, which Buyer may incur by reason of Seller's failure to perform any of the above obligations.

ARTICLE 6. MISCELLANEOUS PROVISIONS

Loss, Destruction and Condemnation

Section 6.01. The parties agree that the following provisions shall govern the risk of loss:

(a) If, before Seller transfers legal title or possession of the applicable Agreed Sales Parcel to Buyer, all or any part of such Agreed Sales Parcel is destroyed without fault of Buyer or is taken by eminent domain by any governmental entity, Buyer shall be entitled to recover any portion of the price Buyer has paid, and Seller shall not have the right to enforce this Agreement.

(b) If after Seller transfers legal title or possession of the Agreed Sales Parcel to Buyer, all or any part of such Agreed Sales Parcel is destroyed without fault of Seller or is taken by eminent domain by any governmental entity, Buyer is not relieved from Buyer's obligation under this Agreement to pay the full price for the applicable Agreed Sales Parcel, nor is Buyer entitled to recover any portion of the price Buyer has paid.

Insurance

6.02. Seller shall deliver to Buyer within five (5) days of the execution of this Agreement, copies of Seller's fire and casualty insurance policies on the applicable Agreed Sales Parcel. Those policies may be taken over by Buyer if Buyer so elects and if Buyer obtains the written consent of the insurers to the assumption. Buyer shall notify Seller and the escrow holder in

writing at least ten (10) days prior to the close of escrow whether Buyer will or will not assume each policy. This notice shall be accompanied by a copy of any and all written consents to the assumption provided by the insurers. If Buyer fails to notify Seller in the required manner of Buyer's election concerning any insurance policy, the failure shall be deemed an election not to assume that policy. Seller shall be responsible for having insurance on the applicable Agreed Sales Parcel until the close of escrow with respect to the applicable Agreed Sales Parcel.

Assignment

Section 6.03. Buyer may not assign this Agreement without Seller's prior written consent, except Buyer may at its option assign this Agreement to the Developer. The valid assignment of this Agreement shall relieve Buyer of liability under this Agreement.

Time of Essence

Section 6.04. Time is of the essence in this Agreement.

Notices

Section 6.05. Any notice, tender, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered, dispatched by registered or certified mail, postage prepaid, return receipt requested, or sent by wire or other telegraphic communication in the manner provided in this Section, to the following persons:

(a) If to Buyer:

(b) If to Seller:

Either party may change that party's address for these purposes by giving written notice of the change to the other party in the manner provided in this Section.

If sent by mail, any notice, delivery, or other communication shall be effective or deemed to have been given forty-eight (48) hours after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by wire or other form of telegraphic

communication, any notice, delivery, or other communication shall be effective or deemed to have been given on the date sent.

Entire Agreement

Section 6.06. This Agreement and the attached Exhibit constitute the entire agreement between the parties relating to the sale of each applicable Agreed Sales Parcel. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by Buyer and Seller.

Attorneys' Fees

Section 6.07. If any action, proceeding, or arbitration arising out of or relating to this Agreement is commenced by either party to this Agreement or by the escrow holder, then as between Buyer and Seller, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs, and expenses incurred in the action, proceeding, or arbitration by the prevailing party.

Binding Effect

Section 6.08. This Agreement shall be binding on and inure to the benefit of the parties to this Agreement and their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Agreement.

Governing Law

Section 6.09. This Agreement and the legal relations between the parties shall be governed by and construed in accordance with the laws of the State of California.

Headings

Section 6.10. The headings of the articles and sections of this Agreement are inserted for convenience only. They do not constitute part of this Agreement and shall not be used in its construction.

Waiver

Section 6.11. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.

Tax Reporting and Withholding - Non-Foreign Status

Section 6.13. The Foreign Investment in Real applicable Agreed Sales Parcel Tax Act of 1980, as amended by the Tax Reform Act of 1986, places special requirements for tax reporting and withholding on the parties to a real estate transaction where the transferor (Seller) is a non-resident alien or non-domestic corporation or partnership, or is a domestic corporation or partnership controlled by a non-resident or non-resident corporation or partnership.

Seller advises Buyer that Seller is NOT a "foreign person" for the purposes of Section 1445 (as may be amended) of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder, and that, in accordance with the provisions of Section 1445, Seller shall execute an affidavit under penalty of perjury setting forth Seller's name, address, federal tax identification number, and certifying that Seller is not a "foreign person" in accordance with the provisions of the Internal Revenue Code.

It is specifically understood and agreed by Seller that closing of this escrow is subject to and contingent upon, deposit into escrow, or notification to Escrow Agent by Buyer, of receipt of said Affidavit.

Dated this _____ day of _____, 199__.

SELLER

BUYER

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO
(Agency)

Dated: _____

By: _____

APPROVED AS TO FORM AND LEGALITY
on this _____ day of _____ 199__.

CASEY GWINN
Agency General Counsel

By: _____

APPROVED:

KANE, BALLMER AND BERKMAN
Agency Special Counsel

By: _____

Exhibit A

LEGAL DESCRIPTION OF AGREED SALES PARCELS

Parcel _____

[To be added.]

Parcel _____

[To be added.]

Parcel _____

[To be added.]

Parcel _____

[To be added.]

Recording Requested by:

CITY OF SAN DIEGO

When Recorded Return to and
Mail Tax Statements to:

SPACE ABOVE THIS LINE FOR
RECORDING USE

PUBLIC USE LEASE

This Public Use Lease (the "Lease") is entered into by and between _____, a _____ ("Lessor"), and the CITY OF SAN DIEGO ("City"), a charter city.

RECITALS

A. The Redevelopment Agency of the City of San Diego ("Agency") and Lessor ("Developer" therein) are the parties to that certain Disposition and Development Agreement, dated _____, 19__ (the "DDA") with respect to the redevelopment of certain real property (the "Site"), within the San Ysidro Redevelopment Project area in the City. The redevelopment of the Site involves construction of certain improvements specified in the DDA. Such improvements are to be constructed in phases.

B. Lessor, as Developer under the DDA, is now commencing to construct such improvements on a portion of the Site referred to as "Parcel A", which is shown on the map attached hereto as Exhibit A and is more particularly described in Exhibit B.

C. In connection with its transportation planning and to further mitigate environmental impacts generated by proposed development within the City, City desires to increase the opportunity for persons to participate in mass transit by making available convenient Park and Ride facilities. Lessor proposes to undertake certain improvements to Parcel A and the Site pursuant to the DDA, which is expected to affect City's transportation planning.

NOW, THEREFORE, in consideration of the covenants and conditions hereafter contained, and subject to the following terms and conditions, Lessor agrees to lease to City the real property situated in the City of San Diego, San Diego County, California (the "Parking Area"), and more particularly described in Exhibit C, which is attached to this Lease and hereby incorporated by reference, for use by City as a "Park and Ride" facility.

ARTICLE 1. RENT

Amount and Terms of Payment

Section 1.01. For the purposes of this Lease, the following terms shall have the following meanings:

(a) "Additional Rent A" shall mean the amounts to be paid each Lease Year during the Term, calculated at the rate of ten percent (10%) per annum on the First Tier Base Rent A, and at the rate of six percent (6%) per annum on the Second Tier Base Rent A, which when paid with the Annual Base Rent A applicable to each such Lease Year, will equal the Annual Rent Amount A. The Additional Rent A for each Lease Year, and the composition thereof, is shown on Rent Schedule A, which is attached to this Lease as Exhibit D and hereby incorporated by reference.

(b) "Available Sales Tax A" shall mean the amount of sales and use taxes (*i.e.*, those taxes levied by City under the authority of the California Sales and Use Tax Law (Part 1 of Division 2 of the California Revenue and Taxation Code commencing at Section 6001) or any successor law thereto) which have been collected, allocated and paid to, and actually received by City from transactions originating in any applicable Lease Year from Parcel A, after reduction for any amounts received earlier by City and which are to be refunded because of an overpayment of such taxes. An example of the calculation of the Available Sales Tax A is attached hereto as Exhibit E.

(c) "Base Rent A" shall mean the amount of _____ Dollars (\$_____), constituting the initial total amount of Base Rent outstanding attributable to the entire Term of the Lease. The Base Rent A is comprised of the sum of: (1) the initial total amount of Base Rent A outstanding related to the first tier of annual Additional Rent in the amount of _____ (\$_____) (the "First Tier Base Rent A"); plus (2) the initial total amount of Base Rent A outstanding related to the second tier of annual Additional Rent in the amount of _____ (\$_____) (the "Second Tier Base Rent A").

(d) "Lease Year" shall mean the period from July 1 of one calendar year, through and including June 30 of the immediately following calendar year.

(e) "Sales Tax A" shall include (but only include) sales and use taxes (i.e., those taxes levied by City under the authority of the California Sales and Use Tax Law (Part 1 of Division 2 of the California Revenue and Taxation Code commencing at Section 6001) or any successor law thereto) which have been collected, allocated and paid to, and actually received by City from transactions originating in any applicable Lease Year from Parcel A, without reduction for any amounts received earlier by City and which are to be refunded because of an overpayment of such taxes.

(f) "Annual Rent Amount A" shall mean the equal annual scheduled payment for Base Rent A and Additional Rent A owed by City to Lessor each Lease Year as shown on Rent Schedule A (Exhibit D).

(g) "Term Commencement Date A" shall mean the July 1 next following the earlier to occur of: (i) the date when the amount of Improvements on Parcel A required by Section 2.02 (b), and the Parking Area Improvements referred to in Section 2.04, have been completed; or (ii) the date established in the Schedule of Performance (Attachment No. 3) of the DDA for completion of construction of the development on Parcel A, as such date may be extended by City for purposes of this provision only pursuant to Section 3.02, or as such date may be extended for purposes of this provision only pursuant to Section 6.19, to the extent, and only to the extent, that the causes under that Section delay completion of the amount of Improvements on Parcel A required by Section 2.02 (b), or the completion of the Parking Area Improvements referred to in Section 2.04.

(h) "Termination Date A" shall mean June 30 of the thirtieth (30th) Lease Year of scheduled rental payments of the Base Rent A and Additional Rent A under this Lease.

Section 1.02. City hereby agrees to pay to Lessor each Lease Year, the Base Rent A and Additional Rent A owed for that Lease Year as shown on Rent Schedule A (Exhibit D), until Termination Date A, at which time any as yet unpaid Base Rent A and/or Additional Rent A shall be deemed forgiven.

The Base Rent A and Additional Rent A shall be payable in cash or by check drawn to the order of Lessor.

Section 1.03. Within forty-five (45) days after City receives its final installment of Sales Tax A from the State of California (or such other governmental entity as may be the payor of Sales Tax A in the future) for each Lease Year after the Term Commencement Date A, City shall pay to Lessor the lesser of: (a) the Annual Rent Amount A, or (b) the sum of (i) Available Sales Tax A for the applicable Lease Year, and (ii) Available Reserves A (as defined in Section 1.07 below) as of the end of the immediately preceding Lease Year. Such amount is referred to herein as the "Annual Payment" for the applicable Lease Year. An example of the calculation of the Annual Payment is attached hereto as Exhibit F. Any interest earned on Available Sales Tax A due to investment of such funds by City prior to the making of such Annual Payment to Lessor shall be the property of City. Concurrently with the making of such Annual Payment, City shall provide Lessor with a financial report showing the amount of Sales Tax A allocated and paid to City for the preceding Lease Year and how the amount paid to Lessor for that Lease Year was determined. Such report further shall detail the amount (if any) of Annual Rent Amount A that continues to be unpaid for any past Lease Year as referred to in Section 1.04.

Section 1.04. City shall only be required to calculate the Annual Payments on the basis of Sales Tax A, and to pay such amounts from (a) Sales Tax A, which are actually collected, allocated to and received by City for the applicable Lease Year; and (b) Available Reserves A as of the end of the Lease Year immediately preceding the Lease Year for which the applicable Annual Payment is due. Any portion of Annual Rent Amount A which is not paid in a Lease Year because there is insufficient Available Sales Tax A for that Lease Year, or insufficient Available Reserves A, shall be deemed a deferred obligation payable (without interest) from Available Reserves A, if and as there are Available Reserves A to pay to Lessor on account of such deferred obligation. Any deposit in the Fund for Available Reserves A in a Lease Year as provided for in Section 1.05, shall be used in that Lease Year, immediately upon such deposit, to pay toward the outstanding balance of deferred obligations, if any. After such time as City has deposited into the Fund for Available Reserves A, the maximum cumulative limit of such deposits established pursuant to Section 1.07 hereinbelow, then any portion of Annual Rent Amount A which is not paid in a Lease Year because there is insufficient Available Sales Tax A for that Lease Year, or insufficient Available Reserves A available from deposits made before the limit was reached, shall be deemed forgiven, and City shall have no further obligation or liability with respect thereto. For the purpose of calculating the outstanding balance of Base Rent A under this Lease, the portion of Annual Rent Amount A deemed forgiven shall be treated as if it actually had been paid.

Section 1.05. Lessor acknowledges and agrees that payment of the Base Rent A and Additional Rent A shall be calculated solely upon City's receipt of Sales Tax A from transactions on or from Parcel A based upon the percentage of sales taxes received by City for general fund purposes as of the date of this Lease. The parties acknowledge that the documentation as to sales tax generation received by City from the State of California (or other distributing entity) may not be available in a form to undertake such calculation, and agree to reasonably cooperate with each other to establish procedures and means to ascertain the Sales Tax A as best as reasonably possible to permit application of Sections 1.02 through 1.04. If specific figures for Parcel A are available from the State or other governmental agency, City will cooperate with Lessor in attempting to have such figures provided to City. It is recognized, however, that figures regarding transactions on Parcel A which generate Sales Tax A may be only obtainable directly from the occupants of Parcel A engaged in such transactions. In such circumstances, Lessor acknowledges and agrees that it is the party best positioned to obtain such figures from such occupants in a form reasonably acceptable to City.

City covenants to take all actions legally required to obtain and receive the maximum amount of Sales Tax A revenue to which City is legally entitled so as not to jeopardize or impair Lessor's ability to receive payment pursuant to this Lease. Lessor acknowledges and agrees that to the extent that any future constitutional, legislative or judicial amendment, act, ruling or decision (hereafter referred to as a "Sales Tax Interference Act") interferes with the ability of City to receive Sales Tax A, any payments made by City to Lessor during the period following the start of the Lease Term that such Sales Tax Interference Act is not in effect will be deemed full and complete payment of the Base Rent A and Additional Rent A, even if the amount of such payments total less than otherwise required by this Lease, unless an alternative payment formula and procedure is agreed to by the parties in accord with this Section. In the event of a Sales Tax Interference Act, the parties will reasonably cooperate to establish an alternative payment formula and procedure, provided, however, that such alternative shall be based solely upon transactions occurring on Parcel A, and shall most closely achieve the economic equivalent of the present situation for both City and Lessor.

Section 1.06. Notwithstanding any other provision of this Lease, City may prepay the outstanding balance (not paid, or deemed paid pursuant to Section 1.04 above) of the Base Rent A, or the outstanding balance (not paid, or deemed paid pursuant to Section 1.04 above) of the First Tier Base Rent A or the Second Tier Base Rent A, together with all Additional Rent, or the first tier of annual Additional Rent or the second tier of annual Additional Rent, as applicable, accrued (and not paid, or deemed paid pursuant to Section 1.04 above) as of the date of prepayment, at any time

without prior notice to Lessor and without any penalty or charge. Lessor agrees to cooperate with City, including without limitation providing any appropriate estoppel certificate regarding the status of this Lease, and the prepayment of Base Rent A and the payment of accrued Additional Rent A, or the first tier of annual Additional Rent or the second tier of annual Additional Rent accrued, as applicable, hereunder as may be reasonably requested by City or in connection with any bond issue or other financing of City's obligations hereunder.

Section 1.07. As security for City's obligation to make the Annual Payments to Lessor, City agrees to establish in its accounts a reserve fund (the "Fund for Available Reserves A"), which shall be drawn upon by City to pay toward any Annual Payment in a Lease Year when the Available Sales Tax A for the applicable Lease Year is insufficient to pay the Annual Rent Amount A in full, or to pay toward any obligations accrued in a previous Lease Year when the Available Sales Tax A for the applicable Lease Year and Available Reserves A as of the end of the immediately preceding Lease Year were insufficient to pay the Annual Rent Amount A. Commencing with the first Lease Year after the closing of the mortgage loan and/or other financing for the development of Parcel A under the DDA, when City is allocated and actually receives any amount of Sales Tax A, City shall deposit in the Fund for Available Reserves A any amount by which Available Sales Tax A exceeds the Annual Rent Amount A required for the applicable Lease Year. Any interest or other investment return earned on monies in the Fund for Available Reserves A (determined by City in its absolute discretion), shall be added to the Fund and used for the same purposes and under the same conditions and limitations, provided for herein with respect to amounts deposited by City from Available Sales Tax A. Notwithstanding the foregoing, in no event shall City be required to deposit into the Fund for Available Reserves A (including any interest added thereto) in excess of Five Hundred Eighty-Eight Thousand Ninety Six Dollars (\$588,096) [or Parcel B: \$576,843; or Parcel C: \$835,061] for the entire term of this Lease, independent of whether or how much of such deposits are withdrawn to cover current or past shortfalls in Annual Rent Amount A. Provided however, that on the earlier of (a) the end of the tenth Lease Year, or (b) the July 1 next following the first Lease Year in which Available Sales Tax A is greater than 1.5 times the Annual Rent Amount A, the maximum cumulative limit on deposits into the Fund for Available Revenues A shall be reduced to an amount equal to the greater of (i) the Annual Rent Amount A, or (ii) the amount theretofore withdrawn by City from the Fund for Available Reserves A to cover current or past shortfalls in Annual Rent Amount A. Any balance in the Fund for Available Reserves A in excess of such revised limit may be immediately withdrawn by City.

Section 1.08. Upon the prior written approval of City, Lessor may assign its rights to receive the Base Rent A and Additional Rent A due under this Lease to one or more construction or permanent lenders (each a "Lender") that makes a construction or permanent loan secured by all or any portion of Parcel [or Parcel _____, where the rights to receive Rent provided for in Article 1 of this Lease have been assigned to that Parcel under the DDA]. Such assignment shall be made pursuant to a written agreement reasonably satisfactory to City in form and substance.

Notwithstanding the foregoing, City shall not be obligated to pay any portion of the Base Rent A, or any Annual Payment related thereto, to any person other than Lessor unless City is notified by Lessor in writing of the name of any Lender to which payment of the Base Rent A, and the Annual Payments related thereto, are to be paid directly, the amount to be paid to such Lender, and the address to which such payment is to be sent. City shall not be liable for any failure on the part of Lessor to give such notice to City or if City for any reason does not actually receive any such notice.

In the event that Lessor defaults on its obligations to any Lender, or defaults as the Developer on its obligations to the Agency under the DDA, and such Lender elects to assume the obligations of Lessor (as the Developer) pursuant to Section 320 of the DDA, Lessor may assign its rights under this Lease to such Lender with the prior written approval of City and City shall pay the Base Rent A, and the Annual Payments related thereto, directly to such Lender as provided for in this Lease. Such assignment shall be made pursuant to a written agreement reasonably satisfactory to City in form and substance.

Section 1.09. Notwithstanding any other provision of this Lease, if City has made, or is treated as if having made pursuant to Section 1.04 above, the Base Rent A and Additional Rent A payments in compliance with the provisions of Article 1 of this Lease for transactions occurring on Parcel A for thirty (30) Lease Years beginning with the Term Commencement Date A, the Base Rent A, and any Additional Rent A, shall be deemed to have been completely paid, even if the sum of such installments totals less than otherwise required by this Lease.

ARTICLE 2. ADDITIONAL TERMS AND CONDITIONS REGARDING PARKING AREA

Title

Section 2.01. Within thirty (30) days following execution of this Lease, Lessor shall furnish City with a preliminary California Land Title Association report of the title to the Parking Area and each document shown as an exception or encumbrance in the report.

This shall be done at the expense of Lessor. Within fifteen (15) days after the delivery of the report and related documents to City, City shall notify Lessor in writing of any objection to any exception therein. City's right to object to an exception shall be limited to those items which in City's discretion could interfere with City's proposed use of the Parking Area for a Park and Ride facility. If City makes a timely objection to any such exception, Lessor shall have the right to eliminate such exception, provided such elimination shall be at the sole cost and expense of Lessor and shall be completed not later than thirty (30) days prior to the date scheduled for the start of the Lease Term pursuant to Section 2.03. Lessor shall provide City with proof reasonably satisfactory to City that such exception has been eliminated. If such exception is not eliminated within such time, City may, in its sole discretion, either (i) terminate this Lease pursuant to Section 3.01, or (ii) begin the Lease Term subject to Lessor providing security in a form reasonably acceptable to City to assure elimination of the exception within a time period reasonably acceptable to City. City's failure to object in this manner to any exception shall be an approval by City of that exception. Notwithstanding the foregoing, (a) if the Parking Area was within a Sales Parcel conveyed by the Agency to Lessor as the Developer under the DDA, then City shall not have the right to object to any exception to title to the Parking Area which existed at the time of the conveyance of the applicable Sales Parcel to the Developer in accordance with the terms of the DDA, and (b) City shall not have the right to object to any encumbrance of Lessor's interests in the Parking Area which City has approved or is acquired to approve pursuant to Section 6.02 hereof, provided that any such encumbrance is subject and subordinate to this Lease.

Miscellaneous Conditions

Section 2.02. City's obligation to lease the Parking Area pursuant to this Lease is subject to the satisfaction of the following conditions, which are solely for City's benefit unless otherwise indicated:

Delivery of Possession

(a) The delivery of possession of the Parking Area to City at the start of the Lease Term, free and clear of all uses and occupancies except those approved in writing by City. City hereby consents to the use and occupancy of the Parking Area for parking purposes by all tenants of Parcel A, and by their employees, customers, invitees, and guests, provided such uses do not interfere with use of the Parking Area for a Park and Ride facility.

Completion of Construction on Parcel A

(b) The completion by Lessor of not less than 157,950 [or for Parcel B: 63,700; or Parcel C: 136,825] square feet of improvements on Parcel A in the approximate locations set forth in the plan in Exhibit G which is attached to this Lease and hereby incorporated by reference ("the "Improvements") or any modification of the Improvements duly approved by City. Completion of the Improvements shall be evidenced by the issuance of a certificate by a licensed architect stating that all required construction necessary for occupancy of the Improvements, both exterior and interior, other than tenant signage and tenant improvements, has been completed.

Term of Lease

Section 2.03. The lease term shall commence on the Term Commencement Date A, and shall continue for thirty (30) Lease Years thereafter (hereafter referred to as the "Lease Term"), unless terminated earlier in accordance with the terms of this Lease. Each consecutive twelve (12) month period is a "Lease Year." Upon the commencement of the Lease Term, the parties agree to execute an acknowledgement evidencing the date of such commencement. Except as otherwise expressly set forth herein, City shall have no right to extend the Lease Term. Upon the termination or expiration of the Lease Term, City shall immediately surrender possession of the Parking Area to Lessor or its successors or assigns, and shall not allow delay in said transfer of possession for any reason.

Lessor shall have the right to terminate the Lease Term prior to the end of the Lease Term by giving written notice of termination to City, in the event City fails to pay the Base Rent A or Additional Rent A as required by this Lease, provided Lessor has first given City written notice of such failure, and thirty (30) days from the date of such notice have elapsed without cure of the default by City. Such remedy shall be in addition to any other remedies Lessor may have for such failure.

Extent of Leasehold Interest

Section 2.04. Upon commencement of the Lease Term pursuant to Section 2.03, Lessor shall lease the Parking Area to City, and City shall lease the Parking Area from Lessor, subject to the provisions and conditions herein set forth, for the Base Rent A and Additional Rent A as described in Article 1 hereof, together with any and all parking facilities either now or hereafter located on the Parking Area (hereafter referred to as the "Parking Area Improvements"). City's lease of the Parking Area shall be deemed to include the nonexclusive right of access to the Parking Area through all portions of Parcel A commonly reserved for vehicular and pedestrian use.

City's leasehold interest shall be subject to the right of Lessor to:

(a) grant the right (previously or in the future) to any third party to use the Parking Area and the Parking Area Improvements under such terms as it determines in its sole discretion; and

(b) construct upon the Parking Area any improvements which Lessor determines are desirable or necessary;

provided, however, such use rights and/or construction do not interfere with the right and ability of City to use the Parking Area for a Park and Ride facility, or create a lien upon City's interest in the Parking Area which could threaten foreclosure of City's interest in the Parking Area. The general terms for the use of property as a Park and Ride facility are set forth in Exhibit H, which is attached to this Lease and hereby incorporated by this reference. The parties agree to cooperate with one another to establish the precise terms of usage of the Parking Area as a Park and Ride facility, provided such terms shall be in general accordance with Exhibit H. After such precise terms of usage have been determined, City may sublease the Parking Area to CalTrans pursuant to a sublease in general conformity with Exhibit H and such precise terms, subject to prior approval of Lessor, which approval shall not be unreasonably withheld. Any and all improvements on the Parking Area, whether now existing or hereafter constructed shall be and remain the property of Lessor.

Utilities

Section 2.05. Lessor shall order, obtain and pay for all utilities necessary for all operations related to the Parking Area.

Taxes

Section 2.06. Lessor shall be solely responsible for all taxes, assessments and fees assessed or levied upon the Parking Area, including the land and Parking Area Improvements.

Maintenance

Section 2.07. Lessor covenants and agrees to maintain at its sole cost and expense the Parking Area and the Parking Area Improvements thereon in a good condition throughout the Lease Term, and to make all repairs and replacements necessary to maintain and preserve the Parking Area and the Parking Area Improvements in a decent, safe, healthy and sanitary condition reasonably satisfactory to City, and in compliance with all applicable codes and standards of City, state and federal agencies. In the event that City reasonably determines that the Parking Area or Parking

Area Improvements are not being so maintained, it shall have the right, after not less than thirty (30) days prior written notice to Lessor, to have any necessary maintenance work done, and to subtract the costs of such work from the Base Rent A and/or Additional Rent A.

Indemnification

Section 2.08. Lessor shall indemnify, defend, and hold City harmless from and against any and all costs, expenses, claims, demands, damages, actions, causes of action, or liabilities of any kind which may arise at any time in connection with:

(a) any unsafe or defective condition in or on the Parking Area of any nature whatsoever which may exist by reason of any act, omission, neglect, or any use or occupation of the Parking Area;

(b) any improvement work by Lessor, or its agents and contractors, including without limitation the design and installation of equipment and the development of Parcel A;

(c) any maintenance of the Parking Area or the Parking Area Improvements;

(d) any act, omission or negligence on the part of Lessor, its employees, agents, lessees, invitees, or licensees; and

(e) use by any person of the Parking Area, even if such use is in connection with the Park and Ride facility.

The foregoing indemnifications shall not be applicable to loss caused solely by active negligence of City, provided, however, that nothing in such exemption from indemnification shall be deemed to impose any obligation on City not otherwise required by this Lease.

Lessor shall report to City any accident causing more than Ten Thousand Dollars (\$10,000.00) worth of property damage or any serious injury to persons on the Parking Area. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses and other pertinent information.

Insurance

Section 2.09. Lessor shall take out and maintain at all times during the Lease Term public liability and property damage insurance in the amount of not less than Three Million Dollar (\$3,000,000.00) Combined Single Limit Liability with an occurrence claims form. This policy shall cover all injury or damage, including death, suffered by any party or parties from acts or failure to act by City or Lessor or by authorized representatives

of City or Lessor on or in connection with the use or operation of the Parking Area. All insurance policies shall name City and its officers, agents, employees, representatives and attorneys as an additional insured, protect City and its officers, agents, employees, representatives and attorneys against legal costs in defending claims, and will not terminate without at least sixty (60) days prior written notice to City. All insurance companies must be satisfactory to City and licensed to do business in California. A copy of the insurance policy shall remain on file with City during the Lease Term. Should Lessor fail to take out and maintain the required insurance, City may do so, and the costs thereof shall be subtracted from the Base Rent A and/or Additional Rent A.

Nondiscrimination

Section 2.10. Lessor covenants and agrees for itself, its successors, its assigns and every successor in interest to the Parking Area or any part thereof, there shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Parking Area nor shall Lessor itself or any person claiming under or through it 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, subtenants, sublessees, or vendees of the Parking Area.

Lessor shall refrain from restricting the rental, sale or lease of the Parking Area on the basis of race, color, creed, religion, sex, sexual orientation, marital status, ancestry or national origin of any person.

ARTICLE 3. FAILURE OF CONDITION AND LESSOR'S BREACH OF WARRANTY

Section 3.01. Except as provided in Section 3.02, if any of the conditions set forth in this Lease fails to occur, or if City notifies Lessor in writing prior to the anticipated start of the Lease Term of Lessor's breach of any of Lessor's warranties set forth in this Lease, then City may terminate this Lease. City shall exercise this power to terminate by complying with any applicable notice requirements specified in the relevant condition and, in all other cases, by providing written notice to Lessor at any time prior to the start of the Lease Term. The exercise of this power shall not waive any other rights City may have against Lessor for breach of this Lease, but shall be the sole remedy for any failure of condition prior to the start of the Lease Term or of any failure to cure an unfulfilled condition which Lessor elected to remedy prior to the start of the Lease Term.

Lessor's Election to Remedy Defects

Section 3.02. Notwithstanding any provision of this Lease to the contrary, Lessor shall have the right prior to the start of the Lease Term to remedy any failure of any condition or any breach of any representation or warranty of this Lease which could otherwise permit City to terminate this Lease (hereafter referred to as "defects"). This right to remedy shall be subject to the following requirements and restrictions:

(a) City shall immediately notify Lessor in writing of City's discovery, prior to the start of the Lease Term, of a defect. If City has knowledge of a defect and fails to give notice, City shall waive the defect and the defect shall not be a violation of this Lease.

(b) If City gives notice, Lessor may elect to remedy the defect by giving City, within thirty (30) days of receipt of City's notice, written notice of its intent to remedy the defect. If Lessor anticipates that the defect cannot be remedied prior to the scheduled start of the Lease Term, its notice of election to remedy may include a request for postponement of the start of the Lease Term, and a specification of the number of days (if any) that such act be postponed so that Lessor may remedy the defect. City, at its sole discretion, may give its written approval of such postponement. Approval of any such postponement shall be subject to the condition that Lessor promptly begin to remedy the defect and proceed diligently to complete the necessary remedy. If City fails to respond to such request within ten (10) days of such request or the scheduled start of the Lease Term shall occur prior to any response from City, then City shall be deemed to have rejected the request for postponement. If Lessor fails to provide a timely notice of election or fails to remedy the defect prior to the start of the Lease Term (including any extension pursuant to this Section), then City, at City's election (made in a written notice delivered to Lessor within thirty (30) days after the date otherwise scheduled for the start of the Lease Term), may do any of the following:

- (1) If a material defect (including without limitation, failure to deliver possession of the Parking Area in the condition required by this Lease, failure to complete construction of the amount of Improvements on Parcel A required by Section 2.02 (b), failure to clean-up any required environmental contamination, failure to clear any required encumbrances, etc.) terminate the Lease without any liability on the part of either party; or

- (2) Start the Lease Term subject to Lessor providing security in a form reasonably acceptable to City to assure remediation of the defect or defects within a time period reasonably acceptable to City; or
- (3) Start the Lease Term without a reduction in the Base Rent A and Additional Rent A and without any liability for the unremedied defect or defects on the part of Lessor.

The failure by City to make such an election shall be deemed an election of option (2).

ARTICLE 4. RIGHTS AND WARRANTIES

Right of City to Enter the Parking Area

Section 4.01. Lessor grants to City, or City's agents, the right, at any time and from time to time after the execution of this Lease, to enter onto the Parking Area to conduct tests or investigations, provided that:

(a) The acts shall be conducted at the sole cost and expense of City;

(b) The acts do not unreasonably interfere with Lessor's possession;

(c) City shall defend, indemnify and hold Lessor harmless from any costs or liability resulting from the acts;

(d) City shall give Lessor written notice of the intention to enter not less than three (3) business days prior to the date of the planned entry;

(e) Lessor shall have the right to have its representative present at any testing or investigation; and

(f) Any physical testing shall be conducted by licensed professionals in the field of testing being conducted.

Representations and Warranties of Lessor

Section 4.02. Lessor represents and warrants that:

(a) Lessor owns the Parking Area, free and clear of all liens, licenses, claims, encumbrances, easements, encroachments on the property from adjacent properties, encroachments by improvements on the Parking Area onto adjacent properties, and rights of way of any nature, not disclosed by the public record.

(b) There is no pending litigation involving the Parking Area.

(c) There is no violation of, or notice concerning defects or noncompliance with, any applicable building code or other code, statute, regulation, ordinance, judicial order, or judicial holding pertaining to the Parking Area, provided, however, that any defects or noncompliance with environmental or hazardous waste issues are governed by Article 5 hereof.

(d) Lessor is not in default under any contract, note, or encumbrance relating to the Parking Area.

(e) As of the Term Commencement Date A, the Parking Area will be in good condition and there will be no material defect in the Parking Area.

(f) Lessor will maintain the Parking Area in good repair and in the same, or better, condition than is required when the Lease Term commences, reasonable wear and tear excepted.

(g) Lessor has the full right, authority and power to enter into this Lease, to consummate the transactions contemplated herein and to perform its obligations hereunder, and under those documents and instruments to be executed by it at the closing, and this Lease constitutes a valid and legally binding obligation of Lessor enforceable against Lessor in accordance with its terms.

(h) Lessor's execution and delivery of this Lease and the consummation of the transactions contemplated and the performance of Lessor's obligations hereunder do not violate any agreement, instrument, mortgage, loan agreement, statute, ordinance or regulation to which Lessor is a party or by which Lessor is bound.

(i) The individuals executing this Lease and the instruments referenced herein on behalf of Lessor have the legal power, right and actual authority to bind Lessor to the terms and conditions hereof.

Representations and Warranties of City

Section 4.03. City represents and warrants that:

(a) City has the full right, authority and power to enter into this Lease, to consummate the transactions contemplated herein and to perform its obligations hereunder and under those documents and instruments to be executed by it at the closing, and this Lease constitutes a valid and legally binding obligation of City enforceable against City in accordance with its terms.

(b) City's execution and delivery of this Lease and the consummation of the transactions contemplated and the performance of City's obligations hereunder do not violate any agreement, instrument, mortgage, loan agreement, statute, ordinance or regulation to which City is a party or by which City is bound.

(c) The individuals executing this Lease and the instruments referenced herein on behalf of City have the legal power, right and actual authority to bind City to the terms and conditions hereof.

ARTICLE 5. ENVIRONMENTAL PROVISIONS

Indemnification by Lessor

Section 5.01. Effective as of the date of execution of this Lease by City, Lessor shall defend, indemnify and hold harmless City from and against any and all claims, damages or liabilities (whether or not caused by negligence), including civil or criminal fines, arising out of or relating to any of the following:

(a) Any generation, processing, handling, transportation, storage, treatment or disposal of solid wastes or hazardous wastes by Lessor, including, but not limited to, any of such activities occurring on Parcel A or the Parking Area;

(b) Any releases (including, but not limited to, any releases as defined under the Comprehensive Environmental Response, Compensation and Liability Act of 1980) to the extent occurring or existing prior to the date of execution of this Lease by City, including, but not limited to such releases to land, ground water, surface water or into the air.

Background

Section 5.02. Lessor represents that the following studies and analyses have taken place in relation to Parcel A:

(a)

(b)

(c)

[At least one hundred eighty (180) days prior to the date established in the Schedule of Performance (Attachment No. 3) of the DDA for closing of the mortgage loan and/or other financing for the development of Parcel A, Lessor shall furnish City with a copy of an environmental Phase I, and if appropriate Phase II, report

(the "Environmental Report"). Within forty five (45) days after the delivery of the Environmental Report to City, City shall have the right to notify Lessor in writing of any objection to any environmental condition on Parcel A or the Parking Area disclosed by the Environmental Report. If City makes a timely objection to any such condition, then not later than thirty (30) days prior to the date scheduled for execution and recordation of this Lease: (a) the condition shall be eliminated or corrected at the sole cost and expense of Lessor, or (b) Lessor shall identify alternative space to serve as the Parking Area leased pursuant to this Lease, so long as (i) such alternative space is within the Available Parking Area on Parcel A, and in connection with Lessor's identification of such alternative space, Lessor also delivers to City an Environmental Report pertaining thereto that is acceptable to City, (ii) such alternative space contains the number of parking spaces required by the DDA, and (iii) such alternative space is otherwise approved by City, which approval shall not be unreasonably withheld. If the condition so objected to by City is not eliminated or corrected within such time, and Lessor does not timely identify acceptable alternative space to serve as the Parking Area, then City may, in its sole discretion, either (1) decide not to execute and record this Lease, or (2) start the Lease Term subject to Lessor providing security in a form reasonably acceptable to City to assure elimination or correction of the condition within a time period reasonably acceptable to City. City's failure to object in this manner to any condition disclosed by the Environmental Report shall be approval by City of that condition.]

Representations and Warranties

Section 5.03. As an inducement to City to enter into this Lease, Lessor represents and warrants that:

(a) Throughout the period of ownership of Parcel A and the Parking Area by Lessor, there has been no notice, directive, violation report or action by any local, state or federal department or agency concerning environmental laws or regulations, which has not been remedied in accordance with such laws or regulations;

(b) There are no soil or geological conditions which might impair or adversely affect the current use or future plans for use of Parcel A or the Parking Area;

(c) None of Parcel A or the Parking Area is located in an area identified by an agency or department of federal, state or local governments, or identified by Lessor, as having special flood or mudslide hazards or wetlands;

(d) Any business and operations of Lessor on Parcel A and the Parking Area will at all times be conducted in compliance in all material respects with all applicable federal, state, local or foreign laws, ordinances, regulations, orders and other requirements of governmental authorities with respect to matters relating to the environment;

(e) There has been no spill, discharge, release, cleanup or contamination of or by any hazardous or toxic waste or substance used, generated, treated, stored, disposed of or handled by Lessor at Parcel A or the Parking Area;

(f) There are not now, nor have there ever been any underground storage tanks located at, on or under Parcel A or the Parking Area;

(g) No hazardous or toxic substances or wastes are located at, or have been removed from Parcel A or the Parking Area, and Parcel A and the Parking Area are in compliance with all California and federal environmental laws.

Condition Precedent to Lease Term

Section 5.04. (a) As a condition precedent to City's obligation to start the Lease Term, Lessor shall have received not less than thirty (30) days prior to the anticipated start date, from a governmental authority ("authority"), pursuant to any environmental cleanup responsibility law (the "Cleanup Law") affecting Parcel A or the Parking Area or the leasing of the Parking Area, either (i) a determination by the authority that the transaction is not subject to the law, or (ii) a determination that the transaction satisfies the requirements of the Cleanup Law without the need for any cleanup of hazardous substances or wastes at the premises. If this condition precedent shall not be satisfied, then City shall have the right to void this Lease on notice to Lessor.

(b) Lessor shall promptly furnish to City true and complete copies of all documents, submissions and correspondence provided by Lessor to the authority, and all documents, reports, directives and correspondence provided by the authority to Lessor in line with environmental compliance under subparagraph (a) above. Lessor shall also promptly furnish to City true and complete copies of all sampling and test results obtained from samples and tests taken at and around Parcel A and the Parking Area.

(c) Lessor shall, upon request of City, provide to City a description of all operations, past and present, known by Lessor to have been undertaken at Parcel A or the Parking Area and any existing maps and diagrams in Lessor's possession or control designating the location of past and present operations and past

and present storage of hazardous substances and wastes, above and below ground, at Parcel A or the Parking Area.

(d) City shall have the right after execution of this Lease and prior to the start of the Lease Term, at City's own expense, to undertake sampling at any of Parcel A or the Parking Area or any operations located thereon, for which purpose Lessor shall allow City and City's agents reasonable access. Should City's sampling reveal that there has been a spill or discharge of hazardous substances or wastes at Parcel A or the Parking Area or the operations thereon, then City shall have the right to void this Lease on notice to Lessor.

(e) Lessor represents and warrants to City that Parcel A and the Parking Area and the operations thereon comply fully with all state and federal environmental laws.

(f) Lessor shall indemnify and defend City from and against any and all liabilities, losses and costs, including City's reasonable counsel fees, which City may incur because of Lessor's failure to perform all of its obligations under any Cleanup Law affecting Parcel A or the Parking Area or Lessor's breach of the representations and warranties set forth above.

Lessor's Cleanup Obligations

Section 5.05. (a) No later than thirty (30) days prior to the anticipated execution of this Lease by City, and thereafter throughout the Lease Term, Lessor shall, at Lessor's own expense, comply with any Cleanup Law respecting Parcel A and/or the Parking Area, and shall obtain the necessary approvals, if any are required, from the appropriate governmental authority permitting the transaction to be completed.

(b) Should a cleanup of Parcel A and/or the Parking Area be required under the Cleanup Law, and should the authorities permit closing of this transaction prior to the cleanup and City agrees at its sole discretion to execution of this Lease, or commencement of the Lease Term, as the case may be, then the Lease shall be executed, or the Lease Term shall begin, and Lessor shall diligently proceed with all required cleanups and post-cleanup sampling required by the authorities and shall complete such activity as soon as possible. Should Lessor fail to obtain final approval of cleanup from the authorities, City shall be indemnified and defended from all costs, expenses and damages resulting from Lessor's failure to obtain final approval.

(c) Lessor shall indemnify and defend City from and against all liabilities, losses and costs, including City's reasonable counsel fees, which City may incur by reason of Lessor's failure to perform any of the above obligations.

ARTICLE 6. MISCELLANEOUS PROVISIONS

Loss, Destruction and Condemnation

Section 6.01. The parties agree that the following provisions shall govern the risk of loss:

If after execution of this Lease by City, all or any part of the Parking Area is destroyed without fault of Lessor and such damage is not repaired, or if all or any part of the Parking Area is taken by eminent domain by any governmental entity, Lessor may substitute an alternative area on or near Parcel A of equal size to the portion of the Parking Area so destroyed or taken, which area shall thereafter be designated for the Park and Ride facility and operated in accord with the requirements of this Lease. Such alternative area shall be located as near as possible to the transit stop on Parcel A. To the extent that an alternative area cannot be so found, City shall be relieved from a pro-rata portion of City's obligation under this Lease to pay the Base Rent A and Additional Rent A for the Parking Area, determined by the proportion of the amount of the Parking Area which has been so destroyed or taken and which is not available to City for parking uses to the amount of Parcel A or the Parking Area which is still available for such use.

Assignment

Section 6.02. City may not assign this Lease without Lessor's prior written consent. The valid assignment of this Lease shall relieve City of liability under this Lease.

Lessor shall not transfer, assign, sell, or otherwise convey Parcel A or the Parking Area, or any portion thereof or interest therein, without the prior written approval of City, which approval City shall not unreasonably withhold or delay. For purposes of this Lease, any such transfer, assignment, sale, or conveyance shall be referred to as a "Transfer." City shall approve or disapprove a proposed Transfer within thirty (30) days after receipt of notice from Lessor and such reasonable information concerning the proposed transferee and the proposed terms of the Transfer to permit City to make a reasonable determination. City shall have the right to disapprove a proposed Transfer in the event City reasonably determines that the proposed transferee is not capable, willing and able to fulfill the terms and conditions of this Lease. City shall not, however, withhold its consent to (a) the assignment of the rights of Lessor under this Lease to any assignee that concurrently received conveyance of fee title to Parcel A in accordance with the provisions of the DDA, or (b) the collateral assignment of the interests of Lessor under this Lease to the holder of a mortgage or deed of trust encumbering Parcel A in accordance the provisions of Section 318 of the DDA, or (c) the

assignment of the rights to receive all Rent provided in Article 1 of this Lease to another Parcel on the Site under the DDA, and the collateral assignment of such rights to an associated Lender as referred to in Section 1.08. Any assignment approved by City hereunder shall be subject to this Lease, and the assignee shall be required to execute an assumption and/or nondisturbance agreement reasonably satisfactory to City in form and substance. All costs of City incurred in processing any assignment shall be borne by Lessor.

Time of Essence

Section 6.03. Time is of the essence in this Lease.

Notices

Section 6.04. Any notice, tender, delivery, or other communication pursuant to this Lease shall be in writing and shall be deemed to be properly given if delivered, dispatched by registered or certified mail, postage prepaid, return receipt requested, or sent by facsimile transmission or other wire communication in the manner provided in this Section, to the following persons:

(a) If to City:

Assistant City Manager
City Administration Building
202 "C" Street, M.S. 9B
San Diego, California 92101-4155
Facsimile No. (619) 236-6067

(b) If to Lessor:

Either party may change that party's address for these purposes by giving written notice of the change to the other party in the manner provided in this Section.

If sent by mail, any notice, delivery, or other communication shall be effective or deemed to have been given forty-eight (48) hours after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by facsimile transmission, wire or other form of wire communication, any notice, delivery, or other communication shall be effective or deemed to have been given on the date sent or transmitted and received by the recipient's receiving apparatus. If delivered, it shall be deemed given on the date delivered.

Entire Agreement

Section 6.05. This Lease and the attached Exhibits constitute the entire agreement between the parties relating to the leasing of the Parking Area. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Lease are of no force and effect. Any amendment to this Lease shall be of no force and effect unless it is in writing and signed by City and Lessor.

Notwithstanding the foregoing, should any provision of this Lease prove to be invalid, void, or illegal, such determination shall in no way affect, impair, or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

Subordination

Section 6.06. Upon twenty (20) days prior written request by Lessor, City agrees to execute and deliver to any construction, permanent, or refinancing lender an agreement subordinating City's interest in Parcel A or the Parking Area to such lender's interest subject to the lender agreeing to nondisturbance and attornment provisions in the form reasonably acceptable to City to prevent interference with the rights to be afforded to City hereunder.

Attorneys' Fees

Section 6.07. If any action, proceeding, or arbitration arising out of or relating to this Lease is commenced by either party to this Lease, then as between City and Lessor, the prevailing party shall be entitled to receive from the other party, in addition to any other relief that may be granted, the reasonable attorneys' fees, costs, and expenses incurred in the action, proceeding, or arbitration by the prevailing party.

Binding Effect

Section 6.08. This Lease shall be binding on and inure to the benefit of the parties to this Lease and their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Lease.

Governing Law

Section 6.09. This Lease and the legal relations between the parties shall be governed by and construed in accordance with the laws of the State of California. Proper venue for any action shall be in San Diego, California.

Headings

Section 6.10. The headings of the articles and sections of this Lease are inserted for convenience only. They do not constitute part of this Lease and shall not be used in its construction.

Waiver

Section 6.11. The waiver by any party to this Lease of a breach of any provision of this Lease shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Lease.

Production of Records

Section 6.12. Lessor agrees to make available for inspection by City at Parcel A a complete and accurate set of Lessor's books and records from which Sales Tax A can be determined, including, without limitation, all federal, state and local tax returns. Lessor agrees it will keep, retain, and preserve for at least three (3) years all such books and records. City shall have the right, upon reasonable notice, to inspect said books and records and to make transcripts therefrom to verify the Sales Tax A amounts received by City. Such inspection may be made at any reasonable time during normal business hours, and Lessor shall cooperate with City in making such inspection. In addition, City shall have the right to audit such books and records once per year. Such audit shall be at City's sole cost and expense, provided, however, that if such audit determines that the actual Sales Tax A received by City is two percent (2%) or more greater or less than that reported by Lessor, City shall be reimbursed for such cost and expense by Lessor.

To the extent permitted by law, City agrees to make available for inspection by Lessor such books and records as it has available to permit Lessor to determine Sales Tax A received by City. Such inspection may be made at any reasonable time during normal business hours at City offices, and City shall cooperate with Lessor in making such inspection. Lessor acknowledges that inspection of such records may be limited pursuant to California Revenue and Taxation Code Section 7056 or any successor thereto.

Lessor further agrees to make reasonable efforts to require all of its tenants at Parcel A (i) to make available for inspection by City at Parcel A their books and records of all transactions from which Sales Tax A can be determined, including, without limitation, all federal, state and local tax returns; (ii) to retain such books and records for at least three (3) years; (iii) to permit City to have the right to inspect and audit such books and records upon reasonable notice and to make transcripts

therefrom to verify the Sales Tax A amounts received by City; and (iv) to cooperate with City in making such inspection.

No Joint Venture

Section 6.13. Nothing contained in this Lease shall be deemed or construed as creating a partnership, joint venture, or any other relationship between the parties hereto other than landlord and tenant as specifically set forth according to the provisions contained herein, or cause City to be responsible in any way for the debts or obligations of Lessor, or any other party.

Interpretation

Section 6.14. (a) The language in all parts of this Lease shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party. The parties hereto acknowledge and agree that this Lease has been prepared jointly by the parties and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has been given the opportunity to independently review this Lease with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Lease, this Lease shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

(b) When the context so requires when used in this Lease, the masculine gender shall be deemed to include the feminine and neuter gender and the neuter gender shall be deemed to include the masculine and feminine gender. When the context so requires when used in this Lease, the singular shall be deemed to include the plural.

Conflict of Interest

Section 6.15. No member, official or employee of City shall have any direct or indirect interest in this Lease, nor participate in any decision relating to this Lease which is prohibited by law.

No Third Party Obligation

Section 6.16. This Lease shall not be deemed to confer any rights upon, nor obligate either of the parties to this Lease to, any person or entity not a party to this Lease.

Indemnification

Section 6.17. Lessor shall indemnify, defend and hold harmless City, its officers, agents, employees, representatives and attorneys, and their respective heirs, estates, representatives, agents and employees, from and against any and all claims, liabilities, damages, losses, causes of action, and/or obligation or expenses, including reasonable attorneys fees, incurred as a result of, or arising in connection with the breach of any warranty, representation or obligation of Lessor under this Lease.

City shall indemnify, defend and hold harmless Lessor, and its shareholders, officers, directors, employees, agents, representatives and attorneys, and their respective heirs, estates, representatives, agents and employees, from and against any and all claims, liabilities, damages, losses, causes of action, and/or obligation or expenses, including reasonable attorneys fees, incurred as a result of, or arising in connection with the breach of any warranty, representation or obligation of City under this Lease.

Any obligation in this Lease of Lessor to indemnify, defend and hold harmless City shall include the obligation to indemnify, defend and hold harmless City's officers, agents, employees, representatives, and attorneys, and their respective heirs, estates, representatives, agents and employees. Any obligation in this Lease of City to indemnify, defend and hold harmless Lessor shall include the obligation to indemnify, defend and hold harmless Lessors's shareholders, officers, directors, employees, agents, representatives and attorneys, and their respective heirs, estates, representatives, agents and employees.

Statement of Compliance

Section 6.18. Within fifteen (15) days following receipt of any written request which either party may make of the other party from time to time, the other party shall execute and deliver to the requesting party a statement certifying that:

(a) this Lease is unmodified and in full force and effect, if such be the case, or, if there has been modification thereto, that this Lease is in full force and effect as modified, and stating the date and nature of such modification;

(b) there are no current breaches under this Lease, or specify the dates and nature of any such breaches; and

(c) any other reasonable information requested.

Force Majeure

Section 6.19. Except as specifically set forth in this Lease, in the event that any of the parties to this Lease are prevented from proceeding with any of their obligations under this Lease by reason of events that are beyond that party's control, such as strikes, lockouts, earthquake, war, insurrection, riots, floods, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, or inclement weather, then that party shall be entitled to an additional grace period or extension of time in which event to perform the obligation whose performance is precluded by such event, equal to the period of delay caused by such event beyond that party's control, provided the party seeking such extension shall have provided notice of the event to the other party within ten (10) days of the event's occurrence. Notwithstanding the foregoing, the date for the start of the Lease Term shall not under any circumstances extend past the Term Commencement Date A as defined in Section 1.01 (g).

Time Periods

Section 6.20. In the event the time for performance of any obligation hereunder expires on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

Further Instruments

Section 6.21. Each party, promptly upon the request of the other, shall execute and have acknowledged and deliver to the other any and all further instruments reasonably requested or appropriate to evidence or give effect to the provisions of this Lease and which are consistent with the provisions hereof.

Brokers

Section 6.22. Each party hereto represents and warrants that each has dealt with no brokers, leasing agents, or finders in connection with this Lease, and covenants and agrees to indemnify, defend and hold harmless the other party from and against claims by third parties for real estate or brokerage commissions, or finder's fees in connection with this transaction, and all costs and expenses incurred by the indemnified party in connection therewith, including, but not limited to, reasonable attorneys' fees.

No Merger

Section 6.23. There shall be no merger of the leasehold interest provided for in this Lease with the fee estate in such property (i.e., the Parking Area) by reason of the fact that this Lease or the leasehold estate to be created by this Lease may be

held directly or indirectly, by or for the account of any person who shall own the fee estate in such property or any interest in such fee estate, and no such merger shall occur unless and until all persons having any interest in this Lease or in the leasehold estate to be created thereby shall join in a written instrument effecting such merger and shall duly record the same.

Dated this _____ day of _____, _____.

(Lessor)

By: _____

Its: _____

CITY OF SAN DIEGO
(City)

By: _____

APPROVED AS TO FORM AND LEGALITY:

CASEY GWINN
City Attorney

By: _____

EXHIBIT A
Map of Parcel A

[To be added.]

EXHIBIT B

Legal Description of Parcel A

[To be added.]

EXHIBIT C

Parking Area Description

[To be added.]

TEMPORARY EXHIBIT D-1
(Attachment No. 13)

Rent Schedule A

Column	A	B	C	D	E	F	G	H
Lease Year	Annual Rent Amount	Annual Base Rent	Annual First Tier Additional Rent	Balance of First Tier Base Rent Due For Term	Annual Second Tier Additional Rent	Balance of Second Tier Base Rent Due for Term	Total Annual Additional Rent	Balance of Base Rent Due for Term
0				\$1,145,000		\$5,161,000		\$6,306,000
1	\$496,402	(\$72,242)	(\$114,500)	\$1,138,039	(\$309,660)	\$5,095,719	(\$424,160)	\$6,233,758
2	\$496,402	(\$76,855)	(\$113,804)	\$1,130,382	(\$305,743)	\$5,026,521	(\$419,547)	\$6,156,904
3	\$496,402	(\$81,772)	(\$113,038)	\$1,121,960	(\$301,591)	\$4,953,171	(\$414,630)	\$6,075,131
4	\$496,402	(\$87,015)	(\$112,196)	\$1,112,695	(\$297,190)	\$4,875,421	(\$409,386)	\$5,988,116
5	\$496,402	(\$92,607)	(\$111,270)	\$1,102,504	(\$292,525)	\$4,793,005	(\$403,795)	\$5,895,509
6	\$496,402	(\$98,571)	(\$110,250)	\$1,091,294	(\$287,580)	\$4,705,644	(\$397,831)	\$5,796,938
7	\$496,402	(\$104,934)	(\$109,129)	\$1,078,962	(\$282,339)	\$4,613,042	(\$391,468)	\$5,692,004
8	\$496,402	(\$111,723)	(\$107,896)	\$1,065,398	(\$276,782)	\$4,514,883	(\$384,679)	\$5,580,281
9	\$496,402	(\$118,969)	(\$106,540)	\$1,050,477	(\$270,893)	\$4,410,835	(\$377,433)	\$5,461,312
10	\$496,402	(\$126,704)	(\$105,048)	\$1,034,064	(\$264,650)	\$4,300,544	(\$369,698)	\$5,334,608
11	\$496,402	(\$134,963)	(\$103,406)	\$1,016,009	(\$258,033)	\$4,183,636	(\$361,439)	\$5,199,645
12	\$496,402	(\$143,783)	(\$101,601)	\$996,150	(\$251,018)	\$4,059,713	(\$352,619)	\$5,055,862
13	\$496,402	(\$153,204)	(\$99,615)	\$974,304	(\$243,583)	\$3,928,355	(\$343,198)	\$4,902,658
14	\$496,402	(\$163,270)	(\$97,430)	\$950,273	(\$235,701)	\$3,789,115	(\$333,132)	\$4,739,388
15	\$496,402	(\$174,028)	(\$95,027)	\$923,840	(\$227,347)	\$3,641,521	(\$322,374)	\$4,565,361
16	\$496,402	(\$185,527)	(\$92,384)	\$894,763	(\$218,491)	\$3,485,071	(\$310,875)	\$4,379,834
17	\$496,402	(\$197,821)	(\$89,476)	\$862,779	(\$209,104)	\$3,319,234	(\$298,581)	\$4,182,013
18	\$496,402	(\$210,970)	(\$86,278)	\$827,596	(\$199,154)	\$3,143,447	(\$285,432)	\$3,971,043
19	\$496,402	(\$225,035)	(\$82,760)	\$788,895	(\$188,607)	\$2,957,113	(\$271,366)	\$3,746,008
20	\$496,402	(\$240,086)	(\$78,889)	\$746,324	(\$177,427)	\$2,759,599	(\$256,316)	\$3,505,922
21	\$496,402	(\$256,193)	(\$74,632)	\$699,495	(\$165,576)	\$2,550,234	(\$240,208)	\$3,249,729
22	\$496,402	(\$273,438)	(\$69,950)	\$647,984	(\$153,014)	\$2,328,307	(\$222,964)	\$2,976,291
23	\$496,402	(\$291,905)	(\$64,798)	\$591,322	(\$139,698)	\$2,093,064	(\$204,497)	\$2,684,386
24	\$496,402	(\$311,686)	(\$59,132)	\$528,993	(\$125,584)	\$1,843,707	(\$184,716)	\$2,372,700
25	\$496,402	(\$332,880)	(\$52,899)	\$460,432	(\$110,622)	\$1,579,388	(\$163,522)	\$2,039,820
26	\$496,402	(\$355,595)	(\$46,043)	\$385,014	(\$94,763)	\$1,299,210	(\$140,806)	\$1,684,224
27	\$496,402	(\$379,948)	(\$38,501)	\$302,055	(\$77,953)	\$1,002,222	(\$116,454)	\$1,304,277
28	\$496,402	(\$406,063)	(\$30,205)	\$210,800	(\$60,133)	\$687,414	(\$90,339)	\$898,214
29	\$496,402	(\$434,077)	(\$21,080)	\$110,419	(\$41,245)	\$353,718	(\$62,325)	\$464,137
30	\$496,402	(\$464,137)	(\$11,042)	\$0	(\$21,223)	\$0	(\$32,265)	\$0

Rent Schedule B

Column	A	B	C	D	E	F	G	H
Lease Year	Annual Rent Amount	Annual Base Rent	Annual First Tier Additional Rent	Balance of First Tier Base Rent Due For Term	Annual Second Tier Additional Rent	Balance of Second Tier Base Rent Due for Term	Total Annual Additional Rent	Balance of Base Rent Due for Term
0				\$3,089,000		\$0		\$3,089,000
1	\$327,679	(\$18,779)	(\$308,900)	\$3,070,221	\$0	\$0	(\$308,900)	\$3,070,221
2	\$327,679	(\$20,657)	(\$307,022)	\$3,049,565	\$0	\$0	(\$307,022)	\$3,049,565
3	\$327,679	(\$22,722)	(\$304,956)	\$3,026,842	\$0	\$0	(\$304,956)	\$3,026,842
4	\$327,679	(\$24,995)	(\$302,684)	\$3,001,848	\$0	\$0	(\$302,684)	\$3,001,848
5	\$327,679	(\$27,494)	(\$300,185)	\$2,974,354	\$0	\$0	(\$300,185)	\$2,974,354
6	\$327,679	(\$30,243)	(\$297,435)	\$2,944,110	\$0	\$0	(\$297,435)	\$2,944,110
7	\$327,679	(\$33,268)	(\$294,411)	\$2,910,842	\$0	\$0	(\$294,411)	\$2,910,842
8	\$327,679	(\$36,595)	(\$291,084)	\$2,874,248	\$0	\$0	(\$291,084)	\$2,874,248
9	\$327,679	(\$40,254)	(\$287,425)	\$2,833,994	\$0	\$0	(\$287,425)	\$2,833,994
10	\$327,679	(\$44,279)	(\$283,399)	\$2,789,714	\$0	\$0	(\$283,399)	\$2,789,714
11	\$327,679	(\$48,707)	(\$278,971)	\$2,741,007	\$0	\$0	(\$278,971)	\$2,741,007
12	\$327,679	(\$53,578)	(\$274,101)	\$2,687,429	\$0	\$0	(\$274,101)	\$2,687,429
13	\$327,679	(\$58,936)	(\$268,743)	\$2,628,493	\$0	\$0	(\$268,743)	\$2,628,493
14	\$327,679	(\$64,830)	(\$262,849)	\$2,563,663	\$0	\$0	(\$262,849)	\$2,563,663
15	\$327,679	(\$71,312)	(\$256,366)	\$2,492,351	\$0	\$0	(\$256,366)	\$2,492,351
16	\$327,679	(\$78,444)	(\$249,235)	\$2,413,907	\$0	\$0	(\$249,235)	\$2,413,907
17	\$327,679	(\$86,288)	(\$241,391)	\$2,327,619	\$0	\$0	(\$241,391)	\$2,327,619
18	\$327,679	(\$94,917)	(\$232,762)	\$2,232,702	\$0	\$0	(\$232,762)	\$2,232,702
19	\$327,679	(\$104,409)	(\$223,270)	\$2,128,294	\$0	\$0	(\$223,270)	\$2,128,294
20	\$327,679	(\$114,849)	(\$212,829)	\$2,013,444	\$0	\$0	(\$212,829)	\$2,013,444
21	\$327,679	(\$126,334)	(\$201,344)	\$1,887,110	\$0	\$0	(\$201,344)	\$1,887,110
22	\$327,679	(\$138,968)	(\$188,711)	\$1,748,142	\$0	\$0	(\$188,711)	\$1,748,142
23	\$327,679	(\$152,865)	(\$174,814)	\$1,595,278	\$0	\$0	(\$174,814)	\$1,595,278
24	\$327,679	(\$168,151)	(\$159,528)	\$1,427,127	\$0	\$0	(\$159,528)	\$1,427,127
25	\$327,679	(\$184,966)	(\$142,713)	\$1,242,160	\$0	\$0	(\$142,713)	\$1,242,160
26	\$327,679	(\$203,463)	(\$124,216)	\$1,038,698	\$0	\$0	(\$124,216)	\$1,038,698
27	\$327,679	(\$223,809)	(\$103,870)	\$814,889	\$0	\$0	(\$103,870)	\$814,889
28	\$327,679	(\$246,190)	(\$81,489)	\$568,699	\$0	\$0	(\$81,489)	\$568,699
29	\$327,679	(\$270,809)	(\$56,870)	\$297,890	\$0	\$0	(\$56,870)	\$297,890
30	\$327,679	(\$297,890)	(\$29,789)	\$0	\$0	\$0	(\$29,789)	\$0

Rent Schedule C

Column	A	B	C	D	E	F	G	H
Lease Year	Annual Rent Amount	Annual Base Rent	Annual First Tier Additional Rent	Balance of First Tier Base Rent Due For Term	Annual Second Tier Additional Rent	Balance of Second Tier Base Rent Due for Term	Total Annual Additional Rent	Balance of Base Rent Due for Term
0				\$2,900,000		\$2,429,000		\$5,329,000
1	\$484,094	(\$48,354)	(\$290,000)	\$2,882,370	(\$145,740)	\$2,398,276	(\$435,740)	\$5,280,646
2	\$484,094	(\$51,960)	(\$288,237)	\$2,862,977	(\$143,897)	\$2,365,708	(\$432,134)	\$5,228,686
3	\$484,094	(\$55,854)	(\$286,298)	\$2,841,645	(\$141,942)	\$2,331,186	(\$428,240)	\$5,172,832
4	\$484,094	(\$60,058)	(\$284,165)	\$2,818,180	(\$139,871)	\$2,294,593	(\$424,036)	\$5,112,773
5	\$484,094	(\$64,600)	(\$281,818)	\$2,792,368	(\$137,676)	\$2,255,805	(\$419,494)	\$5,048,173
6	\$484,094	(\$69,509)	(\$279,237)	\$2,763,975	(\$135,348)	\$2,214,689	(\$414,585)	\$4,978,664
7	\$484,094	(\$74,815)	(\$276,398)	\$2,732,743	(\$132,881)	\$2,171,106	(\$409,279)	\$4,903,849
8	\$484,094	(\$80,553)	(\$273,274)	\$2,698,387	(\$130,266)	\$2,124,908	(\$403,541)	\$4,823,296
9	\$484,094	(\$86,761)	(\$269,839)	\$2,660,596	(\$127,494)	\$2,075,938	(\$397,333)	\$4,738,535
10	\$484,094	(\$93,478)	(\$266,060)	\$2,619,026	(\$124,556)	\$2,024,031	(\$390,616)	\$4,643,057
11	\$484,094	(\$100,750)	(\$261,903)	\$2,573,299	(\$121,442)	\$1,969,008	(\$383,344)	\$4,542,307
12	\$484,094	(\$108,624)	(\$257,330)	\$2,522,999	(\$118,140)	\$1,910,684	(\$375,470)	\$4,433,683
13	\$484,094	(\$117,153)	(\$252,300)	\$2,467,669	(\$114,641)	\$1,848,861	(\$366,941)	\$4,316,530
14	\$484,094	(\$126,395)	(\$246,767)	\$2,406,806	(\$110,932)	\$1,783,329	(\$357,699)	\$4,190,135
15	\$484,094	(\$136,414)	(\$240,681)	\$2,339,857	(\$107,000)	\$1,713,884	(\$347,680)	\$4,053,721
16	\$484,094	(\$147,276)	(\$233,986)	\$2,266,213	(\$102,832)	\$1,640,232	(\$336,818)	\$3,906,445
17	\$484,094	(\$159,059)	(\$226,621)	\$2,185,204	(\$98,414)	\$1,562,182	(\$325,035)	\$3,747,386
18	\$484,094	(\$171,843)	(\$218,520)	\$2,096,095	(\$93,731)	\$1,479,448	(\$312,251)	\$3,575,543
19	\$484,094	(\$185,718)	(\$209,609)	\$1,998,074	(\$88,767)	\$1,391,751	(\$298,376)	\$3,389,826
20	\$484,094	(\$200,782)	(\$199,807)	\$1,890,252	(\$83,505)	\$1,298,792	(\$283,313)	\$3,189,044
21	\$484,094	(\$217,141)	(\$189,025)	\$1,771,647	(\$77,928)	\$1,200,255	(\$266,953)	\$2,971,903
22	\$484,094	(\$234,914)	(\$177,165)	\$1,641,182	(\$72,015)	\$1,095,806	(\$249,180)	\$2,736,989
23	\$484,094	(\$254,227)	(\$164,118)	\$1,497,671	(\$65,748)	\$985,091	(\$229,867)	\$2,482,761
24	\$484,094	(\$275,222)	(\$149,767)	\$1,339,808	(\$59,105)	\$867,732	(\$208,873)	\$2,207,540
25	\$484,094	(\$298,049)	(\$133,981)	\$1,166,159	(\$52,064)	\$743,331	(\$186,045)	\$1,909,490
26	\$484,094	(\$322,878)	(\$118,616)	\$975,145	(\$44,600)	\$611,467	(\$161,216)	\$1,586,612
27	\$484,094	(\$349,891)	(\$97,515)	\$765,030	(\$36,688)	\$471,691	(\$134,203)	\$1,236,721
28	\$484,094	(\$379,290)	(\$76,503)	\$533,903	(\$28,301)	\$323,528	(\$104,804)	\$857,431
29	\$484,094	(\$411,292)	(\$53,390)	\$279,663	(\$19,412)	\$166,476	(\$72,802)	\$446,139
30	\$484,094	(\$446,139)	(\$27,966)	\$0	(\$9,989)	\$0	(\$37,955)	\$0

EXHIBIT E

Sample Calculation of Available Sales Tax A

[To be added.]

EXHIBIT F

Sample Calculation of Annual Payment

[To be added.]

EXHIBIT G

Plan for Improvements to Parcel A

[To be added.]

EXHIBIT H

General Terms for Park and Ride Use

The Parking Area shall be used only as a parking lot and staging area by persons traveling in carpool, mass transit or other ridesharing vehicles. The Parking Area may also be utilized by tenants of Parcel A and their employees and patrons for parking. Lessor shall be responsible for assuring that use by persons other than those using the Parking Area for Park and Ride uses does not interfere with use of the Parking Area for Park and Ride uses. Lessor shall have the right, however, to charge fees for parking in any of the parking spaces located within Parcel A, including parking spaces within the Parking Area, in a manner consistent with the purposes of this Lease.

The Parking Area shall be improved and landscaped, including, but not limited to, paving, lighting, and striping of parking stalls, in accordance with the requirements of the [Planned Commercial Development Permit] applicable to Parcel A.

Sufficient lighting and security personnel to assure the safety of persons utilizing the Parking Area shall be provided by Lessor during normal commuting hours.

City may post at its own expense Park and Ride and directional signs on the Parking Area and Parcel A. The exact location of such signs shall be subject to approval of Lessor, which approval shall not be unreasonably withheld. Upon termination of City's use of the Parking Area, such signs shall be removed by City, and City shall repair any damage caused by the installation and removal of said signs.

Recording Requested by:

INTERNATIONAL GATEWAY ASSOCIATES, LLC

When Recorded Return to:

LATHAM & WATKINS LLP
600 West Broadway, Suite 1800
San Diego, California 92101
Attention: Bruce P. Shepherd, Esq.

LOAN AGREEMENT

(Parcel A-1)

ORIGINAL

LOAN AGREEMENT

(Parcel A-1)

This Loan Agreement (this "Agreement") is entered into as of August 16, 2004, by the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (the "Agency") and INTERNATIONAL GATEWAY ASSOCIATES, LLC, a Delaware limited liability company ("IGA"). The Agency and IGA agree as follows:

RECITALS

A. The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under Division 24 of Part 1.7 of the Health and Safety Code of the State of California. The principal office of the Agency is located in the City Administration Building, Community Concourse, San Diego, California 92101. "Agency" as used in this Agreement includes the Redevelopment Agency of the City of San Diego, and any assignee of or successor to its rights, powers and responsibilities.

B. IGA has succeeded to the rights of LandGrant Development Unlimited, a California corporation ("LandGrant"), under that certain Disposition and Development Agreement entered into by LandGrant as of May 28, 1998, and by the Agency as of May 29, 1998, as clarified and implemented by (1) that certain First Implementation Agreement dated February 23, 2000, (2) that certain Second Implementation Agreement dated November 27, 2000, (3) that certain Third Implementation Agreement dated June 28, 2001, and (4) that certain Fourth Implementation Agreement dated May 28, 2002 (collectively, the "DDA"), with respect to the redevelopment of certain real property (the "Site") within the San Ysidro Redevelopment Project area in the City of San Diego, California (the "City"). The terms of the DDA have been further clarified by (a) a letter dated March 10, 2000, by and between the Agency and IGA, (b) a letter dated September 21, 2001, among the Agency, IGA and certain entities affiliated with IGA, including International Gateway I LLC, a Delaware limited liability company ("Phase I Developer"), (c) a letter dated September 22, 2003, by and between the Agency and IGA, (d) a letter dated January 29, 2004, by and between the Agency and IGA, and (e) a letter dated April 22, 2004, among the Agency, IGA and the Phase I Developer, with a consent thereto executed by the City. The principal office of IGA is located at 1650 Tysons Boulevard, Suite 1600, McLean, Virginia 22102 (Attn: Project Manager, Las Americas (San Diego) Project).

C. The redevelopment of the Site involves construction of certain improvements specified in the DDA. Such improvements are to be constructed in phases. IGA now proposes to commence construction of improvements on a portion of the Site referred to as "Parcel A-1", which is described on Exhibit A attached hereto.

D. Pursuant to the DDA, IGA loaned funds to the Agency in order to enable the Agency to reimburse IGA for IGA's costs of acquiring the Agreed Sales Parcel associated with Parcel A-1, in order to assemble the properties within the Site. The purpose of this Agreement is to provide for the repayment, from tax increment generated by the redevelopment of Parcel A-1, of certain funds loaned to the Agency by IGA pursuant to the DDA.

DOCUMENT NO. D-020427R-020427
FILED OCT 07 2004
OFFICE OF THE REDEVELOPMENT AGENCY
SAN DIEGO, CALIF.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the parties hereto hereby agree as follows:

1. CERTAIN DEFINITIONS

For the purposes of this Agreement, the following terms shall have the following meanings:

1.1 “Amortization Amount A-1” shall mean the equal scheduled payment for principal and interest owed by the Agency to the Developer each Fiscal Year as shown on Amortization Schedule A-1 attached hereto as Exhibit B.

1.2 “Amortization Commencement Date A-1” shall mean the July 1 next following the issuance by the City of a certificate of occupancy for the first square foot of development on Parcel A-1 under the DDA.

1.3 “Available Tax Increment A-1” shall mean the excess of (a) Property tax Revenues A-1, after reduction for any amounts (based pro rata upon application of any formulas which pertain to the Redevelopment Project area) which the Agency is required to set aside and use for housing for persons and families of low and moderate income under Health & Safety Code § 33334.2, or any amounts which the Agency is required to pay to affected taxing agencies under Health & Safety Code § 33607.5, or any amounts which the Agency may be required to pay to an educational revenue augmentation fund under Health & Safety Code §§ 33680 et seq. or any similar statutory obligation to pay others from property taxes otherwise allocated to the Agency; over (b) the Base Year Amount A-1. An example of the calculation of the Available Tax Increment A-1 is attached hereto as Exhibit C.

1.4 “Base Year Amount A-1” shall be \$2,482.63, determined by applying the base one percent (1%) tax rate levied upon Parcel A-1 to the base year assessment roll for the San Ysidro Redevelopment Project for properties (or a pro rata portion thereof) within Parcel A-1, as it may be adjusted from time to time by the San Diego County Assessor due to properties removed from the rolls or other such adjustments provided by law.

1.5 “Developer” shall mean IGA or any assignee of IGA’s rights in Parcel A-1 (so long as, in the case of an assignee, the assignment to such assignee does not violate the terms of the DDA).

1.6 “Fiscal Year” shall mean the period from July 1 of one calendar year, through and including June 30 of the immediately following calendar year.

1.7 “Parcel A-1” shall have the meaning assigned to such term in Recital C to this Agreement. The parties acknowledge and agree, however, that pursuant to the Clarification Letter dated April 22, 2004, the Agency has agreed to amend the description of “Parcel A-1” in connection with a subdivision map or boundary adjustment affecting Parcel A-1 that is approved by the City in accordance with said Clarification Letter. From and after recordation, in accordance with said Clarification Letter, of any subdivision map or other boundary adjustment documentation affecting the description of Parcel A-1, the Agency and the Developer agree to execute and record an Amendment to this Loan Agreement in the form attached hereto as

Exhibit D (so as to confirm the final revisions to the boundaries of Parcel A-1, the intent being that after giving effect to such amendment, the description of Parcel A-1 shall be substantially consistent with the description attached hereto as Exhibit A.)

1.8 “Principal Amount A-1” shall mean the amount of One Million Two Hundred Forty-Six Thousand Seven Hundred Fifty-Eight Dollars (\$1,246,758) loaned to the Agency by the Developer with respect to Parcel A-1.

1.9 “Property Tax Revenues A-1” shall include (but only include) ad valorem property tax revenues allocated and paid to the Agency pursuant to Article XVI, Section 16 of the California Constitution and Health & Safety Code §§ 33670 et seq., attributable to the base one percent (1%) tax rate levied upon Parcel A-1. Property Tax Revenues A-1 include the gross amounts so allocated and paid to the Agency, without reduction for any amounts which the Agency is required to set aside and use for housing for persons and families of low and moderate income under Health & Safety Code § 33334.2, or any amounts which the Agency may be required to pay to affected taxing agencies under Health & Safety Code § 33607.5, or any amounts which the Agency may be required to pay to an educational revenue augmentation fund under Health & Safety Code §§ 33680 et seq. or any similar statutory obligation to pay others from property taxes otherwise allocated to the Agency.

1.10 “Termination Date A-1” shall mean June 30 of the thirtieth (30th) Fiscal Year of scheduled amortization of Principal Amount A-1.

2. PAYMENT OF PRINCIPAL AMOUNT B/C, AND INTEREST

2.1 For value received, the Agency hereby agrees to pay to the Developer the Principal Amount A-1 of One Million Two Hundred Forty-Six Thousand Seven Hundred Fifty-Eight Dollars (\$1,246,758), together with simple interest on the unpaid balance thereof at the rate of ten percent (10%) per annum, until Termination Date A-1, at which time any as yet unpaid principal and/or accrued interest shall be deemed forgiven. The Principal Amount A-1 shall be paid, together with interest, in equal annual payments over a thirty (30) year period as shown on Amortization Schedule A-1.

2.2 Within forty-five (45) days after the Agency receives its final installment of Property Tax Revenues A-1 from the County of San Diego Auditor-Controller for each Fiscal Year after the Amortization Commencement Date A-1, the Agency shall pay to the Developer the lesser of: (a) the Amortization Amount A-1, or (b) the Available Tax Increment A-1 for the applicable Fiscal Year. Such amount is referred to herein as the “Annual Payment” for the applicable Fiscal Year. Any interest earned on Available Tax Increment A-1 due to investment of such funds by the Agency prior to the making of such Annual Payment to the Developer shall be the property of the Agency. Concurrently with the making of such Annual Payment, the Agency shall provide the Developer with a financial report showing the amount of Property Tax Revenues A-1 allocated and paid to the Agency for the preceding fiscal year and how the amount paid to the Developer for that Fiscal Year was determined.

2.3 The Agency shall only be required to calculate the Annual Payments on the basis of Property Tax Revenues A-1, and to pay such amounts from Property Tax Revenues A-1 which

are actually collected, allocated to and received by the Agency for the applicable Fiscal Year. The Agency shall comply with all requirements of the Community Redevelopment Law, Health & Safety Code §§ 33000 et seq., to ensure the allocation and payment to it of the Property Tax Revenues A-1, including without limitation the timely filing of any necessary statements of indebtedness with appropriate officials of San Diego County. Any portion of Amortization amount A-1 which is not paid in a Fiscal Year because there is insufficient Available Tax Increment A-1 in that Fiscal Year shall be deemed forgiven, and the Agency shall have no further obligation or liability with respect thereto. For the purpose of calculating the outstanding balance of Principal Amount A-1 under this Agreement, the portion of Amortization Amount B/C deemed forgiven shall be treated as if it actually had been paid.

3. REPAYMENT OF PRINCIPAL AMOUNT A-1

Notwithstanding any other provision of this Agreement, the Agency may prepay the outstanding balance (not paid, or deemed paid pursuant to Section 2.3 above) of Principal Amount A-1, together with all interest accrued (and not paid, or deemed paid pursuant to Section 2.3 above) as of the date of prepayment, at any time without prior notice to the Developer and without any penalty or charge. The Developer agrees to cooperate with the Agency, including without limitation providing any appropriate estoppel certificate regarding the status of this Agreement, and the payoff and termination hereof, as may be reasonably requested by the Agency or in connection with any bond issue or other refinancing of the Agency's obligations hereunder.

4. SECURITY FOR ANNUAL PAYMENTS

4.1 As security for the Agency's obligation to make the Annual Payments to the Developer, the Agency hereby pledges and allocates to the Developer the Available Tax Increment A-1. Such pledge and allocation shall be a first priority pledge and allocation of Available Tax Increment A-1. The pledge and allocation of Available Tax Increment A-1 is for the exclusive benefit of the Developer, and permitted assignees of the Developer's rights under this Agreement, and shall be irrevocable until all of Principal Amount A-1 (and any interest accrued thereon) has been paid in full, or treated as if paid pursuant to Section 2.3 above.

4.2 Notwithstanding the foregoing:

(a) The Agency shall have the right, without notice to the Developer, to make a second priority pledge of Available Tax Increment A-1 to the extent that Available Tax Increment A-1 is not required for the making of an Annual Payment pursuant to this Agreement; and

(b) Upon payment (including deemed payment pursuant to Section 2.3 above) in full of the amount due to the Developer under this Agreement, the pledge of Available Tax Increment A-1 shall automatically terminate, and any second priority pledge of Available Tax Increment A-1 shall automatically become a first priority pledge of Available Tax Increment A-1.

5. USES OF FUNDS; ASSIGNMENT TO LENDER

5.1 Upon the prior written approval of the Agency, the Developer may assign its rights to receive the Principal Amount A-1 due under this Agreement to one or more construction or permanent lenders (each a "Lender") that makes a construction or permanent loan secured by all or any portion of Parcel A-1. Such assignment shall be made pursuant to a written agreement reasonably satisfactory to the Agency in form and substance.

5.2 Notwithstanding the foregoing, the Agency shall not be obligated to pay any portion of the Principal Amount A-1, or any Annual Payment related thereto, to any person other than the Developer unless the Agency is notified by the Developer in writing of the name of any lender to which payment of the Principal Amount A-1, and the Annual Payments related thereto, are to be paid directly, the amount to be paid to such Lender, and the address to which such is to be sent. The Agency shall not be liable for any failure on the part of the Developer to give such notice to the Agency or if the Agency for any reason does not actually receive any such notice.

5.3 In the event that the Developer defaults on its obligations to any Lender, or defaults on its obligations to the Agency under the DDA, and such Lender elects to assume the obligations of the Developer pursuant to Section 320 of the DDA, the Developer may assign its rights under this Agreement to such Lender with the Prior written approval of the Agency and the Agency shall pay the Principal Amount A-1, and the Annual Payments related thereto, directly to such Lender as provided for in this Agreement. Such assignment shall be made pursuant to a written agreement reasonably satisfactory to the Agency in form and substance.

6. INDEBTEDNESS

6.1 The obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the San Ysidro Redevelopment Project, which indebtedness shall be payable only out of real property taxes levied on Parcel A-1 by or for the benefit of taxing agencies in the San Ysidro Redevelopment Project area and allocated to the Agency pursuant to Health & Safety Code § 33670.

6.2 The obligations of the Agency under this Agreement shall be a special obligation of the Agency and the Agency shall not be obligated to use funds from sources other than those specified in this Agreement. Notwithstanding the foregoing, nothing herein shall preclude the Agency from paying the Principal Amount A-1, the Annual Payments, or any part thereof, from any funds lawfully available to the Agency from time to time.

6.3 The obligations of the Agency under this Agreement shall not constitute a debt of the City or any other public agency except the Agency, and the City shall have no obligation whatsoever with respect to such obligations.

7. TERMINATION OF AGREEMENT

7.1 This Agreement shall terminate automatically upon the payment (including deemed payment pursuant to Section 2.3 above) of all sums due under this Agreement, or if not sooner terminated, on Termination Date A-1. Upon payment (including deemed payment) in full of all sums due under this Agreement, or on Termination Date A-1, as applicable, the Agency and the

Developer shall execute and acknowledge a memorandum reciting that all sums due under this Agreement have been paid in full and that the Agreement is terminated. The execution and acknowledgment of such memorandum shall be for evidentiary purposes only, and is not a precondition to the automatic termination of this Agreement upon the occurrence of either condition referred to above.

8. GENERAL TERMS AND CONDITIONS

8.1 Notices, Demands and Communications between the Parties

Formal notices, demands, and communications between the Agency and the Developer shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the Agency or the Developer as designated in Recitals A and B, respectively. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section 8.1.

8.2 Assignment

The Developer shall have no right to assign this Agreement or any rights under this Agreement without the prior written consent of the Agency, which the Agency shall only grant if such assignment is in the judgment of the Agency consistent with the objectives of the DDA, no material adverse risk or administrative burden will be imposed on the Agency as a result thereof, and the Agency reasonably determines that the proposed assignee is capable, willing and able to fulfill the terms and conditions of this Agreement. Any permitted assignment shall be by instrument reasonably satisfactory to the Agency. All costs of the Agency incurred in processing any assignment shall be borne by the Developer. Any assignment attempted other than as expressly provided herein shall be void and unenforceable.

8.3 Nonliability of Agency Officials and Employees

No member, official, employee or consultant of the Agency shall be personally liable to the Developer, or any permitted assignee of or successor to the Developer's rights under this Agreement, in the event of any default or breach by the Agency or for any amount which may become due to the Developer, or any permitted assignee of or successor to the Developer's rights under this Agreement, or on any obligations under the terms of this Agreement.

8.4 Attorneys' Fees

In the event either party to this Agreement is required to institute litigation to enforce its legal rights arising out of this Agreement, the prevailing party in such action shall be entitled in addition to its other relief, to recover reasonable attorneys' fees and court costs incurred therein.

8.5 Entire Agreement; Amendments and Waivers

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreement between the parties with respect to

the subject matter of this Agreement. All amendments to this Agreement must be in writing and signed by the Agency or the Developer.

8.6 Exhibits

All exhibits attached hereto are incorporated herein by reference.

8.7 Date of Agreement; Counterparts

The date of this Agreement shall be the date it is signed by the Agency. This Agreement shall be executed in five duplicate originals each of which is deemed to be an original.

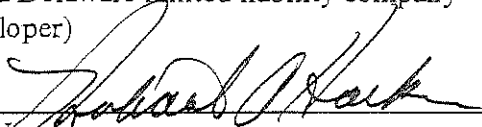
8.8 Independent Obligations

The Agency's obligation to make payments hereunder in accordance with and subject to the terms and conditions of this Agreement are independent of the obligations of the Developer under the DDA with respect to Parcels other than Parcel A-1, and the Agency's obligations to make any such payment shall not be diminished, reduced or subject to setoff as a consequence of a breach by the Developer of any of its obligations under the DDA with respect to such other Parcels.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]


INTERNATIONAL GATEWAY ASSOCIATES,
LLC, a Delaware limited liability company
(Developer)

Dated: July 2, 2004

By: 
Print Name: Richard A. Harkins
Title: Vice President

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO
(Agency)

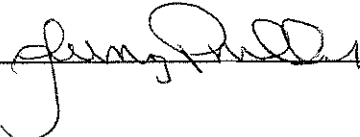
Dated: 8/16/04

By: 
Print Name: HENRY C. CUNNINGHAM
Title: ASST. Executive Director

APPROVED AS TO FORM AND LEGALITY

on this 17 day of AUGUST, 2004

Counsel to the Agency

By: 

VIRGINIA (anc),
STATE OF CALIFORNIA, Fairfax (poe)
COUNTY OF SAN DIEGO } S.S.

On July 2, 2004, before me, ANNIE M. CHERIF (here insert name and title of the officer), personally appeared Richard A. Harkins, personally known to me (or 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) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Annie M. Cherif



My Commission Expires December 31, 2008

STATE OF CALIFORNIA,
COUNTY OF SAN DIEGO } S.S.

On August 17, 2004, before me, Jeannette Santos, Notary Public (here insert name and title of the officer), personally appeared Henry C. Cunningham, personally known to me (or 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) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Jeannette Santos

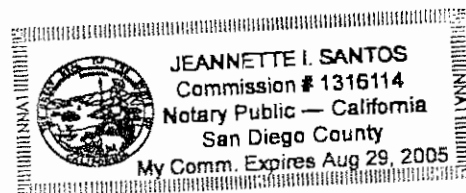


EXHIBIT A
DESCRIPTION OF PARCEL A-1

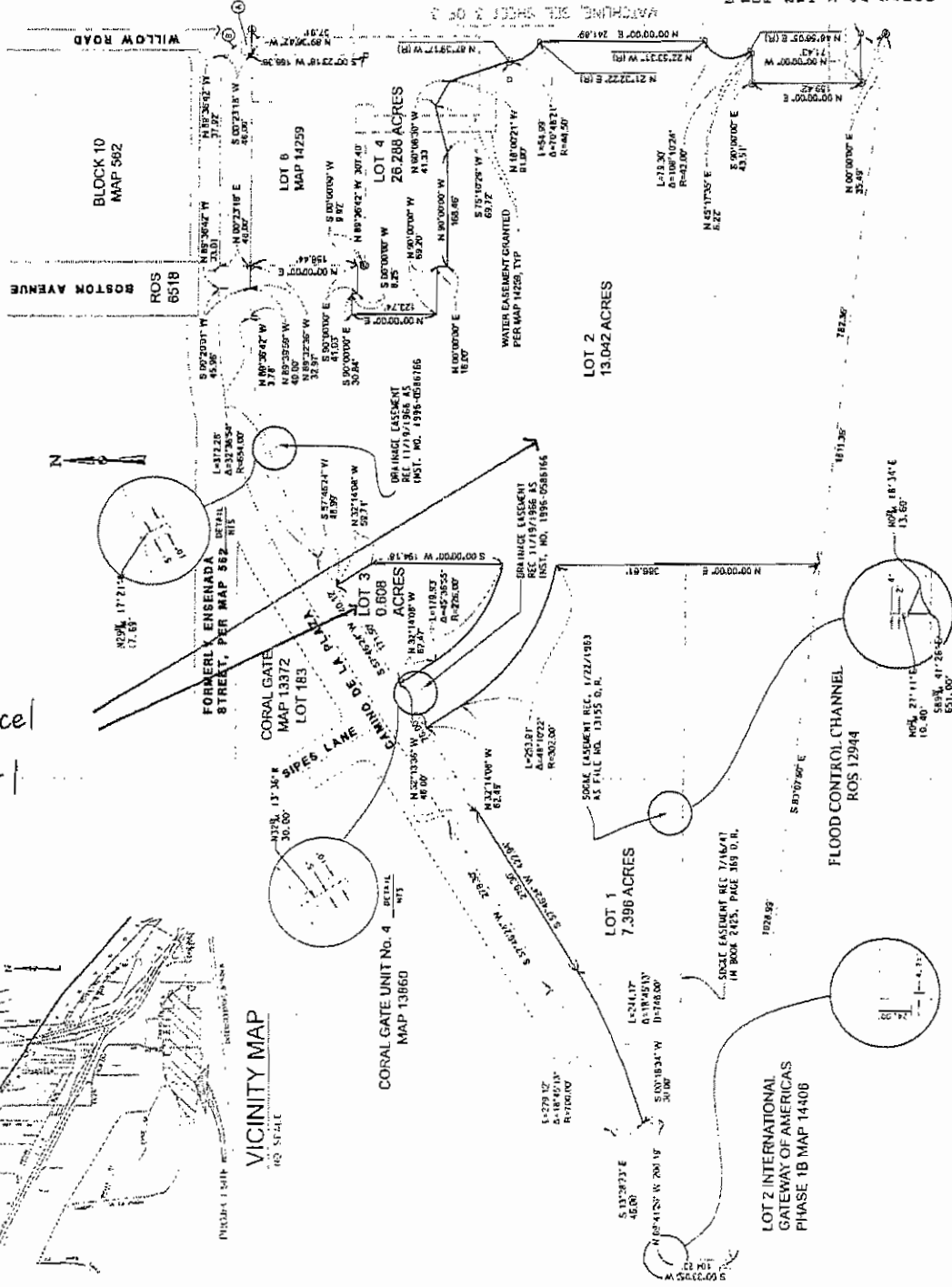
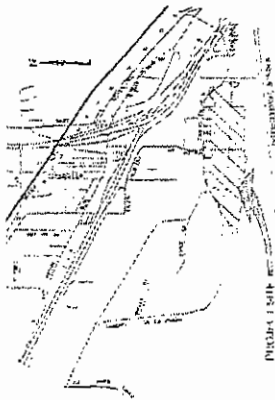
[See immediately following four (4) pages.]

Exhibit A

PARCEL MAP NO.

SHEET 2 OF 3 SHEETS

Parcel
A-1



- ① INDICATES DEVIATION PER MAP 14259
- ② INDICATES AN OBSERVATION PER MAP 14259

LEGEND

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE COMPOUND BEARING OF THE CENTER LINE OF CANGUIN DE LA PLAZA BETWEEN WILLOW ROAD AND NEW YORK AVE AS SHOWN ON MAP 14259 BEING NORTH 39° 13' 06" WEST

DOTTED BEARINGS FROM REFERENCIAL MAPS AND DEEDS MAY OR MAY NOT BE IN TERMS OF SAID SYSTEM.

● INDICATES 3/4" IRON PIPE.

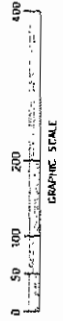
○ INDICATES LEAD & DISC SET ALONG THE EXTENSION OF THE LOT LINE AT AN OFFSET OF 1.00 FEET TO THE SIDEWALK.

○ INDICATES 2" X 24" IRON PIPE W/DISC PER 29885

○ INDICATES LEAD & DISC SET MARKED REC. 29063

○ INDICATES SURVEY SUBDIVISION BOUNDARY

- NOTES:
1. ALL EXISTING REPAIRS SHOWN HEREON ARE BASED ON RECORDED DATA AND SHOWN FOR THE PURPOSE OF PERPETUATION AND MEASUREMENTS HAVE BEEN VERIFIED WITHOUT DECIMALS REPRESENT THAT DISTANCE TO ZERO HUNDRETHS.
 2. ALL DISTANCES AND OR STREET WIDTHS SHOWN WITHOUT DECIMALS REPRESENT THAT DISTANCE TO ZERO HUNDRETHS.
 3. TOTAL AREA OF LOTS = 4.1
 4. TOTAL AREA WITHIN SUBDIVISION BOUNDARY = 48.265 ACRES.
 5. EXISTING SINGLE EASEMENTS NOT BEING RECORDED ARE SHOWN FOR INFORMATION PURPOSES. RECORDS RECORDED AUGUST 12, 2007 AS DOCUMENT 2007-061716 OFFICIAL RECORDS ARE ORIGINAL EASEMENTS WITH NO LOCATION SET FORTH AND CANNOT BE PLOTTED BY RECORD.
 6. EXISTING EASEMENT, INC. EASEMENT RECORDED NOVEMBER 9, 2001 AS DOCUMENT NO. 2001-082119, OF OFFICIAL RECORDS ARE RECORDED WITH NO LOCATION SET FORTH AND CANNOT BE PLOTTED BY RECORD.



PARSONS
110 WEST 4th STREET, SUITE 1050
SAN DIEGO, CA 92101
(619) 685-0085

T.M. NO. _____ J.O. NO. _____
NAD 83 1776-6315 | L.C. 136-1755

LOT 2

COMMENCING at the northeast Corner of Lot 9 of International Gateway of the Americas Phase 1B, according to map thereof No. 14406, filed in the Office of the County Recorder of San Diego County June 13, 2002 and said point being the **POINT OF BEGINNING**;

10. thence westerly, along the south line of Camino de la Plaza, North $89^{\circ}32'36''$ West, 32.97 feet;
11. thence North $89^{\circ}39'59''$ West, 40.00 feet;
12. thence North $89^{\circ}36'42''$ West, 3.78 feet to a tangent curve concave to the southeast having a radius of 654.00 feet;
13. thence southwesterly, along said curve, through a central angle of $32^{\circ}36'54''$, a distance of 372.28 feet;
14. thence South $57^{\circ}46'24''$ West, 48.99 feet;
15. thence, leaving said south line of Camino de la Plaza, South $32^{\circ}14'08''$ East, 59.71 feet;
16. thence due South, 194.18 feet to a point on a non-tangent curve, the center of which bears North $12^{\circ}08'59''$ East, 226.00 feet;
17. thence northwesterly, along said curve, through a central angle of $45^{\circ}36'55''$, a distance of 179.93 feet;
18. thence North $32^{\circ}14'08''$ West, 62.47 feet to the south line of Camino de la Plaza;
19. thence along said south line, South $57^{\circ}46'24''$ West, 76.00 feet;
20. thence leaving said south line of Camino de la Plaza, South $32^{\circ}14'08''$ East, 62.49 feet to a tangent curve, concave to the northeast, having a radius of 302.00 feet;
21. thence southeasterly, along said curve, through a central angle of $48^{\circ}10'22''$, a distance of 253.91 feet;
22. thence due South, 386.61 feet to the south line of Lot 8 of said map 14406;
23. thence, along last said south line, South $83^{\circ}07'50''$ East, 782.36 feet to the east line of said Lot 8;
24. thence along said east line due North, 35.49 feet;
25. thence due West, 71.43 feet;
26. thence due North, 159.42 feet;
27. thence due East, 43.51 feet;
28. thence North $45^{\circ}17'35''$ East, 5.22 feet to a point on a non-tangent curve, the center of which bears North $48^{\circ}56'05''$ East, 42.00 feet;
29. thence northeasterly, along said curve, through a central angle of $108^{\circ}10'24''$, a distance of 79.30 feet;
30. thence due North, 241.89 feet to a point on a non-tangent curve, the center of which bears North $21^{\circ}32'22''$ East, 44.50 feet;
31. thence northwesterly, along said curve, through a central angle of $70^{\circ}48'21''$, a distance of 54.99 feet;

32. thence, diverging from said east line of Lot 8, North 18°00'21" West, 91.90 feet;
33. thence North 60°08'30" West, 41.33 feet;
34. thence South 75°10'29" West, 69.72 feet to a North line of said Lot 8;
35. thence, continuing along said north line, due West, 168.46 feet;
36. thence due North, 16.00 feet;
37. thence due West, 69.20 feet;
38. thence due North, 123.74 feet to the south line of said Lot 9;
39. thence along said south line due East, 30.84 feet;
40. thence due South, 8.25 feet;
41. thence due East, 41.03 feet to the east line of said Lot 9;
42. thence along said east line due North, 156.44 feet to the POINT OF BEGINNING.

Said land contains 568,132 square feet or 13.043 acres, more or less.

This legal description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: _____

Robert M. Sergeant
Robert M. Sergeant, RCE 29685
License Expires 3/31/2007
Date: May 10, 2004



LOT 3

COMMENCING at the northeast Corner of Lot 9 of International Gateway of the Americas Phase 1B, according to map thereof No. 14406, filed in the Office of the County Recorder of San Diego County, June 13, 2002; thence westerly, along the south line of Camino de la Plaza, the flowing courses and distances North 89°32'36" West, 32.97 feet; thence North 89°39'59" West, 40.00 feet; thence North 89°36'42" West, 3.78 feet to a tangent curve having a radius of 654.00 feet; thence southwesterly, along said curve, through a central angle of 32°36'54", a distance of 372.28 feet; thence South 57°46'24" West, 48.99 feet to the **POINT OF BEGINNING**;

1. thence leaving the said south line of Camino de la Plaza South 32°14'08" East, 59.71 feet;
2. thence due South, 194.18 feet to a point on a non-tangent curve, the center of which bears North 12°08'59" East, 226.00 feet;
3. thence northwesterly, along said curve, through a central angle of 45°36'55", a distance of 179.93 feet;
4. thence North 32°14'08" West, 62.47 feet to the south line of Camino de la Plaza;
5. thence, along said south line, North 57°46'24" East, 171.50 feet to the **POINT OF BEGINNING**;

Said land contains 26,500 square feet or 0.608 acres, more or less.

This legal description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: Robert M. Sergeant
Robert M. Sergeant, RCE 29685
License Expires 3/31/2007
Date: May 10, 2004



EXHIBIT B
AMORTIZATION SCHEDULE A-1

Fiscal Year Following Amortization Commencement Date A-1	Scheduled Amortization Payment For Fiscal Year	Portion of Scheduled Payment Applied to Principal	Portion of Scheduled Payment Applied to Interest	Balance of Principal Amount At End of Fiscal Year (after Giving Effect to Scheduled Payments)
0				\$1,246,758.00
1	\$132,255.15	\$7,579.35	\$124,675.80	\$1,239,178.65
2	\$132,255.15	\$8,337.29	\$123,917.86	\$1,230,841.36
3	\$132,255.15	\$9,171.02	\$123,084.14	\$1,221,670.35
4	\$132,255.15	\$10,088.12	\$122,167.03	\$1,211,582.23
5	\$132,255.15	\$11,096.93	\$121,158.22	\$1,200,485.30
6	\$132,255.15	\$12,206.62	\$120,048.53	\$1,188,278.68
7	\$132,255.15	\$13,427.28	\$118,827.87	\$1,174,851.40
8	\$132,255.15	\$14,770.01	\$117,485.14	\$1,160,081.39
9	\$132,255.15	\$16,247.01	\$116,008.14	\$1,143,834.37
10	\$132,255.15	\$17,871.71	\$114,383.44	\$1,125,962.66
11	\$132,255.15	\$19,658.89	\$112,596.27	\$1,106,303.77
12	\$132,255.15	\$21,624.77	\$110,630.38	\$1,084,679.00
13	\$132,255.15	\$23,787.25	\$108,467.90	\$1,060,891.75
14	\$132,255.15	\$26,165.98	\$106,089.17	\$1,034,725.77
15	\$132,255.15	\$28,782.57	\$103,472.58	\$1,005,943.20
16	\$132,255.15	\$31,660.83	\$100,594.32	\$974,282.36
17	\$132,255.15	\$34,826.91	\$97,428.24	\$939,455.45
18	\$132,255.15	\$38,309.61	\$93,945.54	\$901,145.84
19	\$132,255.15	\$42,140.57	\$90,114.58	\$859,005.28
20	\$132,255.15	\$46,354.62	\$85,900.53	\$812,650.65
21	\$132,255.15	\$50,990.09	\$81,265.07	\$761,660.57
22	\$132,255.15	\$56,089.09	\$76,166.06	\$705,571.47
23	\$132,255.15	\$61,698.00	\$70,557.15	\$643,873.47
24	\$132,255.15	\$67,867.80	\$64,387.35	\$576,005.66
25	\$132,255.15	\$74,654.59	\$57,600.57	\$501,351.08
26	\$132,255.15	\$82,120.04	\$50,135.11	\$419,231.03
27	\$132,255.15	\$90,332.05	\$41,923.10	\$328,898.99
28	\$132,255.15	\$99,365.25	\$32,889.90	\$229,533.73
29	\$132,255.15	\$109,301.78	\$22,953.37	\$120,231.96
30	\$132,255.15	\$120,231.96	\$12,023.20	\$0.00

Exhibit B

EXHIBIT C
SAMPLE CALCULATION OF AVAILABLE TAX INCREMENT A-1

EXHIBIT C
SAMPLE CALCULATION OF AVAILABLE TAX INCREMENT A-1

	Base Year Assessed Value (1)	Base Year Assessed Value (2)	Net Increase in Assessed Value	Net Tax Increment @ 1%	Housing Set-Asides (3)	Taxing Agencies Pass Throughs (3)	Available Tax Increment B/C
Year 1	\$39,000,000	(\$1,000,000)	\$38,000,000	\$380,000	(\$76,000)	(\$76,000)	\$228,000
Year 2	\$39,780,000	(\$1,020,000)	\$38,760,000	\$387,600	(\$77,520)	(\$77,520)	\$232,560
Year 3	\$40,575,600	(\$1,040,400)	\$39,535,200	\$395,352	(\$79,070)	(\$79,070)	\$237,211
Year 4	\$41,387,112	(\$1,061,208)	\$40,325,904	\$403,259	(\$80,652)	(\$80,652)	\$241,955
Year 5	\$42,214,854	(\$1,082,432)	\$41,132,422	\$411,324	(\$82,265)	(\$82,265)	\$246,795

(1) The \$39,000,000 is an estimate for Year 1 Assessed Value. Actual Assessed Value may be greater or lesser than this figure. Assessed Value is estimated to increase 2% annually.

(2) This figure in the table is a "plug number" for Base Year Assessed Value for DDA Parcel A-1; it is not based upon the actual base year assessed value. The actual Base Year Assessed Value for this parcel may be greater or lesser than this figure.

(3) Based on current laws, set asides are 20% for housing set-asides and 20% for affected taxing agencies.

EXHIBIT D
FORM OF AMENDMENT TO LOAN AGREEMENT

Recording Requested by:

INTERNATIONAL GATEWAY ASSOCIATES, LLC

When Recorded Return to:

LATHAM & WATKINS LLP
600 West Broadway, Suite 1800
San Diego, California 92101
Attention: Bruce P. Shepherd, Esq.

AMENDMENT TO LOAN AGREEMENT

(Parcel A-1)

Exhibit D

AMENDMENT TO LOAN AGREEMENT

(Parcel A-1)

This Amendment to Loan Agreement (this "Amendment") is entered into as of _____, 2004, by the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (the "Agency") and INTERNATIONAL GATEWAY ASSOCIATES, LLC, a Delaware limited liability company (the "Developer"). The Agency and IGA agree as follows:

Recitals

A. The Agency and the Developer entered into that certain Loan Agreement (Parcel A-1) dated _____, 2004 (the "Loan Agreement").

B. As contemplated by Section 1.7 of the Loan Agreement, the Developer and the Agency, with the approval of the City, have revised the parcel map for Parcel A to adjust the boundaries of Parcels A-1 and Parcels A-2 and A-3, and the Agency and the Developer wish to enter into this Amendment to reflect of record the boundaries of Parcel A-1, as so adjusted.

Agreement

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the parties hereto hereby agree as follows:

1. Description of Parcel A-1. The description of Parcel A-1 attached to the Loan Agreement as Exhibit A is hereby replaced with the substitute description of Parcel A-1 attached to this Amendment as Attachment A. As used in the Loan Agreement, "Parcel A-1" shall hereafter refer to Parcel A-1 as described in such substitute description of Parcel A-1.

2. Actions to Effectuate this Amendment. The parties agree to execute such other instruments, memoranda, agreements and amendments to documents as may be necessary or appropriate to effectuate the Loan Agreement, as amended by this Amendment.

3. Loan Agreement to Remain in Effect. Except as expressly provided otherwise in this Amendment, the Loan Agreement remains in full force and effect, enforceable in accordance with its terms. All references in the Loan Agreement to the "Agreement" henceforth shall be deemed to refer to the Loan Agreement as amended hereby.

4. Counterparts; Date of Amendment. This Amendment is executed in five (5) duplicate originals, each of which is deemed to be an original, and may be signed in counterparts. This Amendment shall not be effective until it has been mutually executed by the Developer and the Agency. Upon such mutual execution, the date of this Amendment for reference purposes shall be the date first set forth above.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

Exhibit D

INTERNATIONAL GATEWAY ASSOCIATES,
LLC, a Delaware limited liability company
(Developer)

Dated: _____

By: _____

Print Name: _____

Title: _____

REDEVELOPMENT AGENCY OF THE CITY OF
SAN DIEGO
(Agency)

Dated: _____

By: _____

Print Name: _____

Title: _____ Executive Director

APPROVED AS TO FORM AND LEGALITY

on this ____ day of _____, _____

Counsel to the Agency

By: _____

STATE OF CALIFORNIA,
COUNTY OF SAN DIEGO} S.S.

On _____, 2004, before me, _____ (here insert name and title of the officer), personally appeared _____, personally known to me (or 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) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

STATE OF CALIFORNIA,
COUNTY OF SAN DIEGO} S.S.

On _____, 2004, before me, _____ (here insert name and title of the officer), personally appeared _____, personally known to me (or 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) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

Exhibit D

STATE OF CALIFORNIA,
COUNTY OF SAN DIEGO} S.S.

On _____, 2004, before me, _____ (here insert name and title of the officer), personally appeared _____, personally known to me (or 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) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

STATE OF CALIFORNIA,
COUNTY OF SAN DIEGO} S.S.

On _____, 2004, before me, _____ (here insert name and title of the officer), personally appeared _____, personally known to me (or 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) acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

Exhibit D

ATTACHMENT A
MAP OF PARCEL A-1

Recording Requested by:

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

When Recorded Return to:

SPACE ABOVE THIS LINE FOR
RECORDING USE

LOAN AGREEMENT

This Loan Agreement (the "Agreement") is entered into as of _____, 19__ by the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (the "Agency") and [insert name of Developer], a _____ (the "Developer"). The Agency and the Developer agree as follows:

RECITALS

A. The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under Division 24, of Part 1.7 of the Health and Safety Code of the State of California. The principal office of the Agency is located at _____, San Diego, California _____. "Agency" as used in this Agreement includes the Redevelopment Agency of the City of San Diego, and any assignee of or successor to its rights, powers and responsibilities.

B. The Developer is _____, a _____. The Developer is composed of _____. The principal office of the Developer is located at _____. Wherever the term "Developer" is used herein, such term shall include any permitted nominee, assignee or successor in interest of the Developer under this Agreement.

C. The Agency and the Developer are the parties to that certain Disposition and Development Agreement, dated _____, 19__ (the "DDA") with respect to the redevelopment of certain real property (the "Site"), within the San Ysidro Redevelopment Project area in the City of San Diego, California (the "City"). The

redevelopment of the Site involves construction of certain improvements specified in the DDA. Such improvements are to be constructed in phases.

D. The Developer [has heretofore constructed or is now commencing to construct] such improvements on a portion of the Site referred to as "Parcel A", which is shown on the map attached hereto as Exhibit A and is more particularly in Exhibit B.

E. Pursuant to the DDA, the Developer loaned funds to the Agency in order to [Parcels A, B and C: enable the Agency to refinance its acquisition of the Added Sales Parcels, and to finance the Agency's acquisition of certain Agreed Sales Parcels; or Parcels D, E-1, E-2, E-3 and F: reimburse the Developer for the Developer's costs of acquiring certain Agreed Sales Parcels], in order to assemble the properties within the Site. The purpose of this Agreement is to provide for the repayment of certain funds loaned to the Agency by the Developer pursuant to the DDA, from tax increment generated by the redevelopment of Parcel A.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, the parties hereto hereby agree as follows:

1. CERTAIN DEFINITIONS

For the purposes of this Agreement, the following terms shall have the following meanings:

1.1 "Amortization Amount A" shall mean the equal scheduled payment for principal and interest owed by the Agency to the Developer each Fiscal Year as shown on Amortization Schedule A attached hereto as Exhibit C.

1.2 "Amortization Commencement Date A" shall mean the July 1 next following the issuance by the City of a certificate of occupancy for the first square foot of development on Parcel A [or a later developed Parcel, where the applicable Loan Agreement is entered into concurrently with the closing of the mortgage loan and/or other financing for the development of such later developed Parcel] under the DDA.

1.3 "Available Tax Increment A" shall mean the excess of (a) Property Tax Revenues A, after reduction for any amounts (based prorata upon application of any formulas which pertain to the Redevelopment Project area) which the Agency is required to set aside and use for housing for persons and families of low and moderate income under Health & Safety Code § 33334.2, or and amounts which the Agency is required to pay to affected taxing agencies under Health & Safety Code § 33607.5, or any amounts which the Agency may be required to pay to an educational revenue

augmentation fund under Health & Safety Code §§ 33680 et seq. or any similar statutory obligation to pay others from property taxes otherwise allocated to the Agency; over (b) the Base Year Amount A. An example of the calculation of the Available Tax Increment A is attached hereto as Exhibit D.

1.4 "Base Year Amount A" shall be _____ Dollars (\$_____) [determined by applying the base one percent (1%) tax rate levied upon Parcel A to the base year assessment roll for the San Ysidro Redevelopment Project for properties (or a prorata portion thereof) within Parcel A], as it may be adjusted from time to time by the San Diego County Assessor due to properties removed from the rolls or other such adjustments provided by law.

1.5 "Fiscal Year" shall mean the period from July 1 of one calendar year, through and including June 30 of the immediately following calendar year.

1.6 "Principal Amount A" shall mean the amount of _____ Dollars (\$_____) loaned to the Agency by the Developer with respect to Parcel A.

1.7 "Property Tax Revenues A" shall include (but only include) ad valorem property tax revenues allocated and paid to the Agency pursuant to Article XVI, Section 16 of the California Constitution and Health & Safety Code §§ 33670 et seq., attributable to the base one percent (1%) tax rate levied upon Parcel A. Property Tax Revenues A include the gross amounts so allocated and paid to the Agency, without reduction for any amounts which the Agency is required to set aside and use for housing for persons and families of low and moderate income under Health & Safety Code § 33334.2, or any amounts which the Agency may be required to pay to affected taxing agencies under Health & Safety Code § 33607.5, or any amounts which the Agency may be required to pay to an educational revenue augmentation fund under Health & Safety Code §§ 33680 et seq. or any similar statutory obligation to pay others from property taxes otherwise allocated to the Agency.

1.8 "Termination Date A" shall mean June 30 of the thirtieth (30th) Fiscal Year of scheduled amortization of Principal Amount A.

2. PAYMENT OF PRINCIPAL AMOUNT A, AND INTEREST

2.1 For value received, the Agency hereby agrees to pay to the Developer, the Principal Amount A of _____ Dollars (\$_____), together with simple interest on the unpaid balance thereof at the rate of ten percent (10%) per annum, until Termination Date A, at which time any as yet unpaid principal and/or accrued interest shall be deemed forgiven. The Principal Amount A shall be paid, together with interest, in equal annual

payments over a thirty (30) year period as shown on Amortization Schedule A.

2.2 Within forty-five (45) days after the Agency receives its final installment of Property Tax Revenues A from the County of San Diego Auditor-Controller for each Fiscal Year after the Amortization Commencement Date A, the Agency shall pay to the Developer the lesser of: (a) the Amortization Amount A, or (b) the Available Tax Increment A for the applicable Fiscal Year. Such amount is referred to herein as the "Annual Payment" for the applicable Fiscal Year. Any interest earned on Available Tax Increment A due to investment of such funds by the Agency prior to the making of such Annual Payment to the Developer shall be the property of the Agency. Concurrently with the making of such Annual Payment, the Agency shall provide the Developer with a financial report showing the amount of Property Tax Revenues A allocated and paid to the Agency for the preceding fiscal year and how the amount paid to the Developer for that Fiscal Year was determined.

2.3 The Agency shall only be required to calculate the Annual Payments on the basis of Property Tax Revenues A, and to pay such amounts from Property Tax Revenues A which are actually collected, allocated to and received by the Agency for the applicable Fiscal Year. The Agency shall comply with all requirements of the Community Redevelopment Law, Health & Safety Code §§ 33000 et seq., to ensure the allocation and payment to it of the Property Tax Revenues A, including without limitation the timely filing of any necessary statements of indebtedness with appropriate officials of San Diego County. Any portion of Amortization Amount A which is not paid in a Fiscal Year because there is insufficient Available Tax Increment A in that Fiscal Year shall be deemed forgiven, and the Agency shall have no further obligation or liability with respect thereto. For the purpose of calculating the outstanding balance of Principal Amount A under this Agreement, the portion of Amortization Amount A deemed forgiven shall be treated as if it actually had been paid.

3. PREPAYMENT OF PRINCIPAL AMOUNT A

Notwithstanding any other provision of this Agreement, the Agency may prepay the outstanding balance (not paid, or deemed paid pursuant to Section 2.3 above) of Principal Amount A, together with all interest accrued (and not paid, or deemed paid pursuant to Section 2.3 above) as of the date of prepayment, at any time without prior notice to the Developer and without any penalty or charge. The Developer agrees to cooperate with the Agency, including without limitation providing any appropriate estoppel certificate regarding the status of this Agreement, and the payoff and termination hereof, as may be reasonably requested by the

Agency or in connection with any bond issue or other refinancing of the Agency's obligations hereunder.

4. SECURITY FOR ANNUAL PAYMENTS

4.1 As security for the Agency's obligation to make the Annual Payments to the Developer, the Agency hereby pledges and allocates to the Developer the Available Tax Increment A. Such pledge and allocation shall be a first priority pledge and allocation of Available Tax Increment A. The pledge and allocation of Available Tax Increment A is for the exclusive benefit of the Developer, and permitted assignees of the Developer's rights under this Agreement, and shall be irrevocable until all of Principal Amount A (and any interest accrued thereon) has been paid in full, or treated as if paid pursuant to Section 2.3 above.

4.2 Notwithstanding the foregoing:

(a) The Agency shall have the right, without notice to the Developer, to make a second priority pledge of Available Tax Increment A to the extent that Available Tax Increment A is not required for the making of an Annual Payment pursuant to this Agreement; and

(b) Upon payment (including deemed payment pursuant to Section 2.3 above) in full of the amount due to the Developer under this Agreement, the pledge of Available Tax Increment A shall automatically terminate, and any second priority pledge of Available Tax Increment A shall automatically become a first priority pledge of Available Tax Increment A.

5. USES OF FUNDS; ASSIGNMENT TO LENDER

5.1 Upon the prior written approval of the Agency, the Developer may assign its rights to receive the Principal Amount A due under this Agreement to one or more construction or permanent lenders (each a "Lender") that makes a construction or permanent loan secured by all or any portion of Parcel A [or Parcel ____, where the rights to receive all payments (including interest) on account of this Loan Agreement have been assigned to that Parcel under the DDA]. Such assignment shall be made pursuant to a written agreement reasonably satisfactory to the Agency in form and substance.

5.2 Notwithstanding the foregoing, the Agency shall not be obligated to pay any portion of the Principal Amount A, or any Annual Payment related thereto, to any person other than the Developer unless the Agency is notified by the Developer in writing of the name of any Lender to which payment of the Principal Amount A, and the Annual Payments related thereto, are to be paid directly, the amount to be paid to such Lender, and the address to

which such payment is to be sent. The Agency shall not be liable for any failure on the part of the Developer to give such notice to the Agency or if the Agency for any reason does not actually receive any such notice.

5.3 In the event that the Developer defaults on its obligations to any Lender, or defaults on its obligations to the Agency under the DDA, and such Lender elects to assume the obligations of the Developer pursuant to Section 320 of the DDA, the Developer may assign its rights under this Agreement to such Lender with the prior written approval of the Agency and the Agency shall pay the Principal Amount A, and the Annual Payments related thereto, directly to such Lender as provided for in this Agreement. Such assignment shall be made pursuant to a written agreement reasonably satisfactory to the Agency in form and substance.

6. INDEBTNESS

6.1 The obligations of the Agency under this Agreement shall constitute an indebtedness of the Agency for the purpose of carrying out the San Ysidro Redevelopment Project, which indebtedness shall be payable only out of real property taxes levied on Parcel A by or for the benefit of taxing agencies in the San Ysidro Redevelopment Project area and allocated to the Agency pursuant to Health & Safety Code § 33670.

6.2 The obligations of the Agency under this Agreement shall be a special obligation of the Agency and the Agency shall not be obligated to use funds from sources other than those specified in this Agreement. Notwithstanding the foregoing, nothing herein shall preclude the Agency from paying the Principal Amount A, the Annual Payments, or any part thereof, from any funds lawfully available to the Agency from time to time.

6.3 The obligations of the Agency under this Agreement shall not constitute a debt of the City of San Diego or any other public agency except the Agency, and the City of San Diego shall have no obligation whatsoever with respect to such obligations.

7. TERMINATION OF AGREEMENT

7.1 This Agreement shall terminate automatically upon the payment (including deemed payment pursuant to Section 2.3 above) of all sums due under this Agreement, or if not sooner terminated, on Termination Date A. Upon payment (including deemed payment) in full of all sums due under this Agreement, or on Termination Date A, as applicable, the Agency and the Developer shall execute and acknowledge a memorandum reciting that all sums due under this Agreement have been paid in full and that the Agreement is terminated. The execution and acknowledgement of such memorandum shall be for evidentiary purposes only, and is not a precondition

to the automatic termination of this Agreement upon the occurrence of either condition referred to above.

8. GENERAL TERMS AND CONDITIONS

8.1 Notices, Demands and Communications between the Parties

Formal notices, demands, and communications between the Agency and the Developer shall be sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, to the principal offices of the Agency or the Developer as designated in Recitals A and B, respectively. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail as provided in this Section 8.1.

8.2 Assignment

The Developer shall have no right to assign this Agreement or any rights under this Agreement without the prior written consent of the Agency, which the Agency shall only grant if such assignment is in the judgment of the Agency consistent with the objectives of the DDA, no material adverse risk or administrative burden will be imposed on the Agency as a result thereof, and the Agency reasonably determines that the proposed assignee is capable, willing and able to fulfill the terms and conditions of this Agreement. Any permitted assignment shall be by instrument reasonably satisfactory to the Agency. All costs of the Agency incurred in processing any assignment shall be borne by the Developer. Any assignment attempted other than as expressly provided herein shall be void and unenforceable.

8.3 Nonliability of Agency Officials and Employees

No member, official, employee or consultant of the Agency shall be personally liable to the Developer, or any permitted assignee of or successor to the Developer's rights under this Agreement, in the event of any default or breach by the Agency or for any amount which may become due to the Developer, or any permitted assignee of or successor to the Developer's rights under this Agreement, or on any obligations under the terms of this Agreement.

8.4 Attorneys' Fees

In the event either party to this Agreement is required to institute litigation to enforce its legal rights arising out of this Agreement, the prevailing party in such action shall be entitled in addition to its other relief, to recover reasonable attorneys' fees and court costs incurred therein.

8.5 Entire Agreement; Amendments and Waivers

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreement between the parties with respect to the subject matter of this Agreement. All amendments to this Agreement must be in writing and signed by the Agency and the Developer. All waivers of any provisions of this Agreement must be in writing and signed by the Agency or the Developer.

8.6 Exhibits

All exhibits attached hereto are incorporated herein by reference.

8.7 Date of Agreement; Counterparts

The date of this Agreement shall be the date it is signed by the Agency. This Agreement shall be executed in five duplicate originals each of which is deemed to be an original. This Agreement includes _____ () pages and _____ () exhibits.

a _____
(Developer)

Dated: _____

By: _____

Dated: _____

By: _____

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO
(Agency)

Dated: _____

By: _____

APPROVED AS TO FORM AND LEGALITY
on this _____ day of _____ 199_.

CASEY GWINN
Agency General Counsel

By: _____

APPROVED:

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: _____

Exhibit A

MAP OF PARCEL A

[To be added.]

Exhibit B

LEGAL DESCRIPTION OF PARCEL A

[To be added.]

Exhibit C

AMORTIZATION SCHEDULE A

<u>Fiscal</u> <u>Year</u>	<u>Amortization</u> <u>Amount</u>	<u>Scheduled</u> <u>Principal</u> <u>Payment</u>	<u>Scheduled</u> <u>Interest</u> <u>Payment</u>	<u>Balance of</u> <u>Principal</u> <u>Amount</u>
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Temporary Exhibit C-1
 (Attachment No. 14)

AMORTIZATION SCHEDULE A

Column	A	B	C	D
Lease Year	Amortization Amount	Scheduled Principal Payment	Scheduled Interest Payment	Balance of Principal Amount
0				\$1,780,000
1	\$188,821	(\$10,821)	(\$178,000)	\$1,769,179
2	\$188,821	(\$11,903)	(\$176,918)	\$1,757,276
3	\$188,821	(\$13,093)	(\$175,728)	\$1,744,182
4	\$188,821	(\$14,403)	(\$174,418)	\$1,729,779
5	\$188,821	(\$15,843)	(\$172,978)	\$1,713,936
6	\$188,821	(\$17,427)	(\$171,394)	\$1,696,509
7	\$188,821	(\$19,170)	(\$169,651)	\$1,677,339
8	\$188,821	(\$21,087)	(\$167,734)	\$1,656,252
9	\$188,821	(\$23,196)	(\$165,625)	\$1,633,056
10	\$188,821	(\$25,515)	(\$163,306)	\$1,607,540
11	\$188,821	(\$28,067)	(\$160,754)	\$1,579,473
12	\$188,821	(\$30,874)	(\$157,947)	\$1,548,599
13	\$188,821	(\$33,961)	(\$154,860)	\$1,514,638
14	\$188,821	(\$37,357)	(\$151,464)	\$1,477,281
15	\$188,821	(\$41,093)	(\$147,728)	\$1,436,188
16	\$188,821	(\$45,202)	(\$143,619)	\$1,390,986
17	\$188,821	(\$49,722)	(\$139,099)	\$1,341,263
18	\$188,821	(\$54,695)	(\$134,126)	\$1,286,569
19	\$188,821	(\$60,164)	(\$128,657)	\$1,226,404
20	\$188,821	(\$66,181)	(\$122,640)	\$1,160,224
21	\$188,821	(\$72,799)	(\$116,022)	\$1,087,425
22	\$188,821	(\$80,079)	(\$108,742)	\$1,007,346
23	\$188,821	(\$88,086)	(\$100,735)	\$919,260
24	\$188,821	(\$96,895)	(\$91,926)	\$822,365
25	\$188,821	(\$106,585)	(\$82,236)	\$715,780
26	\$188,821	(\$117,243)	(\$71,578)	\$598,537
27	\$188,821	(\$128,967)	(\$59,854)	\$469,570
28	\$188,821	(\$141,864)	(\$46,957)	\$327,706
29	\$188,821	(\$156,050)	(\$32,771)	\$171,656
30	\$188,821	(\$171,656)	(\$17,166)	\$0

AMORTIZATION SCHEDULE B

Column	A	B	C	D
Lease Year	Amortization Amount	Scheduled Principal Payment	Scheduled Interest Payment	Balance of Principal Amount
0				\$650,000
1	\$68,952	(\$3,952)	(\$65,000)	\$646,048
2	\$68,952	(\$4,347)	(\$64,605)	\$641,702
3	\$68,952	(\$4,781)	(\$64,170)	\$636,920
4	\$68,952	(\$5,259)	(\$63,692)	\$631,661
5	\$68,952	(\$5,785)	(\$63,166)	\$625,876
6	\$68,952	(\$6,364)	(\$62,588)	\$619,512
7	\$68,952	(\$7,000)	(\$61,951)	\$612,511
8	\$68,952	(\$7,700)	(\$61,251)	\$604,811
9	\$68,952	(\$8,470)	(\$60,481)	\$596,341
10	\$68,952	(\$9,317)	(\$59,634)	\$587,023
11	\$68,952	(\$10,249)	(\$58,702)	\$576,774
12	\$68,952	(\$11,274)	(\$57,677)	\$565,500
13	\$68,952	(\$12,402)	(\$56,550)	\$553,098
14	\$68,952	(\$13,642)	(\$55,310)	\$539,457
15	\$68,952	(\$15,006)	(\$53,946)	\$524,451
16	\$68,952	(\$16,506)	(\$52,445)	\$507,944
17	\$68,952	(\$18,157)	(\$50,794)	\$489,787
18	\$68,952	(\$19,973)	(\$48,979)	\$469,814
19	\$68,952	(\$21,970)	(\$46,981)	\$447,844
20	\$68,952	(\$24,167)	(\$44,784)	\$423,677
21	\$68,952	(\$26,584)	(\$42,368)	\$397,093
22	\$68,952	(\$29,242)	(\$39,709)	\$367,851
23	\$68,952	(\$32,166)	(\$36,785)	\$335,685
24	\$68,952	(\$35,383)	(\$33,568)	\$300,302
25	\$68,952	(\$38,921)	(\$30,030)	\$261,380
26	\$68,952	(\$42,813)	(\$26,138)	\$218,567
27	\$68,952	(\$47,095)	(\$21,857)	\$171,472
28	\$68,952	(\$51,804)	(\$17,147)	\$119,668
29	\$68,952	(\$56,985)	(\$11,967)	\$62,683
30	\$68,952	(\$62,683)	(\$6,268)	\$0

AMORTIZATION SCHEDULE C

Column	A	B	C	D
Lease Year	Amortization Amount	Scheduled Principal Payment	Scheduled Interest Payment	Balance of Principal Amount
0				\$1,226,000
1	\$130,053	(\$7,453)	(\$122,600)	\$1,218,547
2	\$130,053	(\$8,198)	(\$121,855)	\$1,210,348
3	\$130,053	(\$9,018)	(\$121,035)	\$1,201,330
4	\$130,053	(\$9,920)	(\$120,133)	\$1,191,410
5	\$130,053	(\$10,912)	(\$119,141)	\$1,180,498
6	\$130,053	(\$12,003)	(\$118,050)	\$1,168,494
7	\$130,053	(\$13,204)	(\$116,849)	\$1,155,291
8	\$130,053	(\$14,524)	(\$115,529)	\$1,140,767
9	\$130,053	(\$15,977)	(\$114,077)	\$1,124,790
10	\$130,053	(\$17,574)	(\$112,479)	\$1,107,216
11	\$130,053	(\$19,332)	(\$110,722)	\$1,087,884
12	\$130,053	(\$21,265)	(\$108,788)	\$1,066,620
13	\$130,053	(\$23,391)	(\$106,662)	\$1,043,228
14	\$130,053	(\$25,730)	(\$104,323)	\$1,017,498
15	\$130,053	(\$28,303)	(\$101,750)	\$989,195
16	\$130,053	(\$31,134)	(\$98,919)	\$958,061
17	\$130,053	(\$34,247)	(\$95,806)	\$923,814
18	\$130,053	(\$37,672)	(\$92,381)	\$886,142
19	\$130,053	(\$41,439)	(\$88,614)	\$844,703
20	\$130,053	(\$45,583)	(\$84,470)	\$799,120
21	\$130,053	(\$50,141)	(\$79,912)	\$748,979
22	\$130,053	(\$55,155)	(\$74,898)	\$693,824
23	\$130,053	(\$60,671)	(\$69,382)	\$633,153
24	\$130,053	(\$66,738)	(\$63,315)	\$566,415
25	\$130,053	(\$73,412)	(\$56,642)	\$493,004
26	\$130,053	(\$80,753)	(\$49,300)	\$412,251
27	\$130,053	(\$88,828)	(\$41,225)	\$323,423
28	\$130,053	(\$97,711)	(\$32,342)	\$225,712
29	\$130,053	(\$107,482)	(\$22,571)	\$118,230
30	\$130,053	(\$118,230)	(\$11,823)	\$0

AMORTIZATION SCHEDULE D

Column	A	B	C	D
Lease Year	Amortization Amount	Scheduled Principal Payment	Scheduled Interest Payment	Balance of Principal Amount
0				\$70,000
1	\$7,426	(\$426)	(\$7,000)	\$69,574
2	\$7,426	(\$468)	(\$6,957)	\$69,106
3	\$7,426	(\$515)	(\$6,911)	\$68,591
4	\$7,426	(\$566)	(\$6,869)	\$68,025
5	\$7,426	(\$623)	(\$6,803)	\$67,402
6	\$7,426	(\$685)	(\$6,740)	\$66,717
7	\$7,426	(\$754)	(\$6,672)	\$65,963
8	\$7,426	(\$829)	(\$6,598)	\$65,133
9	\$7,426	(\$912)	(\$6,513)	\$64,221
10	\$7,426	(\$1,003)	(\$6,422)	\$63,218
11	\$7,426	(\$1,104)	(\$6,322)	\$62,114
12	\$7,426	(\$1,214)	(\$6,211)	\$60,900
13	\$7,426	(\$1,336)	(\$6,090)	\$59,564
14	\$7,426	(\$1,469)	(\$5,956)	\$58,095
15	\$7,426	(\$1,616)	(\$5,810)	\$56,479
16	\$7,426	(\$1,778)	(\$5,648)	\$54,702
17	\$7,426	(\$1,955)	(\$5,470)	\$52,746
18	\$7,426	(\$2,151)	(\$5,275)	\$50,595
19	\$7,426	(\$2,366)	(\$5,060)	\$48,229
20	\$7,426	(\$2,603)	(\$4,823)	\$45,627
21	\$7,426	(\$2,863)	(\$4,563)	\$42,764
22	\$7,426	(\$3,149)	(\$4,276)	\$39,615
23	\$7,426	(\$3,464)	(\$3,961)	\$36,151
24	\$7,426	(\$3,810)	(\$3,615)	\$32,340
25	\$7,426	(\$4,192)	(\$3,234)	\$28,149
26	\$7,426	(\$4,611)	(\$2,815)	\$23,536
27	\$7,426	(\$5,072)	(\$2,354)	\$18,466
28	\$7,426	(\$5,579)	(\$1,847)	\$12,887
29	\$7,426	(\$6,137)	(\$1,288)	\$6,750
30	\$7,426	(\$6,750)	(\$675)	\$0

AMORTIZATION SCHEDULE E-1

Column	A	B	C	D
Lease Year	Amortization Amount	Scheduled Principal Payment	Scheduled Interest Payment	Balance of Principal Amount
0				\$720,000
1	\$76,377	(\$4,377)	(\$72,000)	\$715,623
2	\$76,377	(\$4,815)	(\$71,562)	\$710,808
3	\$76,377	(\$5,298)	(\$71,061)	\$705,512
4	\$76,377	(\$5,826)	(\$70,551)	\$699,686
5	\$76,377	(\$6,408)	(\$69,989)	\$693,278
6	\$76,377	(\$7,049)	(\$69,328)	\$686,228
7	\$76,377	(\$7,754)	(\$68,523)	\$678,474
8	\$76,377	(\$8,530)	(\$67,547)	\$669,944
9	\$76,377	(\$9,383)	(\$66,394)	\$660,562
10	\$76,377	(\$10,321)	(\$65,056)	\$650,241
11	\$76,377	(\$11,353)	(\$63,524)	\$638,888
12	\$76,377	(\$12,488)	(\$61,889)	\$626,400
13	\$76,377	(\$13,737)	(\$60,140)	\$612,663
14	\$76,377	(\$15,111)	(\$58,286)	\$597,552
15	\$76,377	(\$16,622)	(\$56,255)	\$580,930
16	\$76,377	(\$18,284)	(\$54,093)	\$562,646
17	\$76,377	(\$20,112)	(\$51,785)	\$542,533
18	\$76,377	(\$22,124)	(\$49,253)	\$520,410
19	\$76,377	(\$24,336)	(\$46,541)	\$496,074
20	\$76,377	(\$26,770)	(\$43,607)	\$469,304
21	\$76,377	(\$29,447)	(\$40,330)	\$439,857
22	\$76,377	(\$32,391)	(\$36,696)	\$407,466
23	\$76,377	(\$35,630)	(\$32,747)	\$371,836
24	\$76,377	(\$39,194)	(\$27,184)	\$332,642
25	\$76,377	(\$43,113)	(\$20,284)	\$289,529
26	\$76,377	(\$47,424)	(\$12,953)	\$242,105
27	\$76,377	(\$52,167)	(\$4,210)	\$189,938
28	\$76,377	(\$57,383)	(\$18,994)	\$132,555
29	\$76,377	(\$63,122)	(\$13,256)	\$69,434
30	\$76,377	(\$69,434)	(\$6,943)	\$0

AMORTIZATION SCHEDULE E-2

Column	A	B	C	D
Lease Year	Amortization Amount	Scheduled Principal Payment	Scheduled Interest Payment	Balance of Principal Amount
0				\$455,000
1	\$48,266	(\$2,766)	(\$45,500)	\$452,234
2	\$48,266	(\$3,043)	(\$45,223)	\$449,191
3	\$48,266	(\$3,347)	(\$44,919)	\$445,844
4	\$48,266	(\$3,682)	(\$44,584)	\$442,163
5	\$48,266	(\$4,050)	(\$44,216)	\$438,113
6	\$48,266	(\$4,455)	(\$43,811)	\$433,658
7	\$48,266	(\$4,900)	(\$43,366)	\$428,758
8	\$48,266	(\$5,390)	(\$42,876)	\$423,368
9	\$48,266	(\$5,929)	(\$42,337)	\$417,438
10	\$48,266	(\$6,522)	(\$41,744)	\$410,916
11	\$48,266	(\$7,174)	(\$41,092)	\$403,742
12	\$48,266	(\$7,892)	(\$40,374)	\$395,850
13	\$48,266	(\$8,681)	(\$39,585)	\$387,169
14	\$48,266	(\$9,549)	(\$38,717)	\$377,620
15	\$48,266	(\$10,504)	(\$37,762)	\$367,115
16	\$48,266	(\$11,555)	(\$36,712)	\$355,561
17	\$48,266	(\$12,710)	(\$35,556)	\$342,851
18	\$48,266	(\$13,981)	(\$34,285)	\$328,870
19	\$48,266	(\$15,379)	(\$32,887)	\$313,491
20	\$48,266	(\$16,917)	(\$31,349)	\$296,574
21	\$48,266	(\$18,609)	(\$29,657)	\$277,965
22	\$48,266	(\$20,470)	(\$27,797)	\$257,496
23	\$48,266	(\$22,516)	(\$25,750)	\$234,979
24	\$48,266	(\$24,768)	(\$23,498)	\$210,211
25	\$48,266	(\$27,245)	(\$21,021)	\$182,966
26	\$48,266	(\$29,969)	(\$18,297)	\$152,997
27	\$48,266	(\$32,966)	(\$15,300)	\$120,031
28	\$48,266	(\$36,263)	(\$12,003)	\$83,768
29	\$48,266	(\$39,889)	(\$8,377)	\$43,878
30	\$48,266	(\$43,878)	(\$4,388)	\$0

AMORTIZATION SCHEDULE E-3

Column	A	B	C	D
Lease Year	Amortization Amount	Scheduled Principal Payment	Scheduled Interest Payment	Balance of Principal Amount
0				\$990,000
1	\$105,018	(\$6,018)	(\$99,000)	\$983,982
2	\$105,018	(\$6,620)	(\$98,398)	\$977,361
3	\$105,018	(\$7,282)	(\$97,736)	\$970,079
4	\$105,018	(\$8,011)	(\$97,008)	\$962,068
5	\$105,018	(\$8,812)	(\$96,207)	\$953,257
6	\$105,018	(\$9,693)	(\$95,326)	\$943,564
7	\$105,018	(\$10,662)	(\$94,356)	\$932,902
8	\$105,018	(\$11,728)	(\$93,290)	\$921,174
9	\$105,018	(\$12,901)	(\$92,117)	\$908,273
10	\$105,018	(\$14,191)	(\$90,827)	\$894,081
11	\$105,018	(\$15,610)	(\$89,408)	\$878,471
12	\$105,018	(\$17,171)	(\$87,847)	\$861,300
13	\$105,018	(\$18,888)	(\$86,130)	\$842,411
14	\$105,018	(\$20,777)	(\$84,241)	\$821,634
15	\$105,018	(\$22,855)	(\$82,163)	\$798,779
16	\$105,018	(\$25,141)	(\$79,878)	\$773,638
17	\$105,018	(\$27,655)	(\$77,364)	\$745,983
18	\$105,018	(\$30,420)	(\$74,598)	\$715,563
19	\$105,018	(\$33,462)	(\$71,556)	\$682,101
20	\$105,018	(\$36,808)	(\$68,210)	\$645,293
21	\$105,018	(\$40,489)	(\$64,529)	\$604,804
22	\$105,018	(\$44,538)	(\$60,480)	\$560,266
23	\$105,018	(\$48,992)	(\$56,027)	\$511,274
24	\$105,018	(\$53,891)	(\$51,127)	\$457,383
25	\$105,018	(\$59,280)	(\$45,738)	\$398,103
26	\$105,018	(\$65,208)	(\$39,810)	\$332,894
27	\$105,018	(\$71,729)	(\$33,289)	\$261,165
28	\$105,018	(\$78,902)	(\$26,117)	\$182,263
29	\$105,018	(\$86,792)	(\$18,226)	\$95,471
30	\$105,018	(\$95,471)	(\$9,547)	\$0

AMORTIZATION SCHEDULE F

Column	A	B	C	D
Lease Year	Amortization Amount	Scheduled Principal Payment	Scheduled Interest Payment	Balance of Principal Amount
0				\$1,160,000
1	\$123,052	(\$7,052)	(\$116,000)	\$1,152,948
2	\$123,052	(\$7,757)	(\$115,295)	\$1,145,191
3	\$123,052	(\$8,533)	(\$114,519)	\$1,136,658
4	\$123,052	(\$9,386)	(\$113,666)	\$1,127,272
5	\$123,052	(\$10,325)	(\$112,727)	\$1,116,947
6	\$123,052	(\$11,357)	(\$111,695)	\$1,105,590
7	\$123,052	(\$12,493)	(\$110,559)	\$1,093,097
8	\$123,052	(\$13,742)	(\$109,310)	\$1,079,355
9	\$123,052	(\$15,116)	(\$107,935)	\$1,064,239
10	\$123,052	(\$16,628)	(\$106,424)	\$1,047,610
11	\$123,052	(\$18,291)	(\$104,761)	\$1,029,320
12	\$123,052	(\$20,120)	(\$102,932)	\$1,009,200
13	\$123,052	(\$22,132)	(\$100,920)	\$987,068
14	\$123,052	(\$24,345)	(\$98,707)	\$962,722
15	\$123,052	(\$26,780)	(\$96,272)	\$935,943
16	\$123,052	(\$29,458)	(\$93,594)	\$906,485
17	\$123,052	(\$32,403)	(\$90,649)	\$874,082
18	\$123,052	(\$35,644)	(\$87,408)	\$838,438
19	\$123,052	(\$39,208)	(\$83,844)	\$799,230
20	\$123,052	(\$43,129)	(\$79,923)	\$756,101
21	\$123,052	(\$47,442)	(\$75,610)	\$708,659
22	\$123,052	(\$52,186)	(\$70,866)	\$656,473
23	\$123,052	(\$57,405)	(\$65,647)	\$599,068
24	\$123,052	(\$63,145)	(\$59,907)	\$535,923
25	\$123,052	(\$69,460)	(\$53,592)	\$466,464
26	\$123,052	(\$76,406)	(\$46,646)	\$390,058
27	\$123,052	(\$84,046)	(\$39,006)	\$306,012
28	\$123,052	(\$92,451)	(\$30,601)	\$213,561
29	\$123,052	(\$101,696)	(\$21,356)	\$111,865
30	\$123,052	(\$111,865)	(\$11,187)	\$0

Exhibit D

SAMPLE CALCULATION OF AVAILABLE TAX INCREMENT A

[To be added.]

PUBLIC WORKS FINANCING AGREEMENT

This Public Works Financing Agreement (hereinafter the "Agreement") is made and entered into as of the _____ day of _____, 19__ (the "Effective Date"), by and between the CITY OF SAN DIEGO, a municipal corporation, hereinafter referred to as "City", and _____, a _____ (hereinafter referred to as "Landowner").

RECITALS

A. Landowner is the owner of, or has entered into arrangements pursuant to the DDA (as hereinafter defined) to become the owner of, approximately _____ acres of land, more or less, located in the City of San Diego, California, hereinafter referred to as the "Subject Property", and described as:

[Insert legal description of Parcels A, B and C.]

B. On or before the Effective Date of this Agreement, Landowner and the Redevelopment Agency of the City of San Diego (hereinafter the "Agency") have entered into a Disposition and Development Agreement dated _____, 19__ (hereinafter the "DDA"), which DDA provides for the redevelopment of the Subject Property pursuant to [Planned Development Permit No _____ (the "PDP"), the "PDP Drawings",] and the "Scope of Development" which is incorporated into the DDA as Attachment No.4 The DDA further provides for the financing and construction of the following described Phase I Public Improvements (hereinafter the "Public Improvements") in conjunction with the redevelopment of the Subject Property:

1. [List refined descriptions of each element if right-of-way dedications, and street, traffic signal and other public improvements to be provided pursuant to the Scope of Development and public improvement plans and specifications approved by the Agency and City as conditions of the Preliminary Subdivision Map for the Site.
- 2.
3. Etc.

C. City is authorized to finance the Public Improvements through proceedings either pursuant to the Municipal Improvement Act of 1913 and the Improvement Bond Act of 1915 or the Mello-Roos

Community Facilities Act, of 1982.

D. On or before the Effective Date of this Agreement, City has entered into agreements with a consulting engineer and bond counsel to advise City regarding the alternative methods of financing the Public Improvements and to assist in the formation of an appropriate assessment district or community facilities district and the issuance and sale of bonds. Landowner has reviewed said consultants' agreements.

E. The purpose of this Agreement is to provide for coordination between City and Landowner with regard to the planning, design, financing, and construction of the Public Improvements and the formation of either an assessment district or a community facilities district over and including the Subject Property, the sale of bonds by City to finance the construction of the Public Improvements, the levy of either an assessment or special tax on the Subject Property to secure repayment of the bonds, and certain other matters related to the planning, design, financing, and construction of the Public Improvements.

COVENANTS

NOW, THEREFORE, in consideration of the preceding recitals and the mutual promises and covenants hereinafter contained, the parties agree as follows:

Section 1. City Determination of Method of Financing Public Improvements

Within forty-five (45) days after the Effective Date of this Agreement, City and its consulting engineer and bond counsel shall complete a feasibility study to determine the preferable financing vehicle for the Public Improvements -- either assessment district proceedings under the Municipal Improvement Act of 1913 and the Improvement Bond Act of 1915 or the Mello-Roos Community Facilities Act of 1982 -- and City shall determine in its sole discretion which financing vehicle it wishes to utilize. City shall promptly notify Landowner which option City selects.

Section 2. Planning, Design and Construction of Public Improvements

Within fifteen (15) days after receiving notice from City as to which type of district City has determined to utilize, Landowner shall sign and submit to City (on a form to be provided by City) a petition requesting City to initiate and complete all necessary proceedings pursuant to the Municipal Improvement Act of 1913 and the improvement Bond Act of 1915 or the Mello-Roos Community Facilities Act of 1982, whichever alternative is selected by City.

Within the times established respectively therefor in the Schedule of Performance (Attachment No. 3) of the DDA, Landowner shall cause its civil engineer to prepare the plans and specifications for the Public Improvements. The plans and specifications shall be prepared in conformity with all normal City requirements and shall be submitted for City's review and approval.

Upon satisfactory completion of the plans and specifications for the Public Improvements, and consistent with the schedule provided for commencement and completion of the Public Improvements in the DDA, Landowner shall advertise for bids for construction in a manner consistent with City requirements, award a construction contract to the lowest responsible bidder (or such bidder as may be approved by City in its sole discretion), and proceed with reasonable diligence to cause the Public Improvements to be constructed. After award of the construction contract, Landowner shall not agree to any change orders or other amendments which are inconsistent with the approved plans and specifications or which increase the costs without first obtaining City's approval, which approval shall not be reasonably withheld, conditioned, or delayed. Upon request by City, Landowner shall keep City advised of the status and scheduling of construction activities.

It is understood that the schedule set forth in this Agreement shall be superseded by legally required procedures should such procedures and times be at variance with those enumerated herein.

Section 3. Landowner's Advance for City Expenses

Prior to the sale of bonds as referenced in Section 4 below, Landowner shall pay or advance to City all expenses reasonably incurred by City pursuant to this Agreement. Payments shall be made within thirty (30) days after delivery of written invoice to Landowner, together with such supporting documentation as may reasonably be requested by Landowner. In no event shall City be obligated to incur any costs or expenses hereunder which are required to be paid by Landowner unless Landowner shall have previously deposited with City funds sufficient to cover such costs or expenses.

Section 4. Formation of District and Sale of Bonds

The assessment district or community facilities district (as applicable) shall be formed and bonds shall be sold to finance (or refinance) the Public Improvements as soon as reasonably feasible after the City's filing of its notice of completion with respect to the applicable Public Improvements. It is understood that the district will be an "acquisition district" with respect to the Public Improvements, and that City shall cause the district to purchase the Public Improvements with the proceeds from the sale of the bonds. Within this general time frame, City and Landowner have

not determined as of the Effective Date the precise timing of the formation of the district and the bond sale. At this time, City and Landowner have also not determined whether there will be a single bond sale or serial bond sales to finance the Public Improvements. City and Landowner shall consult with one another and, taking into consideration the advice of any consultants retained by City, determine the precise timing and size of the bond sale(s) in order to maximize the economic advantage of such bond sale(s) consistent with applicable legal requirements and normal City procedures.

At such time as City and Landowner are prepared to proceed with the formation of the district and sale of the bonds, as set forth above, City shall then proceed as follows:

- a. At the time the decision was made to proceed with formation of the district, City shall direct its consulting engineer to prepare the engineer's reports or facilities report, as applicable, for the applicable Public Improvements.
- b. Upon receipt of the engineer's report or facilities report, as applicable, City shall consider adopting a resolution of intention to establish the district, preliminarily approve said report, and set the public hearing on the formation of the district.
- c. Thereafter, City shall promptly notice the hearing and take all other actions required to be taken to prepare for the public hearing on formation of the district.
- d. After the public hearing is closed, the City shall consider adopting the necessary resolutions to form the district over and including the Subject Property, approve the engineer's or facilities report, as applicable, and take all other related actions. In the event City has determined to proceed by way of assessment district, Landowner agrees to waive its right to protest the assessment district proceedings pursuant to Division 4 of the Streets and Highways Code and thereby negate the necessity of special hearings or elections. In the event City determines to proceed by way of community facilities district, Landowner agrees to waive the time for the special election (pursuant to Government Code Section 53226) and City agrees

to conduct such election by mailed ballots as soon as possible after the adoption of its resolution establishing the district.

- e. In the event City determines to proceed by way of a community facilities district, within fifteen (15) days after the date of the election, City shall canvass the results of the election and commence a validating action in the San Diego County Superior Court. The validating action shall thereafter be diligently pursued to judgment. In no event shall City be obligated to proceed with the sale of community facilities district bonds until the statute of limitations for challenging the district has expired or the validating action has been prosecuted to a successful judgment.
- f. At the time City and Landowner have decided to proceed with the bond sale, City shall exercise its reasonable best efforts to obtain open public bids (or, in City's reasonable discretion, negotiated bids) for purchase of the bonds required to finance the Public Improvements (or, in the event of serial issues, the applicable Public Improvements) at the most favorable rates and on the most favorable terms then available in the marketplace. When the bids are received, City shall take such action as may be required to adjust the assessments or special taxes as necessary to reflect the lowest responsible bid and sell the bonds.

Regardless of whether City elects to proceed by way of assessment district or community facilities district, the bond issue shall be sized and the proceeds used to cover all of the costs incurred for the planning, design, and construction of the Public Improvements that City's bond counsel determines can be included in the bond sale, including the following: (i) all reasonable costs and expenses incurred by Landowner with respect to the planning, design, and construction of the Public Improvements in accordance with this Agreement and the DDA, including Section 721 thereof (and including without limitation, to the extent permitted by the applicable public financing law, (a) a "developer's fee" payable to Landowner equal to 4% of the amounts paid to third party contractors with respect to the planning, design, and construction of the Public Improvements, and (b) a "project administration fee" payable to Landowner equal to 5% of the amounts paid to third party contractors with respect to the

planning, design, and construction of the Public Improvements); (ii) all reasonable costs and expenses incurred by Landowner with respect to financing the construction of the Public Improvements prior to the bond sale, including reasonable interest, loan fees and charges, "point", and similar costs, by whatever name called, but subject to the following specific limitations: (A) the amount of financing costs to be included, including the interest rate, loan fees; and other charges, shall not exceed then-current market rates and charges, (B) financing costs shall be calculated only from and after the date Landowner actually makes payments to the contractor or other persons or entities, and (C) the construction period for which interest costs will be reimbursed shall be reasonable in length; (iii) all reasonable fees and costs relating to the bond issue, including consultants' fees, printing costs, and similar items; (iv) all amounts reasonably determined by City to be necessary for a discount on the sale of said bonds and for any special reserve fund required; and (v) except as specifically limited as set forth above, any other costs incurred by City and Landowner for the planning, design, financing, and construction of the Public Improvements.

The assessment or special tax to be levied on the Subject Property shall be apportioned among the lots and parcels comprising the Subject Property based on the estimated benefit to be derived by each such lot or parcel from the construction of the Public Improvements, in accordance with generally accepted methods of apportionment under assessment district or community facilities district proceedings, as applicable.

In performing its obligations hereunder, City agrees to act reasonably to minimize its costs which are required to be paid or reimbursed by Landowner consistent with City's objectives that the Public Improvements be planned, designed, financed, and constructed in a first-class, professional, and legal manner in accordance with all normal City requirements. Not by way of limitation of the foregoing, City agrees that its contracts with its consultants whose fees are required to be paid or reimbursed by Landowner either through the bond sale or otherwise shall be reasonable in amount, and that prior to entering into any such contracts, City shall consult with Landowner with regard to such matters.

Section 5. Easements

Landowner shall grant to City, by an appropriate instrument prescribed by City, easements for public right-of-way on, over, and across the Subject Property which easements may be necessary for the proper operation and maintenance of any of the City Improvements.

Section 6. Extensions of Time for Performance

In the event City is unable to sell bonds pursuant to Section 4 above due to market conditions or any other reason beyond its control, the schedule shall be extended for the period of time, not to exceed three (3) years total from the date City files its notice of completion with respect to the Public Improvements, necessary to accomplish said bond sale and, upon request by Landowner during such three (3) year period and not more frequently than semiannually, City shall periodically exercise reasonable diligence to sell such bonds until the bonds are in fact sold. It is understood that Landowner shall be responsible for City costs incurred due to any such delays in the same manner as it is responsible for all other costs hereunder.

In addition to the foregoing, performance by a party hereunder shall not be deemed to be untimely if a delay in performance is due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, supernatural causes, freight embargoes, lack of transportation, litigation, unusually severe weather, inability to secure necessary labor, materials, or tools, delays of any contractor, or supplier, acts of the other party, acts or the failure to act of a public or governmental agency or entity (except that City's performance hereunder shall not be excused if due to the delay of City performing hereunder or Agency performing under the DDA), or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. In the event of such a delay, the party delayed shall continue to exercise reasonable diligence to minimize the period of the enforced delay and shall keep the other party advised regarding its efforts to timely perform.

Times of performance may also be extended by mutual agreement of the parties.

Section 7. Termination

This Agreement shall terminate and be of no further or effect with respect to the Public Improvements, if either Landowner or Agency terminates the DDA prior to closing of the mortgage loan and/or other financing for the development of Parcels A, B and C, in accordance with Sections 510 or 511 thereof. In addition, either City or Landowner may terminate this Agreement by written notice to the other if City fails or refuses to timely take any of the actions referenced in Section 4 (b) or (d) above, which actions Landowner acknowledges are legislative in nature and committed to City's sole discretion at the time such actions are to be considered. Finally, either City or Landowner may terminate this Agreement by written notice to the other if City is unable to sell bonds pursuant to Section 4 above due to market conditions or any other reason beyond City's control, and such inability continues

for the three (3) year extended period referenced in the first paragraph of Section 6. In the event this Agreement is terminated for any of the aforescribed causes, neither party shall have any further rights against or liabilities to the other.

Section 8. Assignment

Landowner shall not assign all or any part of this Agreement or Landowner's obligations hereunder except in the event the assignee is permitted or approved by Agency pursuant to Section 316 of the DDA. Subject to the foregoing, this Agreement shall be binding upon and for the benefit of all permitted or approved assignees of the parties hereto.

Section 9. General

This Agreement contains the entire agreement between the parties with respect to the matters herein provided for, and may only be amended by a subsequent written agreement executed by all parties. This Agreement shall be interpreted consistently with the DDA; in the event of any inconsistency or conflict between this Agreement and the DDA, the provisions of the DDA shall govern. Any approvals required of City or Landowner hereunder shall not be unreasonably withheld, conditioned, or delayed. City and Landowner shall take all actions and execute all documents necessary and appropriate to implement and accomplish the purposes of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

CITY OF SAN DIEGO
(City)

Date: _____

By: _____

ATTEST:

By: _____
City Clerk

APPROVED:

Casey Gwinn
City Attorney

_____, a _____

(Landowner)

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

