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OF THE CITY OF SANTA CLARA  
Santa Clara City Hall  
1500 Warburton Avenue  
Santa Clara, California 95050

Attention: Jennifer Sparacino  
Executive Director

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TRADE CENTER GROUND LEASE

by and between

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA,  
Agency

and

CARRAMERICA TECHMART, L.L.C.  
Lessee

5/04/98

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ATTACHMENTS

EXHIBIT	A-1	Map of Parcel 2
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EXHIBIT	A-3	Map of Development Areas
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EXHIBIT	C	List of Existing Title Exceptions
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TRADE CENTER GROUND LEASE

THIS TRADE CENTER GROUND LEASE (the "Lease") is made by and between the REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA ("Agency") and CARRAMERICA TECHMART, L.L.C., a Delaware limited liability company ("Lessee").

I. [§100] SUBJECT OF LEASE

A. [§101] Purpose of the Lease

The purpose of this Lease is to effectuate the Redevelopment Plan for the Bayshore North Redevelopment Project by providing for the lease of the hereinafter defined Parcel 2 of the Site and the grant of certain rights in the hereinafter defined Common Area to Lessee and the maintenance and operation on Parcel 2 of a first class office building to accommodate Trade Center Uses, Office Building Uses, and related facilities, amenities and improvements, as described in Section 501. The Improvements to be maintained on Parcel 2 are more particularly described and defined in Article IV [§400]. The lease of Parcel 2 and grant of such rights in the Common Area, and the maintenance and operation of such Improvements, pursuant to this Lease, and the fulfillment generally of this Lease, are in the vital and best interests of the City of Santa Clara 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 Lease is made in accordance with and subject to the Redevelopment Plan for the Bayshore North Redevelopment Project, which was approved and adopted on December 28, 1973 by the City Council of the City of Santa Clara by Ordinance No. 1283, and was amended by the City Council on March 1, 1977 by Ordinance No. 1347 (Amendment Nos. 1-8, on January 24, 1984 by Ordinance No. 1489 (Amendment Nos. 9-13), on October 22, 1985 by Ordinance No. 1535 (Amendment Nos. 14-15), on May 29, 1990 by Ordinance No. 1614 (Amendment No. 16), and on October 21, 1997 by Ordinance No. 1704 (Amendment No. 17) (the "Redevelopment Plan"). 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 Parcel 2 as described in the Lease, or otherwise change the restrictions or controls that apply to Parcel 2 or otherwise impair Lessee's rights in the Common Area or other appurtenant rights under this Lease, including without limitation parking rights, shall require the prior written consent of Lessee. Subject to the foregoing, amendments to the Redevelopment Plan

applying to other property in the Bayshore North Redevelopment Project area shall not require the consent of Lessee.

C.    [§103]       The Redevelopment Project Area

The Bayshore North Redevelopment Project area is located in the City of Santa Clara, California (the "City"). The Project area is generally bounded by Route 237 on the north, Lafayette Street and San Tomas Creek on the east, the Bayshore Freeway on the south, and Calabazas Creek on the west. The exact boundaries of such Project area are specifically and legally described in the Redevelopment Plan.

D.    [§104]       Parcel 2

"Parcel 2 " is that certain real property within the Bayshore North Redevelopment Project area illustrated and designated as such on the "Map of Parcel 2" (attached hereto and incorporated herein as Exhibit A-1) and having the legal description set forth in the "Description of Parcel 2" (attached hereto and incorporated herein as Exhibit B-1).

Except as expressly provided to the contrary in this Lease, reference to Parcel 2 is to the described land exclusive of any improvements now or hereafter located on such land, notwithstanding that any such improvements may or shall be construed as affixed to and as constituting part of the real property, and without regard to whether ownership of the improvements is in Agency or Lessee.

E.    [§105]       The Site

The "Site" is that certain real property within the Bayshore North Redevelopment Project area illustrated and designated as such on the "Site Map" (attached hereto and incorporated herein as Exhibit A-2) and having the legal description set forth in the "Description of the Site" (attached hereto and incorporated herein as Exhibit B-2).

The Site is comprised of four (4) Parcels as illustrated and designated on the Site Map and having the legal descriptions in the Description of the Site.

Wherever used herein the term "Site" refers to all of Parcels 1, 2, 3 and 4 collectively. Wherever used herein the term "Parcel" refers to any of Parcels 1, 2, 3 or 4 as the context may require.

Parcel 4 as shown on the Site Map comprises the entire Common Area (the "Common Area") for use by Lessee, Agency and other authorized users of the permitted improvements on the Site. A portion of Parcel 4 is comprised of:



(a) The "Trade Center Common Area" which is all of the Trade Center Area as shown on the Map of Development Areas, Exhibit A-3, except Parcel 2, together with all parking spaces including Surface Parking, Ground Level Parking and Structured Parking constructed on Parcel 4 which are allocated to Lessee on a priority, non-exclusive basis (all as described in Article XIV of this Lease) and circulation drives within the Parking Structure and access therefrom to the Improvements (hereinafter referred to as the "Trade Center Common Area"); and

(b) The main drive as shown on the Map of Development Areas, Exhibit A-3, providing ingress and egress to the Improvements on Parcel 2 from and to Great America Parkway and Tasman Drive (hereinafter referred to as the "Main Drive").

References in this Lease to Parcel 4 and/or the Common Area shall include, without limitation, the Public Improvement and Maintenance Easements within Parcels 1, 2 and 3 as shown on the Parcel Map filed for record in the Office of the Recorder of the County of Santa Clara, State of California on October 30, 1984 in Book 535 of Maps, at pages 47 and 48, as corrected by that certain Certificate of Correction filed for record on April 24, 1985 as Instrument No. 8389033, in Book J327, page 1212, Official Records, as amended by the Amended Parcel Map recorded in the Office of the Recorder of the County of Santa Clara, State of California, on December 2, 1987 in Book 581 of Maps, at pages 9, 10 and 11, and as further amended by that certain Grant Deed between the Redevelopment Agency of the City of Santa Clara as grantor and grantee recorded in the Office of the Recorder of the County of Santa Clara, State of California, on March 24, 1998 as Instrument No. 14106142 pursuant to that certain Notice of Lot Line Adjustment issued by the City of Santa Clara and recorded concurrently therewith in the Office of the Recorder of the County of Santa Clara, State of California, on March 24, 1998 as Instrument No. 14106143.

The Site for certain purposes of this Lease is also divided into the "Hotel Area", the "Conference Center Area", the "Trade Center Area" and "Parking Structure Area", as shown on the "Map of Development Areas" (attached hereto and incorporated herein as Exhibit A-3).

F. [§106] Parties to the Lease

1. [§107] Agency

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 Agency is located at 1500 Warburton Avenue, Santa Clara, California 95050.

"Agency" as used in this Lease, includes the Redevelopment Agency of the City of Santa Clara, and any assignee of or successor to its rights, powers and responsibilities.

2.     [§108]     Lessee

Lessee is CarrAmerica Techmart, L.L.C., a Delaware limited liability company. The principal office of Lessee for purposes of this Lease is 5201 Great America Parkway, Santa Clara, California 95054. Lessee is an affiliate of CarrAmerica Realty Corporation, a Maryland corporation, its managing member.

Wherever the term "Lessee" is used herein, such term shall also include any permitted nominee or assignee as herein provided.

G.     [§109]     Title

1.     Parcel 2. Title to the leasehold estate created by this Lease is subject to all easements, liens, restrictions, rights-of-way, covenants, reservations and all other title exceptions (collectively, "Title Exceptions") shown on the List of Existing Title Exceptions (attached hereto and incorporated herein as Exhibit C). Agency shall not at any time during the Term of this Lease place any additional Title Exceptions against Parcel 2 except for Title Exceptions which are expressly made subject and subordinate to this Lease and the rights of Lessee and any leasehold mortgagee hereunder or are expressly required or permitted by this Lease.

2.     Trade Center Common Area. Lessee's interest in the Trade Center Common Area and the Main Drive created by this Lease is subject to all Title Exceptions shown on the List of Existing Title Exceptions, Exhibit C. Agency shall not at any time during the Term of this Lease place any additional Title Exceptions against the Trade Center Common Area or the improvements thereon or the Main Drive except for such Title Exceptions which:

(a) are expressly made subject and subordinate to this Lease and the rights of Lessee and leasehold mortgagees hereunder or are expressly required or permitted by this Lease; or

(b) are approved by Lessee and any leasehold mortgagee in their discretion provided that Lessee and its leasehold mortgagee shall not unreasonably withhold or delay approval of any Title Exceptions affecting the Trade Center Common Area which are necessary to maintain the improvements to the Common Area as described in Section 1402 of this Lease or for Agency to develop the Conference Center Area or Hotel Area as provided in Section 1419 of this Lease.

II. [§200] LEASE OF PARCEL 2

A. [§201] Lease

For and in consideration of the rents, conditions, covenants and agreements set forth herein, Agency hereby leases to Lessee and Lessee does hereby take and lease from Agency, Parcel 2, together with the nonexclusive right to the use and enjoyment of the Common Area; together with certain priority rights to use parking spaces on the Trade Center Common Area, as hereinafter more particularly described in Section 1407, together with an easement for ingress and egress over the Main Drive comprising part of Parcel 4; all as more particularly described in and subject to the terms, covenants and conditions of this Lease.

B. [§202] Term of the Lease

The term of this Lease (the "Term") shall be the period commencing on the date this Lease is recorded in the Official Records of Santa Clara County and terminating fifty-five (55) years after the Effective Date of Lease, or on such later date resulting from Lessee's exercise of its options to renew the term of this Lease as provided in Section 203, or on the date resulting from an earlier termination as hereinafter set forth. As used herein, the term "Effective Date of Lease" shall mean the first day of the month immediately following the date of the execution and recordation of this Lease.

C. [§203] Option to Renew the Lease

Lessee may, at its option, renew this Lease for two additional periods of ten years each, subject to all the provisions of this Lease. Lessee's right to renew is subject to the following conditions:

1. Lessee's right to renew this Lease for the first additional ten year period and the second renewal period is subject to the following conditions:

(a) Lessee shall give written notice to Agency of its intent to renew the Lease for the first additional ten (10) year period, and like written notice for the second ten (10) year period, at least one hundred eighty (180) days prior to the expiration of the initial fifty-five (55) year term or the then-existing first renewal term, respectively.

(b) Lessee may not renew the term of this Lease if, at the time notice of intent to renew is given, or at the time of the commencement of the renewal term, Lessee is in default in the payment of Annual Rent or any other rental amounts due, or of any other term or condition of this Lease, or if Lessee shall have been served with a notice of termination or a notice to vacate by Agency

arising from the failure to pay Annual Rent or any other rental amounts due or for violation of any other term or condition of this Lease, provided that Lessee may subsequently renew this Lease if such default is cured prior to the renewal term commencement.

(c) As of the time notice of intent to renew is given, and at the time of the commencement of the renewal term, the Improvements shall be in first class condition, and Lessee shall be managing and operating the Improvements in such first class manner as is consistent with the grade and quality required for the Improvements. As such, in this paragraph, "first class condition" shall mean that the original Improvements, as the same may have been altered pursuant to Section 707 of this Lease, or restored as a result of a casualty or condemnation as provided by this Lease, shall be kept in first class repair and physical condition as required by Section 705 of this Lease.

2. Each party shall, at the request of the other, endorse on the original Lease or on a true copy of the original Lease that party's signature or signatures, the date the option was exercised, and the words "option exercised". In addition, each party shall, at the request of the other, execute a memorandum, in recordable form, acknowledging the fact that the option has been exercised and otherwise complying with the requirements of law for an effective memorandum or abstract of lease.

### III. [§300] RENT

#### A. [§301] Manner of Payment

Lessee covenants and agrees to pay rent as required by this Lease to Agency, at Agency's address set forth in Section 107 hereof or at such place or to such person as Agency may designate in writing by notice to Lessee, in such coin or currency of the United States as shall, at the time of payment, be legal tender for the payment of all debts, public or private.

#### B. [§302] Annual Rent

##### 1. [§303] Amount of Annual Rent

##### a. [§304] Initial Annual Rent

Commencing on the Effective Date of Lease for Parcel 2, Lessee shall pay to Agency annual rent (the "Annual Rent") of One Million Dollars (\$1,000,000.00), payable in equal monthly installments of Eighty Three Thousand Three Hundred Thirty Three Dollars and Thirty Three Cents (\$83,333.33) per month; provided that, for the period between the date this Lease is recorded and the Effective Date of Lease, Lessee shall pay to Agency as prorated Annual Rent, a prorata portion of Eighty Three Thousand Three Hundred Thirty Three

Dollars and Thirty Three Cents (\$83,333.33) based upon the number of days in such period divided by thirty (30).

b.     [\$305]     Adjustment to Annual Rent

The Annual Rent as set forth in Section 304 shall be readjusted as of the first day of the eleventh, sixteenth, twenty-first, twenty-sixth, thirty-first, thirty-sixth, forty-first, forty-sixth, and fifty-first Lease Years, and on the first day of the first and sixth Lease Years of each ten (10) year renewal term, each an "Adjustment Date". As used in this Lease, the term "Lease Year" shall mean each consecutive twelve (12) month period from the Effective Date of Lease.

As of each new Adjustment Date, the then-current Annual Rent shall be increased by ten percent (10%), except that the then-current Annual Rent shall be increased by fifteen percent (15%) on each Adjustment Date in a renewal term. The Annual Rent as readjusted pursuant to this Section 305, shall remain fixed until the next Adjustment Date. Based upon the foregoing, the Annual Rent for each applicable Lease Year shall be as follows:

<u>Lease Years</u>	<u>Annual Rent</u>	<u>Lease Years</u>	<u>Annual Rent</u>
1-10	\$1,000,000.00	First Renewal	
11-15	1,100,000.00	Term	
16-20	1,210,000.00	1-5	\$2,711,640.00
21-25	1,331,000.00	6-10	3,118,386.00
26-30	1,464,100.00		
31-35	1,610,510.00	Second Renewal	
36-40	1,771,561.00	Term	
41-45	1,948,717.00	1-5	\$3,586,144.00
46-50	2,143,589.00	6-10	4,124,065.00
51-55	2,357,948.00		

2.     [\$306]     Payment of Annual Rent

Lessee shall pay the Annual Rent (as adjusted pursuant to Section 305) in equal monthly installments in advance on the first day of each calendar month during the Term of this Lease, including all renewal terms, commencing with the Effective Date of Lease; provided that with respect to any initial partial month in the Term before the Effective Date of Lease, Lessee shall pay the prorated Annual Rent on the date this Lease is recorded.

C.    [§307]       Priority for Payment of Rent and Other Sums

1.     [§308]       Net Lease

Agency and Lessee agree that Annual Rent, any additional rent, and any and all other sums payable hereunder to or on behalf of Agency, shall be paid without notice or demand, and without setoff, counterclaim, abatement, deferment, suspension or deduction.

2.     [§309]       Priority for Payment

Lessee shall use its reasonable best efforts to collect and obtain all Gross Revenues, and shall have the right and obligation to use the Gross Revenues to pay to Agency the Annual Rent, any additional rent and any and all other sums owed to Agency under this Lease. Any and all Annual Rent, additional rent and other sums payable to Agency by Lessee under the provisions of this Lease shall have a first priority for payment from Gross Revenues and all other expenses of Lessee related to Parcel 2, including without limitation, debt service, loan costs, and any other obligations which may be owed to a leasehold mortgagee, and all expenses attributable to the operation, management, leasing, repair and renovation of Parcel 2 and the Improvements, other than amounts owed to Agency, shall be subordinate to the payments to Agency of Annual Rent, any additional rent and any and all other sums owed to Agency as required under this Lease.

D.     [§310]       Delinquency in Rent Payment; Collection of Rent

The failure of Lessee to pay any installment of Annual Rent or any additional rent by the due date shall constitute a default, subject to Lessee's rights to cure such default as provided in Article XII [§ 1200]. In the event Lessee fails to pay the applicable installment of Annual Rent, or the additional rent, on or before the due date, in addition to any other remedy provided by this Lease, the amount due and unpaid shall bear interest at the lesser of the annual rate of three percent (3%) over the Bank of America reference rate on the due date, or the highest annual rate which may lawfully be charged and collected under applicable law on the delinquent obligation. Said interest shall accrue from the due date of the installment of Annual Rent, or the additional rent, to the date the installment of Annual Rent, or the additional rent, is received by Agency, with receipt deemed to have occurred upon personal delivery or two (2) days after deposit by Lessee of such installment of Annual Rent, or the additional rent, in the United States mail, postage prepaid, return receipt requested. It is the intent of this provision that Agency shall be compensated by such interest for loss resulting from rent delinquency, including costs to Agency for servicing the delinquent account. Agency, at its option, may waive such delinquency compensation required herein, upon written application of Lessee.

E. [§311] Right to Inspection of Records

Lessee shall keep full and accurate books and accounts, including complete and accurate records of all cash receipts and disbursements, revenues and expenses, and other pertinent data (collectively "Records") relevant to the operation of Parcel 2 and the Improvements. Such Records shall be kept for a period of three (3) years after the end of the Lease Year to which such items pertain. Agency shall be entitled from time to time as it may request during each Lease Year to which the Records pertain and within three (3) years after each such Lease Year to inspect, examine and copy, at Agency's expense, such Records with respect to the applicable Lease Year as necessary or appropriate for the purpose of this Lease, provided that such inspection, examining and copying shall be upon reasonable prior written notice to Lessee, during usual business hours, and at such place as Lessee may reasonably designate within Santa Clara County. Lessee shall cooperate fully with Agency in making any such inspection.

Agency hereby covenants, warrants and represents that neither Agency nor Agency's designated agents shall disclose or use the information contained in the Records for any purpose other than for enforcement of Agency's rights as permitted under this Lease. To the extent permitted by law, Agency and its agents shall keep such Records, or copies thereof, confidential and shall take all steps reasonably necessary to assert and enforce such confidentiality without prejudice to Agency's rights under this Lease.

IV. [§400] DEVELOPMENT ON PARCEL 2

Lessee covenants to maintain, or cause to be maintained on Parcel 2, a first class building structurally designed and constructed substantially as existing on the date this Lease is recorded, and suitable for Trade Center Uses, Office Building Uses, and facilities, amenities and commercial and retail uses compatible therewith, as permitted under Section 501 of this Lease. When tenant improvements are installed, which may be installed on an as needed basis, they shall be constructed in first class condition.

The term "Improvements" as used in this Lease means the building shell and any other facilities, structures and improvements (including landscaping and utilities) on Parcel 2, including all additions and expansions made thereto when so made. Such Improvements (other than tenant improvements) shall be constructed in accordance with plans and specifications approved by Agency pursuant to this Lease.

The term, first class condition, shall take into account the age of the Improvements.

V. [§500] USE OF PARCEL 2 AND THE IMPROVEMENTS

A. [§501] Use of Parcel 2 and the Improvements

Lessee shall have the right and Lessee covenants and agrees to use Parcel 2 and the Improvements for any one or more of the following purposes and for no others:

1. "Trade Center Uses" which shall mean subleased by persons or entities engaged in, or directly or indirectly related to high technology enterprises, fields or ventures for the purpose of sales, retail sales, displays, meetings, demonstrations, showroom activities and ancillary office and related uses including facilities, amenities, commercial and retail uses described in paragraph 3 below.

2. "Office Building Uses" which shall mean subleased by persons or entities (not engaged in, or directly or indirectly related to high technology enterprises, fields or ventures) for general office purposes.

3. Facilities, amenities and commercial and retail uses compatible with Trade Center Uses or Office Building Uses such as, but not limited to, restaurants or other dining facilities, banks, and other ancillary retail sales, and service accommodations.

B. [§502] Management of Parcel 2 and the Improvements

Parcel 2 and the Improvements shall be managed or caused to be managed by Lessee in a prudent and businesslike manner.

C. [§503] Obligation to Refrain from Discrimination

There shall be no discrimination against or segregation of any person, or group of persons, on account of sex, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of Parcel 2 or the Improvements or any portion of the Site and the improvements thereon to which Lessee has rights hereunder, and Lessee itself or any person claiming under or through it shall not 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 Parcel 2 or the Improvements or any portion of the Site and the improvements thereon to which Lessee has rights hereunder.



D. [§504] Form of Nondiscrimination and Nonsegregation Clauses

Lessee shall refrain from restricting the rental, sale or lease of Parcel 2 or the Improvements or any portion of the Site and the improvements thereon to which Lessee has rights hereunder, on the basis of sex, marital status, race, color, creed, religion, ancestry or national origin of any person. All such deeds, leases or contracts pertaining to the foregoing matters 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 heirs, executors, administrators and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of, any person or group of persons on account of sex, 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 covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through it, 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, marital status, race, color, creed, religion, national origin or ancestry, in the leasing, subleasing, transferring, use, or enjoyment of the land herein leased nor shall the lessee 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, 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, 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, sublessees, subtenants, or vendees in the land."

E.    [§505]    Rights of Access - Public Improvements and Facilities

Agency, at the sole risk and expense of Agency and at no risk or expense to Lessee, reserves the right to enter Parcel 2 or any part thereof upon prior written notice, 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, if any, located on Parcel 2 in accordance with this Lease. Any such entry shall be made only after reasonable written notice to Lessee. Agency shall indemnify and hold Lessee harmless from and against any claims, injuries, demands, obligations, causes of action, damages, or liabilities pertaining to any such entry. Any damage or injury to Parcel 2 or to the Improvements, or to Lessee's rights under this Lease or any appurtenant right of Lessee arising out of this Lease resulting from such entry shall be promptly remedied or repaired at the sole expense of Agency. It is the intent of the parties that the hold harmless and indemnification contained in this Section 505 shall include and apply to attorneys' fees, investigation costs and other costs actually incurred by Lessee. Agency shall not be liable to Lessee for any inconvenience, annoyance, disturbance or loss of business covered by any such entry unless occasioned by the negligence or wrongful misconduct or omissions of Agency or its agents, servants or employees. Agency shall make all reasonable efforts to keep any such inconvenience, annoyance, disturbance or loss of business to a minimum. The provisions of this Section 505 shall survive Lease termination with respect to any damage, injury or death occurring prior to such termination or for which Lessee may be liable.

F.    [§506]    Quiet Enjoyment

The parties hereto mutually covenant and agree that Lessee by keeping and performing the covenants herein contained, shall at all times during the Term of this Lease peaceably and quietly have, hold and enjoy Parcel 2 and the Improvements, together with Lessee's interest in the Trade Center Common Area, the Main Drive and utilities access over, under or through the Common Area, and all other appurtenances hereto, without hindrance or interruption by Agency or Agency's agents, or by any other person or persons lawfully claiming by, through or under Agency; subject, however to Agency's rights to enter thereon and/or perform activities expressly set forth in Section 505, Article XIV or any other provision of this Lease.

G.    [§507]    Use of Techmart Name

Without warranty or representation by Agency as to the status of trademark or other rights it may have with respect thereto, Agency hereby assigns to Lessee, such rights as it may have, if any, to the use of the name "Techmart" and the right to use any

other trade name or style being used at the time of commencement of the Term of this Lease, in connection with Lessee's use and operation of the Improvements on Parcel 2, but only for the Term of this Lease, and subject to automatic termination upon the expiration or earlier termination of this Lease.

VI. [§600] TAXES, ASSESSMENTS AND OTHER CHARGES

A. [§601] Utilities

Lessee agrees to pay or cause to be paid, as and when they become due and payable, all charges for water, gas, light, heat, telephone, electricity, garbage, refuse and other utility and communication services rendered or used on or about Parcel 2 at all times during the Term of this Lease.

B. [§602] Impositions (Including Taxes and Assessments)

1. [§603] Payment Generally

Subject to the provisions of Section 608 and other limitations in this Article VI [§600], Lessee agrees to pay or cause to be paid, as and when they become due and payable, and before any fine, penalty, interest or cost may be added thereto, or become due or be imposed by operation of law for the nonpayment thereof, all taxes, assessments, franchises, excises, licenses and permit fees, and other governmental levies and charges, general and special, ordinary and extraordinary, unforeseen and foreseen, of any kind and nature whatsoever which at any time during the Term of this Lease may be assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or in respect of, or become a lien on: (1) Parcel 2 or any part thereof; (2) the rent and income received by Lessee from subtenants, guests or others for the use or occupation of Parcel 2 and the Improvements thereon; (3) this transaction or any document to which Lessee is a party, creating or transferring an interest or estate in Parcel 2; or (4) Lessee's interest in the Common Area as described in Section 609. All such taxes, franchises, excises, licenses and permit fees, and other governmental levies and charges shall herein be referred to as "Impositions", and any of the same shall herein be referred to as an "Imposition". Any Imposition relating to a fiscal period of the taxing authority, a part of which period is included within the Term of this Lease and a part of which is included in a period of time after the expiration of the Term of this Lease, shall (whether or not such Imposition shall be assessed, levied, confirmed, imposed upon, become a lien upon Parcel 2, or shall become payable, during the Term of this Lease) be adjusted between Agency and Lessee, and Lessee shall pay that portion of such Imposition which that part of such fiscal period included in the period of time before the expiration of the Term of this Lease bears to such fiscal period, and Agency shall pay the remainder thereof, if any.

2.     [\$604]     Payment of Impositions in Installments

If, by law, any Imposition may at the option of the payer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Lessee may exercise the option to pay the same (and any accrued interest on the unpaid balance of such Imposition) in installments and, in such event, shall pay such installments as may become due during the Term of this Lease as the same respectively become due and before any fine, penalty, further interest or cost may be added thereto; provided, however, that the amount of any installments of any such Imposition which will be the responsibility of Lessee pursuant to Section 603 hereinabove, and which are to become due and payable after the expiration of the Term of this Lease, shall be deposited with Agency for such payment on the date which shall be sixty (60) days immediately prior to the date of such expiration; it being understood that installments payable for the period subsequent to the expiration of the Lease are not the responsibility of Lessee as provided in Section 603.

3.     [\$605]     Agency Right to Cure

Subject to the provisions of Section 608, if Lessee, in violation of the provisions of this Lease, shall fail to pay and to discharge any Imposition, Agency may (but shall not be obligated to) pay or discharge it, and the amount paid by Agency and the amount of all costs, expenses, interest and penalties connected therewith, including attorney fees, together with interest at a rate which is the lesser of three percent (3%) over the Bank of America reference rate on the date payment is made by Agency, or the highest annual rate which may lawfully be charged and collected under applicable law, from the date payment is made by Agency, shall be deemed to be and shall be payable by Lessee as additional rent and shall be reimbursed to Agency by Lessee on demand.

4.     [\$606]     Tax Receipts

Lessee shall furnish to Agency, official receipts of the appropriate taxing authority or other evidence satisfactory to Agency evidencing payment thereof, on or before the date when any Imposition would become delinquent.

5.     [\$607]     Limits of Tax Liability

The provisions of this Lease shall not be deemed to require Lessee to pay municipal, county, state or federal income or gross receipts or excess profits taxes assessed against Agency, or municipal, county, state or federal capital levy, estate, succession, inheritance, gift, or transfer taxes of Agency, or corporation franchise taxes imposed upon any corporate owner of the fee of Parcel 2; except, however, that Lessee shall pay all taxes assessed by any governmental authority by virtue of any operation by Lessee conducted on or out of Parcel 2. It is agreed that in the

event the State of California or any taxing authority thereunder changes or modifies the system of taxing real estate so as to tax the rental income from real estate in lieu of or in substitution (in whole or in part) for the real estate taxes and so as to impose a liability upon Agency for the amount of such tax, then Lessee shall be liable under this Lease for the payment of the taxes so imposed during the Term of this Lease, including any renewal thereof, to the same extent as though the alternative tax was a tax upon the value of Parcel 2.

Any increase in the real estate taxes pursuant to Article XIII of the California Constitution and its implementing laws and regulations, or similar successor laws, payable by Lessee under this Lease and resulting from the conveyance of the Agency's (or any subsequent landlord's) interest in Parcel 2 or the Common Area, or change of ownership in any subsequent landlord, other than a conveyance to or change of ownership in the City of Santa Clara or any other public entity, shall be the responsibility of such landlord; provided, however, that the obligation of such landlord shall only apply until a conveyance by or change in ownership of Lessee as to its interest in this Lease and/or the Improvements results in an increase in the real estate taxes payable with respect thereto. Such landlord shall pay the amount of the increase referred to above, if applicable, to Lessee concurrently with Lessee's payment of taxes to the applicable taxing authority.

6.     [§608]     Permitted Contests

Lessee shall have the right to contest the validity or the amount in part or in full, of any Imposition which it is obligated to pay under the provisions of this Lease. Lessee agrees that all such proceedings shall be begun within the period allowed by law after any contested item is imposed and shall be prosecuted to final adjudication with reasonable dispatch. Nothing herein shall be construed to limit or prevent Agency from opposing any such contest which may be instituted by Lessee hereunder. However, Agency shall execute any application if required by law in order for Lessee to protest Impositions.

Lessee shall give Agency prompt notice in writing of any such contest at least twenty (20) working days before any delinquency occurs if Lessee intends to withhold payment of the Imposition pending determination of the contest or at least twenty (20) working days before institution of any contest if Lessee intends to contest such Imposition subsequent to payment thereof. Lessee may only exercise its right to contest an Imposition hereunder while withholding payment thereof if (i) the subject legal proceedings shall operate to prevent the collection of the Imposition so contested, or the sale of Parcel 2, or any part thereof, to satisfy the same, or (ii) if Lessee shall, prior to the date such Imposition is due and payable, have given such reasonable security as may be required by Agency from time to time in order to insure

the payment of such Imposition to prevent any sale, foreclosure or forfeiture of Parcel 2 or any part thereof, by reason of such nonpayment. In the event of any such contest and the final determination thereof adversely to Lessee, Lessee shall, before any further fine, interest, penalty or cost may be added thereto for nonpayment thereof, pay fully and discharge the amounts involved in or affected by such contest, together with any penalties, fines, interest, costs and expenses that may have accrued thereon or that may result from any such contest by Lessee and, after such payment and discharge by Lessee, Agency will promptly return to Lessee such security as Agency shall have received in connection with such contest.

Any such proceedings to contest the validity or amount of any Imposition or to recover any Imposition paid by Lessee shall be prosecuted by Lessee at Lessee's sole cost and expense; and Lessee shall indemnify and save harmless Agency against any and all loss (but excluding loss by reason of decrease in tax revenues as a result of Lessee's contest), cost or expense of any kind, including, but not limited to, reasonable attorneys' fees and expenses, which may be imposed upon or incurred by Agency in connection therewith.

7.     [§609]     Impositions With Respect to Lessee's Interest in Common Area

Lessee covenants to pay or cause to be paid in the manner and subject to the same terms and conditions for Impositions generally as provided in Sections 603 through 608 hereinabove, any Impositions which are assessed, levied, confirmed, imposed upon or grow or become due and payable out of or in respect of or become a lien during the Term of this Lease on Lessee's interest in the Common Area, on the basis that Lessee has a possessory or similar interest therein, or due to any increase in value in Parcel 2 and the Improvements or Lessee's leasehold estate therein by reason of any rights appurtenant granted pursuant to this Lease. In addition to Lessee's share of the assessments as set forth in Sections 1405 and 1411 of this Lease, and any payments required by Health and Safety Code Section 33673, Lessee shall also pay Impositions assessed, levied, confirmed, imposed upon or growing or becoming due and payable out of or in respect of or becoming a lien on Parcel 4 and the Common Area to the extent but only to the extent they are based upon or result from Lessee's interest or having an interest therein as set forth in this Lease.

8.     [§610]     Notice of Possessory Interest; Payment of Taxes and Assessments on Value of Entire Property

In accordance with California Revenue and Taxation Code Section 107.6(a), Agency states that by entering into this Lease, a possessory interest subject to property taxes may be created. Lessee or other party in whom the possessory interest is vested may be subject to the payment of property taxes levied on such interest.

Without limiting the foregoing, in the event Parcel 2 and/or the Improvements thereon, or any possessory interest therein, should at any time be subject to ad valorem taxes or assessments levied, assessed or imposed on such property, Lessee shall pay taxes and assessments upon the assessed value of the entire property, and not merely upon the assessed value of its leasehold interest.

In accordance with Health and Safety Code Section 33673, it is expected that Parcel 2 and the Improvements will be assessed and taxed in the same manner as privately owned property and Lessee covenants to pay such taxes if levied as such.

If the Impositions levied or assessed on Parcel 2 or the Improvements thereon in any year during the Term of this Lease shall be less than the Impositions which would have been levied or assessed upon the assessed value of Parcel 2 and the Improvements if the same were assessed and taxed in the same manner as privately owned property and the taxing authority was entitled to but failed to so assess Parcel 2 and the Improvements, Lessee shall pay such difference to Agency or such party as Agency shall direct, including the Fiscal Agent appointed as such in connection with any tax allocation bond issues of the Agency. Such payment of any tax deficiency shall be made within thirty (30) days after receipt of written notice by Lessee and after such tax deficiency would have been due and payable if same were appropriately levied or assessed by a duly recognized taxing authority and prior to the delinquency date thereof established by law. No such deficiency shall be due and payable unless Agency so notifies Lessee no later than the third anniversary date after the date when such tax would have been due and payable. If Lessee fails to pay any such tax deficiency to Agency within the required time, interest thereon shall accrue at a rate which is the lesser of 3% over the Bank of America reference rate on the date the tax deficiency is required to be paid to Agency, or the highest annual rate which may lawfully be charged and collected under applicable law, from the date the tax deficiency is required to be paid to Agency.

C. [§611] Other Liens

Lessee shall not, directly or indirectly, create or permit to be created or to remain, and will promptly discharge, at its expense, any mortgage, lien, encumbrance or charge on or pledge of Parcel 2, the Improvements or the personal property thereon, or the Common Area, or any part thereof, or Lessee's interest therein, or the Annual Rent, additional rent or other sums payable by Lessee under this Lease, other than any Trade Equipment Agreements as are permitted with respect to personal property pursuant to Section 703, and other than any leasehold mortgage as is permitted pursuant to Article IX [§900], and other than liens or encumbrances created by Agency in accordance with Section 109. Lessee shall notify Agency promptly of any lien or encumbrance which has been created on or attached to Parcel 2 or the Improvements, or to Lessee's leasehold estate therein, or to Lessee's interest in the Common Area, whether by act of Lessee or otherwise, but other than such liens or encumbrances created by Agency. The existence of any mechanic's, laborer's, materialmen's, supplier's or vendor's lien, or any right in respect thereof, shall not constitute a violation of this Section if payment is not yet due upon the contract or for the goods or services in respect of which any such lien has arisen.

Agency shall not, directly or indirectly, create or permit to be created or to remain, and will promptly discharge, at its expense, any mortgage, lien, encumbrance, charge or pledge of Parcel 2, the Trade Center Common Area, the Main Drive, and utilities access over, under and through the Common Area which are or may be superior to Lessee's interest therein or the nonpayment of which would impair Lessee's rights therein, except as are expressly required or permitted by this Lease, and subject to Agency's rights expressly set forth in Sections 1419 and 1420 of this Lease. Nothing in this Section 611 shall change the respective rights and obligations of Agency and Lessee with respect to the payment of assessments as provided in Article XIV [§1400] of this Lease.

D. [§612] Contest of Legal Requirements or Mechanics Liens

Lessee shall have the right to diligently contest in good faith and by appropriate legal proceedings, in the name of Lessee or, with the consent of Agency or if required by applicable law, Agency or both, without cost or expense to Agency, the amount, validity or application, in whole or in part, of any statute, law, ordinance or regulation applicable to Parcel 2, the Improvements, Lessee's use thereof ("Legal Requirements") or any liens of mechanics, materialmen, suppliers, or vendors, provided that: neither Parcel 2, the Improvements, nor any interest therein would be in any danger of being sold, forfeited or lost during the pendency of such proceedings and adequate bond or security, in Agency's reasonable judgment, has been provided to Agency, in the



case of a Legal Requirement, neither party would be in any danger of incurring any further liability; the contest does not adversely affect Agency's fee interest in Parcel 2; the contest does not adversely affect Agency's or any leasehold mortgagee's interest in the leasehold estate or the Improvements; the contest does not interfere with the possession, use or occupancy of Parcel 2 or the Improvements or any portion thereof; the contest does not interfere with the due payment by Lessee of all amounts owed to Agency hereunder or the due payment by Lessee of any amount payable under the leasehold mortgage; the contest is conducted in accordance with all applicable Legal Requirements, including applicable bonding requirements; and the contest is made in accordance with the applicable provisions of the leasehold mortgage.

VII. [§700] OWNERSHIP OF AND RESPONSIBILITY FOR IMPROVEMENTS AND PERSONAL PROPERTY

A. [§701] Ownership During Term

1. [§702] Improvements

All Improvements purchased (including the Improvements existing as of the commencement of the Term) or constructed on Parcel 2 by Lessee as permitted or required by this Lease shall, during the Term of this Lease, be and remain the property of Lessee, and Agency shall not have title thereto; provided, however, that, except as otherwise provided in this Lease with respect to Damage and Destruction, Section 708, Eminent Domain, Section 1100, and Alterations, Section 707, Lessee shall have no right to waste, destroy, demolish or remove the Improvements; and provided further that Lessee's rights and powers with respect to the Improvements are subject to the terms and limitations of this Lease.

For purposes of this Lease, the Improvements shall include (without limitation) all of those building components, furnishings, fixtures and equipment necessary for operation of the basic building systems such as, but not limited to, chillers, boilers, plumbing, sanitary fixtures and central air-cooling system, and furnishings, fixtures and equipment of the nature or type or comparable to items described illustratively in the "List of Improvement Components" (attached hereto and incorporated herein as Exhibit D). Agency and Lessee covenant for themselves and all persons claiming under or through them that the Improvements are real property.

2. [§703] Personal Property

All personal property located on Parcel 2 by Lessee as permitted or required by this Lease shall, during the Term of this Lease, be and remain the property of Lessee, and Agency shall not have title thereto, provided, however, that, except as otherwise provided in this Lease with respect to repair and replacement of

personal property, Lessee shall have no right to waste, destroy, demolish or remove the personal property, and provided further that Lessee's rights and powers with respect to the personal property are subject to the terms and limitations of this Lease.

At any time during the Term of this Lease, Lessee shall have the right to remove portions of the personal property for the purpose of repair and/or replacement as necessary for the appropriate operation of the Improvements as required by this Lease, provided that Lessee shall repair any damage to Parcel 2 or the Improvements caused by such removal.

Personal property shall include all furnishings, fixtures and equipment which are not affixed to Parcel 2 or the building thereon so as to require damage to the building, or impairment of the use of the building, upon removal thereof including, but not limited to, furnishings, fixtures and equipment of the nature or type or comparable to items described illustratively in "List of Personal Property" (attached hereto and incorporated herein as Exhibit E).

Personal property shall not include furnishings, fixtures or equipment owned or leased by subtenants and placed in space occupied by them in the Improvements for use in their business.

Notwithstanding anything to the contrary contained in this Lease (but subject to the last paragraph of this Section 703, below), Lessee shall have the right, from time to time and with the reasonable approval of Agency, to lease or sublease from an equipment supplier, or to finance from the vendor or a third-party lender the purchase of, any of the types of personal property customarily leased, subleased, or financed in such manner in buildings such as that operated on Parcel 2, collectively referred to herein as "Trade Equipment", and to execute and deliver to such equipment suppliers, vendors or lenders such leases, subleases, security agreements and other documents or instruments that may be necessary or appropriate to accomplish the same (collectively referred to herein as "Trade Equipment Agreements"). Subject to the last paragraph of this Section, Agency hereby waives the right of distraint and agrees that it does not have and shall not assert any right, lien or claim in or to any Trade Equipment so long as such Trade Equipment is leased, financed or otherwise subject to a security interest in favor of a third party. Subject to the last paragraph of this Section, Agency further agrees to permit the applicable equipment supplier, vendor or lender (or its assignee) to remove and dispose of such Trade Equipment without reference to, and free and clear of, any demand of Agency, and that such disposal or sale may be made on Parcel 2. Agency shall, upon Lessee's request, execute and deliver such documents as are requested and customarily required by the applicable equipment supplier, vendor or lender to confirm, subject to the last paragraph of this Section, that Agency waives all rights as to the applicable Trade Equipment and agrees that such supplier, vendor or lender may

remove such Trade Equipment subject to an obligation to restore any damages occasioned by such removal. Agency agrees that all such items of financed or leased Trade Equipment installed or to be installed on Parcel 2 and the Improvements shall be and remain personal property and not real property, notwithstanding the fact that the same may be nailed or screwed or otherwise attached or affixed to Parcel 2 or the Improvements, and further agrees to recognize the rights therein of any equipment supplier, vendor or third-party lender (or its assignee).

Nothing contained in this Section 703 or in Section 704 shall give Lessee the right upon the expiration or sooner termination of this Lease, without the approval of Agency, to remove, or permit the removal from the Improvements of, any Trade Equipment that is used in the operation of the Improvements, if Agency is willing to assume the executory obligations of Lessee as to such Trade Equipment under the applicable Trade Equipment Agreement. Any Trade Equipment Agreement to which Section 703 or 704 shall apply shall expressly permit (without requiring) Agency to assume Lessee's executory obligations under such Trade Equipment Agreement in the event that the equipment supplier, vendor or third-party lender (or its assignee) would otherwise have the right to remove the applicable Trade Equipment from the Improvements.

B.     [§704]     Ownership at Termination

Lessee shall not be required or permitted to remove the Improvements at the expiration or sooner termination of the Term of this Lease. Lessee shall not be permitted to remove the personal property at the expiration or sooner termination of the Term of this Lease, except as follows: (i) within sixty (60) days following the expiration or sooner termination of this Lease, Lessee (or any applicable equipment supplier, vendor or third-party lender that has an interest therein) may remove any Trade Equipment that is leased, financed or otherwise subject to a security interest in favor of a third party (but not any Trade Equipment that is used in the operation of the Improvements if Agency is willing to assume the executory obligations of Lessee as to such Trade Equipment under the applicable Trade Equipment Agreement), and (ii) upon demand by Agency made prior to the expiration or sooner termination of the Term of the Lease, Lessee shall remove, within sixty (60) days following the expiration or sooner termination of the Term of this Lease, such personal property, or any portion thereof, designated by Agency.

Any personal property designated by Agency to be removed by Lessee and not removed by Lessee within said sixty (60) day period, shall, at the election of Agency, and without compensation to Lessee: (i) become Agency's property, free and clear of all claims to or against them by Lessee or any third person, firm or entity; (ii) be disposed of or destroyed by Agency; or (iii) at Lessee's cost and expense, be placed in storage on behalf of Lessee, for

such time as Agency shall deem appropriate or until reclaimed by Lessee, whichever is sooner.

Upon termination of this Lease, whether by expiration of the Term or otherwise, the Improvements on Parcel 2, and all personal property not designated by Agency to be removed by Lessee, shall, without compensation to Lessee, then become Agency's property, free and clear of all claims to or against them by Lessee or any third person, firm or entity, except as to Trade Equipment Agreements permitted under this Lease.

Lessee shall defend and indemnify Agency against all liability and loss (including attorneys' fees and court costs) arising from any claims with respect to the ownership or any interest in the Improvements and personal property (except claims arising due to Agency's actions) or from Agency's lawful exercise of the rights conferred by this Section 704.

C.    [\$705]    Maintenance and Repair of Improvements

Subject to the provisions of this Lease concerning condemnation, alterations, damage and destruction, Lessee agrees to maintain or cause to be maintained in good order, repair and operation Parcel 2 and the Improvements, including all furnishings, fixtures and equipment of Lessee thereon or therein throughout the Term of this Lease without expense to Agency, and to perform or cause to be performed all repairs and replacements necessary to maintain and preserve Parcel 2 and the Improvements, including furnishings, fixtures and equipment, in a decent, safe and sanitary condition, in compliance with applicable laws, and equal in value, quality and use to the condition of the Improvements, including furnishings, fixtures and equipment, as originally purchased, constructed or installed, reasonable wear and tear excepted. The maintenance of the Common Area shall be as otherwise expressly provided in this Lease. Any subsidence of soil or soil condition causing damage or destruction to the Improvements shall be treated as a casualty in accordance with Sections 708 and 709.

D.    [\$706]    Waste

Lessee shall not commit or suffer to be committed any voluntary or permissive waste of Parcel 2 or the Improvements, or any part thereof.

Lessee agrees to keep or cause to be kept Parcel 2 and the Improvements clean and clear of refuse and obstructions and to promptly dispose of all garbage, trash and rubbish.

E.    [§707]       Alteration of Improvements

Lessee shall have the right, without the consent of Agency, to make any alterations of, additions to or changes in the Improvements provided that such alterations, additions or improvements:

1.    Do not change the uses to uses other than permitted by the provisions of Section 501;
2.    Do not materially reduce the value of the Improvements;
3.    Do not materially change the external architecture or external appearance of the Improvements; and
4.    Do not constitute external architectural changes costing more than twenty percent (20%) of the Annual Rent paid for the Lease Year prior to the Lease Year in which such change is to be made.

Any change which does not meet all of the conditions in paragraphs 1, 2, 3 and 4 above shall require the prior consent of Agency, which as to the conditions in paragraphs 3 and 4 shall not be unreasonably withheld or delayed. In requesting such consent, Lessee shall submit to Agency detailed plans and specifications of the proposed work and an explanation of the reasons thereof.

Notwithstanding the prohibition in this Section 707, Lessee may make such changes, repairs, alterations, improvements, renewals or replacements to the Improvements as are required by reason of any law, ordinance, regulation or order of a competent government authority.

F.    [§708]       Damage or Destruction

Lessee agrees to give notice to Agency of any fire or other damage that may occur on Parcel 2 or the Improvements where the costs of reparations are estimated to exceed twenty percent (20%) of Annual Rent in effect at the time such costs are determined, such notice to be given within ten (10) days of such fire or damage. Subject to the provisions of Section 709, if the Improvements shall be damaged or destroyed by any casualty (i) where the cost of restoration will not exceed fifty percent (50%) of the full insurable value of the Improvements as defined in Section 1003; and (ii) which is required to be insured against by the terms of this Lease or is actually insured against; and (iii) where the net insurance proceeds (as defined below) actually available to Lessee for restoration or rebuilding are sufficient to restore the Improvements, then Lessee agrees to make full repair of said damage and to restore the Improvements to the condition which existed prior to said damage with such alterations or changes thereto as are required by then current building codes or are

approved by Agency provided that Agency shall not unreasonably withhold or delay such approval. If Agency's approval is so required, Lessee shall submit plans and specifications related thereto for Agency's reasonable approval. If the Improvements shall be damaged or destroyed by any casualty where the cost of restoration will exceed the amount referred to in subdivision (i) above or where the casualty is not required to be insured against by the terms of this Lease and is not actually insured against or where the net insurance proceeds actually available to Lessee for restoration are insufficient to restore the Improvements, Lessee shall have the election to either restore the Improvements in the same manner as provided above or to terminate this Lease (unless termination is prohibited by Lessee's leasehold mortgagee) provided that if Lessee elects to terminate, Lessee shall comply with all of the following conditions:

1. Lessee shall give Agency notice of termination as a result of such damage or destruction within forty-five (45) days after settlement of insurance proceeds, but in any event within one hundred and eighty (180) days after the event causing such damage or destruction.

2. Lessee shall pay to Agency all Annual Rent, pro-rated to the date of such termination, together with all additional rent and any and all other sums then owed under this Lease to Agency.

3. The net insurance proceeds shall be disbursed and applied as set forth in Section 1006.

4. Lessee shall deliver possession of Parcel 2 to Agency and shall quitclaim to Agency all right, title and interest in the Common Area, Parcel 2 and the remaining Improvements, if any.

As used herein, the term "net insurance proceeds" means the gross insurance proceeds paid by an insurer to Lessee for loss or damage to the Improvements on Parcel 2 less any and all costs and expenses (including, but not limited to, attorneys' fees) incurred by Lessee to recover said proceeds. Lessee agrees to promptly commence and prosecute to completion the settlement of insurance proceeds with respect to any event of damage or destruction of the Improvements.

Lessee agrees that preliminary steps toward performing repairs, restoration or replacement of the Improvements or portions thereof shall be commenced by Lessee within forty-five (45) days after settlement of insurance proceeds, but in any event within one hundred and eighty (180) days after the event causing such damage or destruction and the required repairs, restoration or replacement shall be completed within a reasonable time thereafter.

Lessee agrees that, notwithstanding any other provision of this Lease, upon any event of damage or destruction to the Improvements, Lessee shall at its sole cost and expense (whether or not insurance proceeds are available therefor and whether or not Lessee terminates or intends to terminate this Lease but subject to reimbursement from insurance proceeds if and when available) immediately take such actions and undertake and complete such work as is necessary to assure the safe condition of the damaged Improvements pending the ultimate disposition of the Improvements. In any instance where Lessee may elect to terminate this Lease rather than restore the Improvements pursuant to this Section 708 (or 709 below), if Lessee does not terminate this Lease, Lessee shall restore the Improvements.

G.    [§709]    Damage or Destruction During Final Years of Term

Notwithstanding Section 708 to the contrary, in the event of major damage or destruction (as defined in this Section) to the Improvements during the last nine (9) years of the term of this Lease without considering any renewal terms other than a renewal term for which Lessee has elected to renew prior to the event causing the damage or destruction, Lessee shall have the election to restore the Improvements as provided in Section 708 or to terminate this Lease (unless termination is prohibited by Lessee's leasehold mortgagee) provided Lessee complies with all of the following conditions:

1.    Lessee shall give Agency notice of termination as a result of such damage or destruction within forty-five (45) days after settlement of insurance proceeds, but in any event within one hundred eighty (180) days after the event causing such damage or destruction.

2.    Lessee shall pay to Agency all Annual Rent, pro-rated to the date of such termination, less any rental loss insurance payable to Agency, together with all additional rent and any and all other sums then owed under this Lease to Agency.

3.    The net insurance proceeds shall be disbursed and applied as set forth in Section 1006.

4.    Lessee shall deliver possession of Parcel 2 to Agency and shall quitclaim to Agency all right, title and interest in the Common Area, Parcel 2 and the remaining Improvements, if any.

Major damage or destruction to the Improvements as used in this Section means such damage or destruction that the cost of restoration will exceed twenty-five percent (25%) of the full insurable value of the Improvements as defined in Section 1003, which percentage amount shall be reduced monthly on a prorata basis over the nine (9) year period. For example, if the damage occurs

four and one-half (4 1/2) years prior to the end of the Term, major damage or destruction shall mean cost of restoration in excess of twelve and one-half percent (12 1/2%) of the full insurable value of the Improvements.

H. [§710] Construction Performance and Labor and Material (Payment) Bonds; Indemnification

Lessee agrees to hold Agency free and harmless, and indemnify Agency against all claims, liabilities, costs and expenses, for labor and materials in connection with all construction, repairs or alterations on Parcel 2 and the Improvements and the cost of defending against such claims, including reasonable attorney's fees. The foregoing indemnity shall not apply to construction, repairs or alterations required to be performed by Agency or any assessment or maintenance district, if any.

Lessee agrees to procure, or cause the procurement of, contractors' bonds covering labor, materials and faithful performance for construction on Parcel 2 and the Improvements for any contract exceeding a price of Two Hundred Fifty Thousand Dollars (\$250,000), which limit is subject to increases in proportion to the Consumer Price Index - All Urban Consumers, San Francisco-Oakland-San Jose, published by the Bureau of Labor Statistics or any substitute index. Each such bond shall be in the amount equal to one hundred percent (100%) of the construction price in the contract entered into by Lessee and its general contractor. Said bonds must first be approved in writing as to the content and form by Agency. Agency shall not unreasonably withhold or delay such approval. Lessee shall, prior to commencement of construction, deliver to Agency a certificate or certificates from the bonding company(s) issuing the aforesaid bonds, naming Agency an additional insured under said bonds. The foregoing provisions of this Section shall be applicable to construction, repairs or alterations to Parcel 2 and the Improvements at all times during the Lease Term.

Agency shall have the right to post and maintain on Parcel 2 and the Improvements any notices of nonresponsibility provided for under applicable law.

I. [§711] Environmental Requirements

Lessee shall promptly notify Agency of any significant release of Hazardous Substances on Parcel 2 or the Improvements of which Lessee becomes aware, and of the receipt of any pertinent notices or communications from any governmental authority. Lessee shall promptly remove any equipment which may cause contamination except as necessary or useful to Lessee's business and provided same is used in compliance with law, and shall clean up any related contamination. Hazardous Substances as used in this Lease means a substance or material which is regulated by the United States



government, the State of California, or any local or other governmental authority having jurisdiction and determined by such governmental entity to be capable of posing a risk of injury to public health and safety, including without limitation, any flammable explosives, radioactive materials, asbestos, organic compounds known as polychlorinated biphenyls, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes and toxic substances.

Lessee shall defend, indemnify and hold harmless Agency and Agency's agents, servants, officers and employees from any claims, liability, injury, damages, costs and expenses (including, without limitation, the cost of any required cleanup of Hazardous Substances and the cost of reasonable attorneys' fees) which Agency may sustain as a result of the presence or cleanup of Hazardous Substances on Parcel 2 or the Improvements, except where the presence or clean-up results from a release caused by Agency, its contractors, agents, servants, officers or employees, or arises from the presence or release of Hazardous Substances on Parcel 2 or the Improvements that existed or occurred on or before the commencement of the Term.

Any required cleanup, removal and remediation made necessary by Hazardous Substances on Parcel 2 or the Improvements shall be performed by and the cost borne by Lessee. The foregoing sentence does not impair Lessee's right to recover against responsible parties with respect to any release of Hazardous Substances. Provided, however, as to Agency, Lessee's right to recover is limited only to a release which was caused by Agency, its contractors, agents, servants, officers or employees during the Term of this Lease.

VIII. [§800] ASSIGNMENT, SUBLETTING, TRANSFER

A. [§801] Recognition of Redevelopment Purpose

Lessee recognizes that:

1. Maintenance of Parcel 2 is important to the general welfare of the community; and
2. Substantial financing and other public aids have been made available by law and by the government for the purpose of making redevelopment possible; and
3. The qualifications and identity of Lessee, and its principals, are of particular concern to the community and Agency.

Accordingly, Lessee agrees to comply with the provisions of Section 802.

B. [§802] Conditions for Transfer

For the reasons set forth above in Section 801, Lessee shall not assign this Lease nor make any total or partial sublease, conveyance or transfer in any other mode or form of all or any part of Parcel 2 or the Improvements thereon, or any interest therein, or of its rights in the Common Area, (collectively, "Transfer"), without the prior written approval of Agency, which approval shall not be unreasonably withheld or delayed if the proposed Transferee (as defined hereinbelow) is financially qualified and has sufficient experience in the operation and management of first class office buildings to perform all the agreements, undertakings, and covenants of this Lease and all other agreements entered into by Lessee which relate to the operation, management, maintenance, repair, and restoration of Parcel 2 and of the Improvements. To assist Agency in determining whether or not the proposed Transferee is so qualified, Lessee shall furnish to Agency at no expense to Agency, prior to that Transfer, detailed and complete financial statements of the proposed Transferee, audited by a certified public accountant reasonably satisfactory to Agency (if the proposed Transferee causes its statements to be so audited in its normal course of business), together with detailed and complete information about the business of the proposed Transferee, including its experience in operating first class office buildings, the use to be made of Parcel 2 and the Improvements by the proposed Transferee, projections by the proposed Transferee of the sources of funds to be used to pay any indebtedness that the proposed Transferee will assume or take subject to, or agree to pay, in connection with the Transfer, and other claims on and requirements for those funds, together with any other information Agency may reasonably require to assist Agency in determining whether or not the proposed Transferee is so qualified.

Approval by Agency of any Transfer shall be conditioned upon such assignee, sublessee, conveyee or transferee (collectively "Transferee") agreeing, in writing, to assume the rights and obligations thereby transferred and to keep and perform all covenants, conditions and provisions of this Lease which are applicable to the rights acquired.

In addition, Agency shall not unreasonably withhold approval of and shall join in as reasonably requested by Lessee, any easements, permits and similar matters to facilitate the operation of Parcel 2 or the Improvements consistent with the terms of this Lease.

The limitations on Transfer contained in this Section 802 shall not be deemed to apply to or prevent, nor shall Agency's approval be required under this Section in connection with the granting of any security interest or leasehold mortgage expressly described in this Lease (it being understood that the granting of a leasehold mortgage shall not be considered a Transfer pursuant to

this Section 802, but shall be governed solely by the provisions of Article IX [§900]); nor the exercise by any leasehold mortgagee of its right to foreclose its leasehold mortgage by power of sale or judicial foreclosure or assignment in lieu or otherwise; nor any Transfer of this Lease by a leasehold mortgagee having acquired Lessee's interest in this Lease as a result of its rights under the leasehold mortgage or under Article IX [§900], or by any owner of the leasehold estate whose interest shall have been acquired by, through or under any leasehold mortgage or shall have been derived immediately from any holder thereof, as provided in Section 901.

The limitations on Transfer contained in this Section 802 shall not be deemed to apply to any subleases of portions of the Improvements where the sublessee intends to occupy or use the subleased premises in the ordinary course of business, and in connection therewith the approval of Agency shall not be required, provided the following provisions are complied with:

1. The term of any sublease shall not extend beyond the Term of this Lease except as provided in paragraph 2 below;

2. Any and all subleases shall be subject and subordinate to this Lease, and any amendments hereto. Each sublease shall contain a provision, satisfactory to Agency, requiring the sublessee to execute and deliver upon demand, without charge therefor, such instruments in recordable form evidencing subordination of the sublease to this Lease as may be required by Agency, provided Agency grants non-disturbance as provided below. Agency hereby covenants that, if the sublessee is not in default in the payment of rentals or otherwise in default under the sublease, its interest under the sublease shall not be terminated in the event of a termination of this Lease (except in the event of termination caused by damage, destruction or condemnation). If the sublessee is in default in the payment of rentals or otherwise in default under the sublease at the time of termination of this Lease (except in the event of damage, destruction or condemnation, in which event, the sublease shall terminate), Agency shall have the option to terminate the sublease as a result of such default or to continue the sublease in effect.

3. Each sublease shall contain a provision, satisfactory to Agency, requiring that, in the event of Lessee's default under this Lease, and upon the written request of Agency, the sublessee will in writing attorn to Agency. Said agreement of attornment shall provide, among other things, (a) that sublessee's right of possession pursuant to the terms of the sublease shall not be disturbed, (b) that the sublessee shall pay rent to Agency from the date of said attornment, (c) that Agency shall not be responsible to the sublessee under the sublease except for obligations accruing subsequent to the date of such attornment, nor for any security deposits of sublessee except those actually received by Agency, and (d) that the sublessee, in the event of the termination of this

Lease, will enter into a new lease with the Agency on the same terms and conditions as the existing sublease and for the balance of the term thereof.

4. Lessee shall, promptly after execution of each sublease, notify Agency of the name and mailing address of the sublessee and shall, on demand, permit Agency to examine and copy the sublease.

5. Lessee shall not accept, directly or indirectly, more than one months' prepaid rent from any sublessee.

At such time as any sublessee is required to provide an instrument evidencing subordination (referred to in paragraph 2 above), or an agreement of attornment (referred to in paragraph 3 above), Agency agrees to execute a nondisturbance and attornment agreement for any sublease meeting the requirements and subject to the conditions of this Section 802. Agency also agrees to execute such a nondisturbance and attornment agreement from time to time for any sublease meeting the requirements and subject to the conditions of this Section 802, if a sublessee initiates and requires as a condition to entering the sublease, such a nondisturbance and attornment agreement, and Lessee agrees to pay the costs of Agency to provide the same in accordance with the procedures and cost formula referred to in Section 803 below, except that the retainer may be One Thousand Dollars (\$1,000) instead of Five Thousand Dollars (\$5,000).

Upon Agency's approval of a Transfer of Lessee's entire interest in Parcel 2 and the Improvements under this Lease, Lessee shall be relieved of all obligations accruing under this Lease from and after the effective date of such Transfer. Any Transfer made contrary to the terms of this Section shall be null and void.

Subject to Lessee's right to sublease space within the Improvements for occupancy as expressly provided in this Section 802, Lessee shall only Transfer Lessee's entire interest in Parcel 2, the Improvements and the Common Area as a whole and shall not subdivide Parcel 2, the Improvements and its rights in the Common Area for the duration of the Lease without the prior written approval of Agency, which Agency may grant or withhold in its discretion.

C. [§803] Payment to Agency for Processing Transfer

All costs incurred by Agency to provide assistance to Lessee as reasonably necessary to close any Transfer shall be paid by Lessee. With respect to each Transfer, Lessee shall deliver a retainer to Agency in the sum of Five Thousand Dollars (\$5,000), prior to commencement of assistance by Agency, to be applied to the payment of Agency's costs. The reasonable administrative costs of Agency shall be charged at the actual cost thereof not to exceed an hourly rate of Fifty Dollars (\$50.00), increased or decreased from

time-to-time by the percentage increase or decrease in the Consumer Price Index from the Effective Date of Lease (as defined in Section 202 above) to the anniversary thereof most recently preceding the respective Transfer. The costs of Agency for consultants or legal services required for providing such assistance shall be the actual reasonable sums billed to Agency for such consulting or legal services. All such costs in excess of Five Thousand Dollars (\$5,000) shall be paid within ten (10) days after written request therefor by Agency. If such costs incurred by Agency for a Transfer equal less than Five Thousand Dollars (\$5,000), the balance shall be refunded promptly following the closing. As used herein the "Consumer Price Index" shall mean the Consumer Price Index - All Urban Consumers, San Francisco-Oakland-San Jose, published by the Bureau of Labor Statistics.

IX. [\$900] MORTGAGES

A. [\$901] Leasehold Mortgages

At any time and from time to time during the Term of this Lease, Lessee shall have the right to mortgage, pledge, deed in trust, assign rents, issues and profits and/or collaterally assign its interest in this Lease and any subleases, and to assign or pledge assignment of the same as security for any debt, including without limitation purchase money financing taken back by Lessee, or an affiliate of Lessee that is a responsible bona fide institutional lender, (the holder of any such mortgage, pledge or other encumbrance, and the beneficiary of any such deed of trust or assignment being referred to in this Lease as "leasehold mortgagee" and the mortgage, pledge, deed of trust, assignment or other instrument referred to in this Lease as "leasehold mortgage"), upon and subject to each and all of the following terms and conditions:

1. A leasehold mortgage shall contain a principal amount not exceeding eighty percent (80%) of the fair market value of Lessee's interests under this Lease, which includes for such purpose without limitation the Improvements. The fair market value of Lessee's interests under this Lease shall be determined as of the leasehold mortgage closing by an appraisal conducted on behalf of the leasehold mortgagee by a disinterested real estate appraiser having the qualifications for appraisers required by law and the leasehold mortgagee's underwriting criteria.

2. A leasehold mortgage shall cover all of Lessee's interest in the Lease, Parcel 2, the Improvements, the Common Area and the rents, issues and profits therefrom, and shall cover no interest in any other property.

3. A leasehold mortgage shall be without subordination of the fee simple title of Agency at all, including, but not limited to, Parcel 2 and the Common Area.

4. No such leasehold mortgage shall be binding upon Agency in the enforcement of its rights and remedies herein and by law provided, unless and until a certified copy of the original thereof bearing the date and book and page of recordation thereof and a certified copy of the original note secured by such leasehold mortgage has been delivered to Agency together with written notice of the address of the leasehold mortgagee to which notices may be sent; and in the event of an assignment of such leasehold mortgage, such assignment shall not be binding upon Agency unless and until a certified copy thereof bearing the date and book and page of recordation together with written notice of the address of the assignee thereof to which notices may be sent, have been delivered to Agency.

5. Not more than one leasehold mortgage may be outstanding at any one time in connection with this Lease. No leasehold mortgage permitted by this Lease shall cover more than one indebtedness.

6. A leasehold mortgage shall contain provisions permitting the disposition and application of the insurance proceeds and condemnation awards in the manner provided in this Lease.

7. A leasehold mortgage is to be originated only by a responsible bona fide institutional lender. For the purposes hereof the term "institutional lender" shall consist of any one or combination of the following lending institutions: a commercial or savings bank; a trust company; an insurance company; a savings and loan association; a building and loan association; an educational institution; a pension, retirement or welfare fund; a charity; or an endowment fund or foundation authorized to make loans in the State of California; an institutional investor such as a publicly held real estate investment trust, an entity that qualifies as a REMIC under the Internal Revenue Code of the United States, or other private or public investment entity regularly engaged in lending money secured by real estate. For the purposes hereof "responsible bona fide" shall mean at the time the loan is made or the contract or commitment to enter into the loan is entered into, a lender who is one of the ten largest banking institutions qualified to do business in the State of California; or one of the ten largest insurance lending institutions in the United States qualified to do business in the State of California; or a company engaged in the ordinary course of business as a lender with net worth in the amount of not less than Fifty Million Dollars (\$50,000,000), which is duly licensed or registered with any regulatory agency having jurisdiction over its operation, and is not under any order or judgment of any court or administrative agency restricting or impairing its operation as a lender. None of the standards set forth in this paragraph 7 shall be applicable to participants or co-lenders in a leasehold mortgage which is held by an institutional lender, whether acting individually or in a representative capacity.

8. All rights acquired by said leasehold mortgagee under said leasehold mortgage shall be subject to each and all of the covenants, conditions and restrictions set forth in this Lease, and to all rights of Agency thereunder, none of which covenants, conditions and restrictions is or shall be waived by Agency by reason of the giving of such leasehold mortgage. Notwithstanding any foreclosure of any such leasehold mortgage, Lessee shall remain liable for the payment of the Annual Rent reserved in this Lease and the performance of all of the terms, covenants and conditions of this Lease which by the terms hereof are to be carried out and performed by Lessee.

9. No extension, modification, change or amendment to a leasehold mortgage shall be effective, or binding upon Agency, unless and until approved by Agency.

Lessee shall not enter into any leasehold mortgage as permitted hereunder, or any extension, modification, change or amendment to any previously approved leasehold mortgage, without the prior written approval of Agency. Agency shall not unreasonably withhold its approval if such leasehold mortgage complies with each and all of the terms and conditions referred to in paragraphs 1 through 9, inclusive, of this Section 901, and is otherwise consistent with this Lease. Agency agrees to approve or disapprove a proposed leasehold mortgage within a reasonable time, and within the time, if any, provided for such approval in the leasehold mortgage loan documents (provided that such documents allow Agency a reasonable time to review the loan documents). In the event Agency disapproves a matter, Agency shall provide its objections in writing to Lessee, indicating the reason for its disapproval. Any approval by Agency shall extend only to the documents and matters actually submitted to Agency for review and approval. Once Agency has approved a matter, Agency shall not subsequently disapprove the same matter, but approval by Agency of one matter shall not be construed to be approval of any other matter not specifically approved by Agency.

All costs incurred by Agency to provide assistance to Lessee as reasonably necessary to close any leasehold mortgage shall be paid by Lessee. The determination of such costs, the procedure for payment thereof, and all other terms and conditions related thereto shall be as set forth in Section 803 for a Transfer, and Lessee shall comply with Section 803 as applicable to any leasehold mortgage in like manner as to a Transfer.

If Lessee encumbers its leasehold estate by way of a leasehold mortgage as permitted herein, and should Agency be advised in writing of the name and address of the leasehold mortgagee, then this Lease shall not be terminated or canceled on account of any default by Lessee in the performance of the terms, covenants or conditions hereof until Agency shall have complied with the

provisions of Section 902 as to the leasehold mortgagee's rights to cure and to obtain a new lease.

B. [§902] Rights and Obligations of Leasehold Mortgagees

If Lessee, or Lessee's successors or assigns, shall mortgage the leasehold interest herein demised in accordance with Section 901, then, as long as any such leasehold mortgage shall remain unsatisfied of record, or subsequent to any foreclosure thereof in accordance with the provisions below, the following provisions shall apply:

1. Agency will not accept a surrender of or modify this Lease without the prior consent in writing of the leasehold mortgagee. Agency's right to terminate this Lease shall be subject to the rights of the leasehold mortgagee as more specifically described in this Lease.

2. If the holder of any mortgage on the leasehold interest herein demised shall register with Agency its name and address in writing, no notice of any default by Agency to Lessee shall be deemed to have been duly given unless and until a copy thereof has been mailed to the leasehold mortgagee by registered or certified mail at the address registered with Agency.

3. In the event Lessee shall be in default hereunder, the leasehold mortgagee shall, within the period and otherwise as herein provided, have the right (but not the obligation) to remedy such default, or cause the same to be remedied, and Agency shall accept such performance by or at the instigation of such leasehold mortgagee as if the same had been done by Lessee. The leasehold mortgagee shall have thirty (30) days after the expiration of any applicable cure period given to Lessee upon notice to Lessee to remedy the default or cause the same to be remedied. Such additional thirty (30) day period shall be extended if the default is other than the payment of money and such that it is not practicable to cure within such thirty (30) day period, if the leasehold mortgagee commences such cure within said thirty (30) day period and diligently prosecutes such cure to completion. For purposes of the preceding sentence, when and to the extent permitted by law, the commencement of judicial or nonjudicial foreclosure proceedings by the leasehold mortgagee shall be deemed the commencement of a cure. Lessee hereby constitutes and appoints the leasehold mortgagee Lessee's agent and attorney in fact with full power, in Lessee's name, place and stead, and at Lessee's cost and expense, to enter upon Parcel 2, the Improvements, and the Common Area and perform all acts permitted or required to be performed herein (including without limitation exercise of a renewal right) or in any sublease made hereunder by Lessee.



4. While any such leasehold mortgage remains unsatisfied of record, and an event or events shall occur which shall entitle Agency to terminate this Lease, and if before the expiration of thirty (30) days after the date of service of notice of termination under this Lease such leasehold mortgagee shall have paid to Agency all Annual Rent and additional rent and other payments herein provided for then in default, and shall have complied or shall be engaged in complying with all other requirements of this Lease, if any, then in default, and with which such leasehold mortgagee is capable of complying, Agency shall not be entitled to terminate this Lease and any notice of termination theretofore given shall be void and of no effect.

5. In the event of the termination of this Lease prior to the natural expiration of the then current term of this Lease, including any renewal term then in effect, due to default of Lessee or operation of law, then in any such case, Agency shall mail by registered or certified mail to the leasehold mortgagee written notice of such termination, together with a statement of any and all sums which would at that time be due under this Lease then known to Agency. Such leasehold mortgagee or its designee shall thereupon have the option to obtain a new lease in accordance with and upon the following terms and conditions:

(a) Upon the written request of the leasehold mortgagee within sixty (60) days after service of the aforementioned notice of termination, Agency shall (i) enter into a new lease of Parcel 2, the Improvements and the appurtenant interest in the Common Area with such leasehold mortgagee, or its designee, as provided in clause (b) of this subparagraph 5, and (ii) execute an instrument sufficient to convey to the leasehold mortgagee or its designee fee simple title to the Improvements unencumbered by any title exceptions caused by Agency other than those expressly permitted to encumber the Improvements under this Lease; it being understood that the leasehold mortgagee shall hold title to the Improvements subject to the terms of the new lease referred to above.

(b) Such new lease shall be effective as of the date of termination of this Lease and shall be for the remainder of the term of this Lease, at the Annual Rent and additional rent and upon the agreements, terms, covenants and conditions thereof, and shall contain options for renewal for the then unexercised option periods contained in this Lease. Any such new lease entered into with the leasehold mortgagee shall have the same priority as Lessee hereunder as between such leasehold mortgagee (as the lessee thereunder) and the holder of any lien or encumbrance on the fee interest of the leased premises. Concurrent with or before the execution of such new lease, the lessee named therein shall pay any and all sums which would at the time of the execution thereof be due under this Lease but for the termination as aforesaid, and shall fully otherwise remedy any existing and curable defaults under this Lease, and shall pay all expenses, including but not

limited to, reasonable attorneys' fees, court costs and disbursements incurred by Agency in connection with such defaults and termination, the recovery of possession of Parcel 2 and the preparation of Parcel 2 and the preparation, execution and delivery of such new lease, except that with respect to any default which cannot be cured by such lessee until it obtains possession, such lessee shall have a reasonable time after it obtains possession to cure such default. Upon execution and delivery of the new lease, Agency shall assign without recourse Agency's interest in and to subleases that become direct leases between Agency and subtenant, as a result of Agency's termination of this Lease and shall assign use of the Techmart name in accordance with Section 507.

6. If Agency elects to terminate this Lease pursuant to any right of termination resulting from Lessee's being in default of any provision of this Lease, then any leasehold mortgagee, in addition to all other rights herein granted such leasehold mortgagee, shall have the right to be subrogated to any and all rights of Lessee with respect to curing of any default and shall also have the right to postpone and extend the specified date for termination of this Lease fixed by Agency in a notice given pursuant to applicable provisions of this Lease, for a period of not more than six (6) months (subject to extension as provided below) provided, such leasehold mortgagee shall:

(a) concurrent with or before the leasehold mortgagee gives Agency notice of its exercise of the right to postpone or extend the specified date for termination of this Lease, cure all defaults which may be cured by the payment of a sum of money and undertake to cure any other existing default of Lessee, excepting the vacation or dismissal of any pending bankruptcy, insolvency, reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the then applicable bankruptcy act or other similar federal and state statutes or laws or other default not capable of being cured by the leasehold mortgagee;

(b) continue to pay the Annual Rent and perform all obligations that are required pursuant to this Lease, during any extension period(s); and

(c) promptly thereafter initiate steps to acquire Lessee's interest in this Lease by foreclosure of its mortgage or otherwise.

Such right shall be exercised by the leasehold mortgagee's giving Agency notice of the exercise of the same prior to the time of termination fixed in Agency's notice of termination. If, before the date specified for the termination of this Lease as extended by such leasehold mortgagee, (1) the leasehold mortgagee shall have obtained possession, and if (2) an assumption in writing of performance and observance of covenants and conditions herein

contained on Lessee's part to be performed shall be delivered to Agency by the leasehold mortgagee, then and in such event the default under this Lease shall be removed and the Lease shall not be canceled. If the leasehold mortgagee is unable, after due diligence, to acquire Lessee's interest in this Lease within the first six (6) month extension period, such period shall be extended so long as the leasehold mortgagee continues to diligently attempt to acquire Lessee's interest in this Lease by foreclosure of its mortgage or otherwise and does acquire such interest within a reasonable time under the circumstances. The actions required under clause (c) above are the foreclosure and the subsequent curing of the Lessee's curable defaults. The actions under clause (b) above are to perform all obligations under the Lease that do not include the performance of obligations which require possession of Parcel 2 and the Improvements, until the leasehold mortgagee has acquired such possession as contemplated in clause (c) above. The extension provided for in the immediately preceding paragraph extends beyond foreclosure for a reasonable period of time for the leasehold mortgagee to cure all curable defaults after it obtains possession of Parcel 2 and the Improvements, pursuant to foreclosure or otherwise. Curable defaults, the curing of which may be delayed during this period, do not include the payment of Annual Rent (or other specified payments).

If the term is not extended pursuant to the renewal option in Section 203 because of Lessee's default of any provision of this Lease, then the leasehold mortgagee may prevent the expiration of the Term in the same manner as in the case of preventing the termination of the Lease pursuant to the foregoing provisions of this paragraph.

7. Any payment to be made or action to be taken by a leasehold mortgagee hereunder as a prerequisite to obtaining a new lease or keeping this Lease in effect shall be deemed properly to have been made or taken by the leasehold mortgagee if such payment is made or action taken by a permitted nominee, agent or assignee of the right of such leasehold mortgagee.

8. The parties hereto shall give the leasehold mortgagee notice of any condemnation proceedings affecting Parcel 2, the Improvements or any of Lessee's appurtenant rights under this Lease. The leasehold mortgagee shall have the right to intervene and be made a party to any such condemnation proceedings and the parties hereto do hereby consent that the leasehold mortgagee may be made such party or intervenor.

9. No leasehold mortgagee or its designee nor any owner of the leasehold estate whose interest shall have been acquired by, through or under any leasehold mortgage (whether by judicial proceeding, a power contained in the leasehold mortgage or by assignment in lieu or other consensual conveyance or otherwise), or shall have been derived immediately from any holder thereof, and

including any transferee from a leasehold mortgagee or its designee after consummating any such acquisition by, under, or through the leasehold mortgage, shall be liable under the agreements, terms, covenants or conditions of this Lease or any new lease entered into pursuant to paragraph 5(b) above, unless and until such time as the leasehold mortgagee, its designee, or such owner becomes the owner of the leasehold estate and then only for as long as it remains the owner of the leasehold estate. Upon any assignment of this Lease by the leasehold mortgagee, its designee, or any owner of the leasehold estate whose interest shall have been acquired by, through or under any leasehold mortgage or shall have been derived immediately from any holder thereof, the assignor shall be relieved of any further liability which may accrue hereunder from and after the date of such assignment provided that the assignee shall execute and deliver to Agency a recordable instrument of assumption wherein such assignee shall assume the rights and obligations of Lessee and agree to perform and observe all covenants and conditions and provisions in this Lease as they are applicable to Lessee.

10. Anything herein contained to the contrary notwithstanding, the provisions of this Section 902 shall inure only to the benefit of the holder of a permitted leasehold mortgage, its designee, and any owner of the leasehold estate described in paragraph 9 above.

11. The rights granted herein to a leasehold mortgagee shall be enforceable by it. In the event any action or proceeding is brought to enforce or interpret the provisions hereof or to seek damages or performance or declare the rights of the parties hereto or such leasehold mortgagee, the prevailing party including such leasehold mortgagee, if prevailing, shall be entitled to reasonable attorneys' fees, costs and expenses.

12. No modification, change or amendment to, or waiver with respect to any provision of, this Lease shall be effective or binding upon the leasehold mortgagee unless and until approved in writing by the leasehold mortgagee.

C. [§903] Agency's Right to Cure Lessee's Defaults on Leasehold Mortgages

Lessee agrees to have any leasehold mortgage made pursuant to this Lease provide:

1. that the leasehold mortgagee shall by registered or certified mail and in writing give notice to Agency of the occurrence of any event of default;

2. that Agency shall be given at least thirty (30) days' notice of default in debt service payments before such leasehold mortgagee will accelerate the indebtedness, exercise its power of sale or commence a proceeding to judicially foreclose its leasehold mortgage. It is intended hereby that Agency receive notice of default at least thirty (30) days prior to the date a borrower or entity having an interest in the property may cure such default as provided in Section 2924 of the California Civil Code or any successor and/or amending statute thereto. If any payments of amortization and interest required to be made under the provisions of the leasehold mortgage shall not be performed which shall constitute a default under the terms of the leasehold mortgage, Agency may cure said default provided Agency gives Lessee ten (10) days notice of Agency's intention to cure such default. If Agency shall elect to cure such default, Lessee shall pay the cost thereof to Agency together with interest thereon at a rate which is the lesser of three percent (3%) over the Bank of America reference rate on the date of Agency's payment, or the highest annual rate which may lawfully be charged and collected under applicable law, as additional rent, unless Lessee shall cure such default within said ten (10) day period, or (a) compliance requires more than ten (10) days and Lessee shall have commenced compliance within a reasonable time after such notice and shall have cured such default within thirty (30) days after commencing compliance but in no event later than ten (10) days prior to a sale of the property or decree of foreclosure, or (b) Lessee shall obtain from the leasehold mortgagee a written extension of time in which to cure such default together with a separate written extension of time granting Agency a reasonable additional time to cure said default if said default is not cured within said extended time and copies thereof are delivered to Agency. Lessee does hereby authorize Agency in Agency's name without any obligation or duty on Agency to do so, to do any act or thing required of or permitted to Lessee to prevent any default under said leasehold mortgage or any acceleration thereof, or the taking of any foreclosure or other action to enforce the collection of the indebtedness, and Lessee agrees to indemnify and hold Agency harmless and to reimburse Agency upon demand for all reasonable costs, charges and expenses incurred by Agency in such connection. If Lessee at any time shall request any leasehold mortgagee to grant a moratorium on payment, to waive payment or to extend the time for payment, Lessee shall give Agency written notice thereof by registered or certified mail concurrently with the making of said request and shall further give Agency written notice by registered or certified mail of the granting or denial of said request.

D. [§904] Non-Merger

There shall be no merger of this Lease, or of the leasehold estate created thereby, with the fee estate in and to Parcel 2, and the Common Area by reason of the fact that this Lease or the leasehold estate created thereby, or any interest in either

thereof, may be held directly or indirectly by or for the account of any person who shall own the fee estate in and to Parcel 2 and the Common Area or any portion thereof, and no such merger shall occur unless and until all persons at the time having any interest in this Lease or the leasehold estate, including the leasehold mortgagee and the holder of any mortgage upon the fee estate in and to Parcel 2 and the Common Area shall join in a written instrument effecting such merger.

E.    [\$905]       Agency Cooperation

Agency covenants and agrees that it will act and fully cooperate with Lessee in connection with Lessee's right to grant a leasehold mortgage as hereinabove provided. At the request of Lessee or any proposed or existing leasehold mortgagee, Agency shall promptly execute and deliver (i) any documents or instruments reasonably requested to evidence, acknowledge and/or perfect the rights of the leasehold mortgagee as herein provided; and (ii) an estoppel certificate certifying the status of this Lease and Lessee's interest herein and such matters as are reasonably requested by Lessee or such leasehold mortgagee. Such estoppel certificate shall include, but not be limited to, certification by Agency that (i) this Lease is unmodified and in full force and effect (or, if modified, state the nature of such modification and certify that this Lease, as so modified, is in full force and effect), (ii) all Annual Rent currently due under the Lease has been paid, and (iii) there are not, to Agency's knowledge, any uncured defaults on the part of Lessee under the Lease or facts, acts or omissions which with the giving of notice or passing of time, or both, would constitute a default. Any such estoppel certificate may be conclusively relied upon by any leasehold mortgagee or assignee of Lessee's interest in this Lease.

X.    [\$1000]       INDEMNIFICATION AND INSURANCE

A.    [\$1001]       Indemnification

Lessee hereby indemnifies and holds Agency and Agency's contractors, agents, servants, officers and employees harmless from and against all claims and demands for loss or damage, including property damage, personal injury and wrongful death, arising out of or in connection with the use or occupancy of Parcel 2 and the Improvements by Lessee or any other person under Lessee, or any fire on Parcel 2 or the Improvements, or any nuisance made or suffered thereon, or any failure by Lessee to keep Parcel 2 and the Improvements in a safe condition, and will reimburse Agency for all its costs and expenses, including reasonable attorneys' fees incurred in connection with the defense of any such claims, and will hold all goods, materials, furnishings, fixtures, equipment, machinery and other property whatsoever on Parcel 2 and the Improvements at the sole risk of Lessee and save Agency harmless from any loss or damage thereto by any cause whatsoever except

Agency or Agency's contractors', agents', servants', officers' or employees' willful or negligent acts. The foregoing indemnity shall be inapplicable to any willful or negligent act of Agency or its contractors, agents, servants, officers or employees and does not apply with respect to claims relating to Hazardous Substances, which are governed by Section 711.

B.    [§1002]    Required Insurance

During the Term of this Lease, Lessee at its sole cost and expense shall:

1.    Keep or cause to be kept a policy or policies of insurance against loss or damage to the Improvements on Parcel 2 resulting from fire, windstorm, hail, lightning, vandalism, malicious mischief, and such other perils ordinarily included in extended coverage casualty insurance policies. In addition, if Lessee carries coverage voluntarily for additional causes (such as earthquake, riot, civil commotion, or other), such coverage shall be treated in all respects as the policy or policies required to be kept under this paragraph 1, for so long as Lessee continues to voluntarily carry such coverage. All insurance hereunder shall be maintained in an amount not less than one hundred percent (100%) of the full insurable value of the Improvements as defined in Section 1003 (such value to include amounts spent for construction of the Improvements, architectural and engineering fees, and inspection and supervision).

2.    Maintain or cause to be maintained public liability insurance naming Agency, its agents, servants, officers and employees as additional insureds, to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever in, on or about Parcel 2 or the Improvements; and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from the acts or activities in connection with Parcel 2 or the Improvements; and also to protect against loss from liability imposed by law for damages on account of property damage and personal injury including death in, on or about the Common Area as a result of the acts or omissions of Lessee, its agents, servants or employees alleged to be suffered by any person or persons whomsoever, resulting directly or indirectly from any act or activities of Lessee or under its control or direction arising from the use and occupancy under the Lease of Parcel 2, and the Common Area and the Improvements, and also to protect against loss from liability imposed by law for damages to any property of any person caused directly or indirectly by or from the acts or activities of Lessee under the Lease in connection with Parcel 2, the Improvements, and the Common Area or Lessee or its sublessees, or any person acting for Lessee or under its respective control or direction.

Such property damage and personal injury insurance shall also protect Agency and such additional named insureds against incurring any legal cost in defending claims for alleged loss. Such personal injury and property damage insurance shall be maintained in full force and effect during the entire term of this Lease in an amount of at least Five Million Dollars (\$5,000,000) combined single limit.

Lessee agrees that provisions of this paragraph as to public liability insurance shall not be construed to limit in any way the extent to which Lessee may be held responsible for the payment of damages to persons or property resulting from Lessee's activities, or the activities of any other person or persons for which Lessee is otherwise responsible.

3. Maintain or cause to be maintained business or rental interruption insurance against loss of rental to Agency due to a cause referred to in paragraph 1 above, in an amount equal to, and insuring against, any loss of Annual Rent by Agency for a minimum of twenty-four (24) months.

4. Maintain or cause to be maintained workers' compensation insurance issued by an insurance carrier authorized under the laws of the State of California for workers' compensation and employer's liability under the Workers' Compensation Insurance and Safety Act now in force in California, or any act hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Lessee in connection with Parcel 2 and the Improvements and the Common Area, and shall cover full liability for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or on behalf of, any person incurring or suffering injury or death in connection with Parcel 2 and the Improvements, or the operation thereof by Lessee.

C. [§1003] Definition of "Full Insurable Value"

The term "full insurable value" as used in Section 1002 and elsewhere in this Lease shall mean the actual replacement cost excluding the cost of excavation, foundation and footings below the ground level of the Improvements. To ascertain the amount of coverage required, Lessee shall cause the full insurable value to be determined from time to time by appraisal by the insurer or by any appraiser mutually acceptable to Agency and Lessee, not less often than once each three (3) years; except that no such appraisals shall be required if the policy is written on a "replacement cost" basis.



D.    [§1004]    General Insurance Provisions

All insurance provided under Section 1002 of this Lease shall be for the benefit of Lessee, Agency (and as to the insurance provided for in paragraph 2 above, the additional named insureds described therein) and any leasehold mortgagee.

All insurance provided under Section 1002 shall be periodically reviewed by the parties for the purpose of mutually increasing or decreasing the minimum limits of such insurance, from time to time, to amounts which may be reasonable and customary for similar facilities of like size and operation.

All insurance provided for under Section 1002 shall be effected under policies issued by insurers licensed or permitted to do business in the State of California and reasonably approved by Agency. Agency may not withhold approval of any insurer having a rating of B+12 or better in Best Insurance Guide or if Best Insurance Guide is no longer in existence, a similar or comparable rating.

Any insurance required to be maintained by Lessee pursuant to Section 1002 may be taken out under a blanket insurance policy or policies covering other premises or properties, and other named insureds in addition to the parties hereto; provided, however, that any such policy or policies of blanket insurance, or supplemental written certification from the insurers under such policies, shall specify therein the amount of insurance allocated to the coverage required under Section 1002 (except that no such allocation shall be required if coverage is provided on a "blanket limit" basis) and provided further, that in all other respects, any such blanket policy shall comply with the other provisions of Section 1002.

All certificates of insurance shall provide that such certificates and the policies related thereto shall not be canceled or materially changed without at least thirty (30) days' prior written notice to Agency.

All insurance policies shall provide that there shall be no exclusion from coverage for cross liability among the named insureds.

Certificates of insurance shall be deposited with Agency together with appropriate evidence of payment of the current premiums therefor; and, at least thirty (30) days prior to expiration of any such policy, certificates of renewal policies shall be so deposited.

Other casualty and liability insurance requirements concerning the Common Area are set forth in Section 1414 of this Lease.

E. [§1005] Failure to Maintain Insurance

If Lessee fails or refuses to procure or maintain insurance as required by this Lease to be procured and maintained by Lessee, Agency shall have the right, at Agency's election, to procure and maintain the insurance described in Section 1002 for the benefit of Lessee and Agency. The premiums paid by Agency shall be treated as additional rent due from Lessee, to be paid on the first day of the month following the date on which the premiums were paid. Agency shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s) which shall include Lessee.

F. [§1006] Disposition of Insurance Proceeds Resulting from Loss or Damage to Improvements

All proceeds of insurance with respect to loss or damage to the Improvements to be maintained and repaired by Lessee during the term of this Lease shall be payable, under the provisions of the policy of insurance, jointly to Lessee and Agency, and except as provided below, said proceeds shall constitute a trust fund to be used for the repair, restoration or reconstruction of the Improvements in accordance with the provisions of Section 708 or 709. To the extent that such proceeds exceed the cost of such repair, restoration or reconstruction, then such proceeds shall be divided as follows:

1. If the event causing loss or damage to the Improvements occurs on or prior to the thirtieth (30th) anniversary of the Effective Date of Lease, the entire amount by which such proceeds exceed the cost of such repair, restoration or reconstruction shall belong to Lessee.

2. If the event causing loss or damage to the Improvements occurs after the thirtieth (30th) anniversary of the Effective Date of Lease, the amount which shall belong to Lessee shall be the amount by which such proceeds exceed the cost of such repair, restoration or reconstruction, multiplied by a fraction: the numerator of the fraction shall be seventy-five (75) minus the number of anniversaries of the Effective Date of Lease which have occurred prior to the event of loss or damage to the Improvements, and the denominator of the fraction shall be forty-five (45). The balance of such proceeds shall belong to Agency.

Provided, however, that within the period during which there is an outstanding leasehold mortgage as described in Article IX [§900], such proceeds shall be made payable jointly to the leasehold mortgagee, if any, Lessee, and Agency and except as provided below, shall be disposed of jointly by the parties as a trust fund to be applied to the repair, restoration and reconstruction of the damaged or destroyed Improvements. To the extent that such proceeds exceed the cost of such repair,

restoration or reconstruction, then such proceeds shall be divided as follows:

1. If the event causing loss or damage to the Improvements occurs on or prior to the thirtieth (30th) anniversary of the Effective Date of Lease, the entire amount by which such proceeds exceed the cost of such repair, restoration or reconstruction shall belong to Lessee and any leasehold mortgagee as their respective interests may appear.

2. If the event causing loss or damage to the Improvements occurs after the thirtieth (30th) anniversary of the Effective Date of Lease, the amount which shall belong to Lessee and any leasehold mortgagee as their respective interests may appear shall be the amount by which such proceeds exceed the cost of such repair, restoration or reconstruction, multiplied by a fraction: the numerator of the fraction shall be seventy-five (75) minus the number of anniversaries of the Effective Date of Lease which have occurred prior to the event causing loss or damage to the Improvements, and the denominator of the fraction shall be forty-five (45). The balance of such proceeds shall belong to Agency.

Provided, further, that within the period during which there is an outstanding leasehold mortgage, as described in Article IX [§900], at the request of any leasehold mortgagee with respect to any particular casualty resulting in damage or destruction exceeding \$100,000 in the aggregate, such proceeds shall be payable to a bona fide institutional lender (the "Insurance Trustee") as trustee, selected by the leasehold mortgagee and approved by Lessee and Agency to be disbursed as required by the provisions of this Section 1006. Subject to the terms of any leasehold mortgage in effect at the time an Insurance Trustee is appointed, such Insurance Trustee is hereby made and constituted a trustee to hold such proceeds and to deposit such proceeds in its own banking department or elsewhere, at its sole discretion, and to pay out such proceeds as provided in this Lease. The Insurance Trustee shall not be obligated hereunder in any manner except to receive and pay out any money that is received by it as such trustee, together with such interest, if any, as is paid by the Insurance Trustee at the time upon like trusts of like amount. As between Agency and Lessee, such interest on trust funds shall be deemed to be the income of and disbursed to the party entitled thereto in accordance with the terms of this Lease, to be held by the Insurance Trustee subject to the terms and conditions of the trust. The Insurance Trustee is authorized to retain from the trust fund a reasonable amount for its services in connection with the trust.

In the event this Lease is terminated by mutual agreement of Agency and Lessee and the leasehold mortgagee under any leasehold mortgage, or as a result of Lessee's election to terminate this Lease as provided in Section 708 or 709, as the case may be, and the Improvements are not repaired, restored or reconstructed, the net insurance proceeds shall be made payable jointly to Lessee, Agency and the leasehold mortgagee of any outstanding leasehold mortgage, if any, or the Insurance Trustee, if required, and shall be applied as follows:

1. First, if there is an outstanding leasehold mortgage permitted by Article IX [§900], such proceeds shall be applied first to discharge the debt secured by the leasehold mortgage.

2. Then, remaining insurance proceeds, at the election of Agency, which election shall be made within one (1) year after the parties mutually agree to terminate this Lease or Agency receives notice of Lessee's election to terminate this Lease, as the case may be, shall be used either:

(a) to demolish the remaining Improvements and clear Parcel 2 to a neat and safe condition; or

(b) to remove the rubble from the damaged Improvements and to leave the remaining damaged Improvements in a neat, clean and safe condition; or

(c) to remove the rubble and any portion of the damaged Improvements specified by Agency from the remaining Improvements and to leave the remaining Improvements in a neat, clean and safe condition.

To secure the performance of such work, that portion of such remaining insurance proceeds equal to one hundred and fifteen percent (115%) of the estimated cost of the work described in paragraph (a), (b) or (c), whichever shall be greater, shall be held by Agency and Lessee jointly (and deposited in an interest bearing account, which interest shall belong to and be payable as it accrues and becomes available as provided in paragraph 3 below) and such funds shall be expended for the specified work when the Agency has made its election, after which the balance, if any, shall be paid as set forth in paragraph 3 below. The estimated cost of the work described in paragraph (a), (b) and (c) above shall be determined by Agency and Lessee each putting the work referred to in paragraph (a), (b) and (c) out to bid to not more than two (2) reputable contractors licensed by the State of California within sixty (60) days of the parties mutually agreeing to terminate this Lease or Agency receiving notice of Lessee's election to terminate this Lease. The bids shall be for the cost of immediate construction and the contractors shall not be informed of the reasons for which the bids are being solicited. The job shall be open for bid for a period not to exceed thirty (30) days.

The three (3) lowest of the four (4) bids obtained by the parties with respect to the work described in (a), (b) and (c) separately shall be averaged and such averages shall be deemed the estimated cost of the work described in paragraph (a), (b) and (c) respectively. The balance of any remaining insurance proceeds over and above the one hundred fifteen percent (115%) set aside shall be paid immediately as set forth in paragraph 3 below.

3. Then, any insurance proceeds remaining shall be paid as follows:

(a) If the event causing loss or damage to the Improvements occurs on or prior to the thirtieth (30th) anniversary of the Effective Date of Lease, the entire amount by which such proceeds exceed the allocations described in paragraphs 1. and 2. above shall belong to Lessee.

(b) If the event causing loss or damage to the Improvements occurs after the thirtieth (30th) anniversary of the Effective Date of Lease, the amount which shall belong to Lessee shall be the amount by which such proceeds exceed the allocations described in paragraphs 1. and 2. above, multiplied by a fraction: the numerator of the fraction shall be seventy-five (75) minus the number of anniversaries of the Effective Date of Lease which have occurred prior to the event causing damage or loss to the Improvements, and the denominator of the fraction shall be forty-five (45). The balance of the proceeds shall belong to Agency.

Lessee hereby waives any claim against Agency for any loss covered by insurance of the type specified in Section 1002; only to the extent that such waiver is permitted under its policies of insurance and will not cause to be voided any coverage thereunder, and Lessee shall obtain from its insurance company or companies a waiver of any right of subrogation that it may have against Agency.

#### XI. [§1100] EMINENT DOMAIN

In the event that Parcel 2, the Improvements, the Common Area or any part thereof, shall be taken for public purposes by condemnation as a result of any action or proceeding in eminent domain, then, as between Agency and Lessee (or any leasehold mortgagee, if a leasehold mortgage is then in effect), the interests of Agency and Lessee (and any leasehold mortgagee) in the award and the effect of the taking upon this Lease shall be as follows:

1. In the event of such taking of only a part of Parcel 2 or the Improvements thereon, this Lease shall terminate and end as to the portion of Parcel 2 so taken as of the date title or possession to such portion vests in the condemning authority, but, subject to the provisions of paragraph 3 below, shall continue in full force and effect as to the portion of Parcel 2 not so taken (and except

as provided in paragraph 2 hereinbelow the rights appurtenant in the Common Area), and from and after such date the Annual Rent required by this Lease to be paid by Lessee to Agency shall be reduced in the proportion which the value of the part of Parcel 2 so taken bears to the total value of Lessee's interest in Parcel 2 and the Common Area; provided, however, Agency shall have the right to substitute like adjacent property and maintain the Annual Rent schedule without diminution, but only if the following conditions are satisfied:

(a) The adjacent property must be contiguous to that portion of Parcel 2 remaining subject to this Lease and reasonably acceptable to Lessee.

(b) If the adjacent property is a part of the Trade Center Common Area (in whole or in part), Agency shall, at Agency's sole cost and expense, reconstruct the balance of the Common Area so that Lessee has available for its use sufficient Common Area including parking, access, driveways, and landscaping as is comparable to the Trade Center Common Area existing prior to such taking.

(c) The net amount of the award attributable to the Improvements taken (including severance damages to the remainder) and actually available and paid to Lessee is sufficient to construct on such like adjacent property such improvements which are comparable to the Improvements so taken or which were located on the portion of Parcel 2 so taken, and to restore to an architecturally complete and functional unit the Improvements not taken.

(d) The Annual Rent shall be reduced in the manner described above until Agency shall have reconstructed the Common Area as provided in (b) above and Lessee shall have completed construction of comparable improvements on the substitute adjacent property and such reconstruction to the Improvements to restore same to an architecturally complete and functional unit as described in (c) above.

(e) The adjacent property is made subject to the leasehold mortgage of Lessee's leasehold mortgagee then existing.

2. In the event of the taking of the entire Common Area or any part thereof, and if either none of Parcel 2 is taken or there is a taking thereof under paragraph 1 hereinabove, then in addition to the application of the provisions of said paragraph 1 with respect to Parcel 2 (if a part of Parcel 2 is taken), this Lease and the rights appurtenant granted herein shall terminate and end as to the portions of the Common Area so taken and as to any other portions of the Common Area left in such location, or in such form, shape or reduced size as to render the same not effectively and practicably useable for the conduct thereon of the uses permitted

hereunder, as of the date title or possession to the portion taken vests in the condemning authority, but, subject to the provisions of paragraph 3 below, the Lease and the rights appurtenant granted herein shall continue in full force and effect as to the portions of the Common Area not so taken, and from and after the date of such taking the Annual Rent required by this Lease to be paid by Lessee to Agency shall be reduced in the proportion which the value of Lessee's interest in the Common Area so terminated bears to the total value of Lessee's interest in Parcel 2 and the Common Area. Provided, however, Agency shall have the right to substitute like adjacent facilities and maintain the Annual Rent schedule without diminution as to the facilities replaced, but only if all of the following conditions are satisfied:

(a) If a portion of Parcel 2 is so taken, the conditions set forth in paragraph 1 above shall have been satisfied.

(b) If all or a portion of the Trade Center Common Area is taken or used for adjacent facilities or as adjacent like property, Agency, at Agency's sole cost and expense, shall provide sufficient Common Area so that Lessee has available for its use such Common Area including parking, access, drives and landscaping as is comparable to the Trade Center Common Area existing prior to such taking together with reasonable access to Great America Parkway and utilities services.

(c) The Annual Rent shall be reduced in the manner described above until the conditions described in (a) and (b) above are satisfied.

(d) The adjacent facilities or adjacent property are made subject to the leasehold mortgage of Lessee's leasehold mortgagee then existing.

3. Notwithstanding anything to the contrary contained in paragraphs 1 and 2, the following provisions shall apply in the event of any taking described in paragraphs 1 or 2:

Upon any taking of a portion of Parcel 2, the Improvements and/or the Trade Center Common Area which renders the operation of Parcel 2 and the Improvements remaining into an economically unviable condition, as reasonably determined by Lessee, or which occurs during the last nine (9) years of the Term of this Lease (excluding any renewal terms for which Lessee has not exercised its option to renew as of the time of such taking) and where such taking affects the use of a major part of the Improvements (determined in a manner consistent with a material damage or destruction under Section 709), Lessee shall have the right to terminate this Lease and its obligations hereunder upon notice to Agency given within one hundred twenty (120) days after the date title or possession to the portion taken vests in the condemning

authority and such termination shall become effective as of the date of such taking.

4. In the event the entire Parcel 2 is so taken, this Lease and all of the right, title and interest thereunder shall cease on the date title or possession to Parcel 2 so taken vests in the condemning authority.

5. Promptly after a partial taking, if this Lease shall not have been terminated pursuant to paragraph 3 above, at Lessee's expense and in the manner specified in provisions of this Lease relating to maintenance, repairs and alterations, Lessee shall restore the Improvements so as to place them in a condition suitable for the uses and purposes for which Parcel 2 is leased subject to the provisions of this Article XI [§1100], except that Lessee's obligations hereunder shall be limited to the net amount of the award payable to Lessee from such taking. In the event Lessee fails to restore the Improvements, Agency may terminate this Lease pursuant to paragraph 8 of Section 1211 of this Lease.

6. In the event of any taking described under paragraphs 1, 2, or 4 hereinabove, subject to the provisions allocating between Lessee and Agency the award attributable to the Improvements as set forth below and the award attributable to the Parking Structure as set forth in paragraph 9 of this Section 1100, the award shall be allocated between Lessee and Agency according to their respective interests. To the extent needed, the amount of the award of compensation attributable to the Common Area shall be used in the manner described in paragraphs 9 and 11 below. That portion of any award attributable to the Improvements shall be divided as follows:

(a) If the date title or possession of the property taken vests in the condemning authority occurs on or prior to the forty-fifth (45th) anniversary of the Effective Date of Lease, the entire portion of the award attributable to the Improvements shall belong to Lessee.

(b) If the date title or possession of the property taken vests in the condemning authority occurs after the forty-fifth (45th) anniversary of the Effective Date of Lease, the amount which shall belong to Lessee shall be the portion of the award attributable to the Improvements multiplied by a fraction: the numerator of the fraction shall be seventy-five (75) minus the number of anniversaries of the Effective Date of Lease which have occurred prior to the date title or possession of the property taken vests in the condemning authority, and the denominator of the fraction shall be thirty (30). The balance of the award attributable to the Improvements shall belong to Agency.

In the event of a partial taking, where the Lease remains in effect and Lessee is obligated to restore or repair the Improvements, then Lessee shall use (and Agency will make available



to Lessee its portion) any portion of the awards owed to Lessee and/or Agency on account of the Improvements prorata to restore the Improvements as provided in paragraph 5 above in accordance with plans and specifications approved in writing by Agency, which approval shall not be unreasonably withheld or delayed. The amount of the award attributable to the Improvements shall not include any portion of the award attributable to the unexpired term of this Lease as to the portion or all of Parcel 2 so taken, which portion shall belong to Lessee. If this Lease is terminated pursuant to paragraph 3 above, the award attributable to the Improvements shall be disbursed to any leasehold mortgagee, Agency and Lessee in the same manner, and shall be applied in the same manner as, insurance proceeds as set forth in paragraphs 1, 2 and 3 as contained in the last disposition alternative in Section 1006, provided that in paragraph 3(b) of such alternative the thirtieth (30th) anniversary shall be changed to the forty-fifth (45th) anniversary and the denominator of the fraction shall be changed from forty-five (45) to thirty (30).

7. Provided, however, that within the period during which there is an outstanding leasehold mortgage on the Improvements, the leasehold mortgagee shall be entitled to any portion of the award which would otherwise belong to Lessee, to the extent of its interest therein. The leasehold mortgagee may, at its option, but subject to the terms of the leasehold mortgage, apply said portion of the award to restoration of the Improvements or to reduction of the mortgage, except that in the event of a partial taking, where the Lease remains in effect and Lessee is obligated to restore or repair the Improvements, then the leasehold mortgagee shall apply said portion of the award to restoration of the Improvements. Any excess portion of Lessee's share of the award attributable to the condemnation of the Improvements after such restoration shall belong to Lessee or such leasehold mortgagee as their interests may appear.

8. Notwithstanding the foregoing provisions of this Section, Agency may, in its discretion and without affecting the validity and existence of this Lease, transfer Agency's interests in Parcel 2, and the Common Area in lieu of condemnation to any authority entitled to and having threatened to exercise the power of eminent domain; provided, however, that without the written consent of Lessee and any leasehold mortgagee, Agency shall not make any financial settlement with the condemning authority. In the event of such transfer by Agency, Agency shall retain its right to recover from said condemning authority the award with respect to its interests in Parcel 2 and the Common Area taken by the condemning authority in the manner provided in paragraph 6 above.

9. In the event of any partial taking where the Lease remains in effect, the net amount of all awards applicable and allocable to the Trade Center Common Area (to the extent needed therefor) shall be used and applied to reconstruct the Trade Center

Common Area or acquire substitute Common Area comparable to the Trade Center Common Area existing prior to such taking (including structured parking), to the extent such reconstruction or acquisition is feasible, and to the extent of the net amount of such awards available therefor after payment of bonds or other such obligations applicable to the Trade Center Common Area and required to be paid in lieu of restoration. In the event reconstruction or replacement is feasible, and the net award is insufficient for reconstruction or replacement, it is the intent of Agency and Lessee that the assessment district formed pursuant to Section 1404 of this Lease reconstruct the Trade Center Common Area, or acquire substitute Common Area, unless the cost thereof is too little to make such financing economically efficient, and if necessary Agency and Lessee agree to cooperate in formation of supplemental or additional assessment districts or assessments if necessary for such reconstruction or replacement. Notwithstanding any other provision of this Section 1100, to the extent permitted by law and any bonds or other such obligations applicable to the Parking Structure, no existing debt from bonds or other such financing shall be paid from any net award to the extent there exists any deficiency in the funds available for reconstruction or replacement.

10. As used herein "net" amount of the award shall mean the gross award less all costs (including attorneys' fees) incurred by Lessee or Agency, as the case may be, to recover such award.

11. In the event there is a taking of all or any portion of the Parking Structure, the net award therefor (exclusive of any award for the land on which it is located) after complying with paragraph 9 above, shall be distributed to Lessee, the lessee of Parcel 1 and Agency, pro rata in proportion to their contributions (including as to Lessee the contribution of the original developer of the Improvements on Parcel 2) towards the capital cost of constructing the Parking Structure until all such capital contributions have been distributed and then the balance, if any, shall be distributed in the same proportion as their respective proportionate share of the costs of construction and maintenance are allocated in Article XIV.

XII. [§1200] DEFAULTS, REMEDIES AND TERMINATION

A. [§1201] Defaults - General

Subject to the extensions of time set forth in Section 1212, failure or delay by either party to perform any term or provision of this Lease constitutes a default under this Lease. The party who fails or delays must promptly commence to cure, correct, or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

In the event of any default, the injured party shall give written notice of default ("Notice of Default") to the party in default, specifying the default complained of by the injured party. Failure or delay in giving Notice of Default shall not constitute a waiver of any obligation, requirement or covenant required to be performed hereunder. Except as otherwise expressly provided in this Lease, any failures or delays by either party in asserting any 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 the 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. [§1202] Legal Actions

1. [§1203] 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 Lease. Such legal actions must be instituted in the Superior Court of the County of Santa Clara, State of California, in any other appropriate court in that county, or in the Federal District Court in the Northern District of California.

2. [§1204] Applicable Law

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

3. [§1205] Acceptance of Service of Process

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

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

4. [§1206] Attorneys' Fees and Court Costs

In the event that either Agency or Lessee shall bring or commence an action or legal proceeding, or arbitration where expressly permitted, to interpret this Lease, enforce the terms and conditions of this Lease, or to obtain damages against the other party arising from any default under or violation of this Lease, then the prevailing party shall be entitled to and shall be paid

reasonable attorneys' fees and court costs as may be fixed by the court or jury therefor or the arbitrators.

C.    [\$1207]    Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Lease, 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.    [\$1208]    Damages

If either party is in default with regard to any of the provisions of this Lease, the nondefaulting party shall serve written Notice of Default of such default upon the defaulting party. If the default is not cured within ten (10) days after service of the Notice of Default if an obligation to pay money, or within thirty (30) days after service of 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 may thereafter (but not before) commence an action for damages against the defaulting party with respect to such default.

E.    [\$1209]    Specific Performance

If either party is in default with regard to any of the provisions of this Lease, the nondefaulting party shall serve written Notice of Default of such default upon the defaulting party. If the default is not cured within ten (10) days after service of the Notice of Default if an obligation to pay money, or within thirty (30) days after service of 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 receipt 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 Lease pertaining to such default.

F. [§1210] Additional Remedies

If Lessee defaults with regard any material provision of this Lease (including without limitation any default expressly set forth in Section 1211), Agency shall serve written Notice of Default of such default upon Lessee. If the default is not cured within ten (10) days after service of the Notice of Default if an obligation to pay money, or within thirty (30) days after service of 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, Agency at its option, may thereafter (but not before, unless necessary to prevent immediate harm):

1. Correct or cause to be corrected said default and charge the costs therefor to the account of Lessee, subject however to any other provisions of this Lease expressly providing for any specific time or the occurrence of any condition before cure may be effected; provided that the Notice of Default given to Lessee by Agency shall specify with particularity the condition constituting the default;

2. Correct or cause to be corrected said default and pay the cost thereof from the available proceeds of insurance, or in the event that Lessee has obtained a faithful performance bond indemnifying Agency and the default sought to be cured is the subject of such bond, Agency may call upon the bonding agent to correct said default and pay the costs thereof; provided that the Notice of Default given to Lessee by Agency shall specify with particularity the condition constituting the default;

3. Have a receiver appointed to take possession of Lessee's interest in Parcel 2, the Improvements, and the Common Area with power in said receiver to administer Lessee's interest therein, to collect all funds available in connection with its operation and maintenance thereof, and to perform all other acts consistent with Lessee's obligations under this Lease as the court deems proper;

4. Maintain and operate Parcel 2, the Improvements, and Common Area without terminating the Lease;

5. Terminate the Lease pursuant to Section 1211 by written notice to Lessee of its intention to do so;

6. Continue this Lease and Lessee's right to possession in effect and enforce its rights and remedies under the Lease, including the right to recover Annual Rent and any additional rent as it becomes due, as provided in Section 1951.4 of the California Civil Code.

Agency reserves and shall have the right at all reasonable times to enter Parcel 2 and the Improvements for the purpose of viewing and ascertaining the condition of the same, or to inspect the operations conducted thereon. Any such entry shall be made only after reasonable written notice to Lessee.

If Agency defaults with regard to any of the provisions of this Lease requiring Agency to maintain the Common Area, or to provide priority use of parking spaces in the Trade Center Common Area as provided in Section 1407, Lessee shall serve written Notice of Default of such default upon Agency. Such Notice of Default shall specify with particularity the condition constituting the default, the work Lessee contends is necessary to cure the default, and the estimated cost of such work. If the default is not commenced to be cured within thirty (30) days after receipt of the Notice of Default, the cure is not instituted promptly and pursued in a continuous and diligent manner within a reasonable period of time after commencement, Lessee at its option may thereafter but not before correct or cause to be corrected said default. The cost of any such work shall be borne by the party otherwise responsible therefor if it had been performed by Agency (including apportionment of the costs of curing with respect to the Common Area along with other maintenance costs as provided for in Section 1408 of this Lease). Agency shall reimburse Lessee for Agency's share of such costs originally borne by Lessee within thirty (30) days after receipt of a written statement from Lessee specifying the actual cost of such work and the amount of such reimbursement by Agency and if not paid within said thirty (30) day period such share shall bear interest at the rate of twelve percent (12%) per annum until paid.

In the event Agency fails to commence restoration of any damage or destruction to the Trade Center Common Area (and access thereto) as required by Section 1417 of this Lease, within sixty (60) days after the event causing such damage or destruction, and complete such restoration within a reasonable time thereafter, then Lessee shall have the right to restore so much of the Trade Center Common Area (and access thereto) as is necessary for the operation by Lessee of the Improvements, in which event Lessee shall be reimbursed for the share of such costs to be borne by others in accordance with the allocation of costs provided for in Section 1417, promptly upon settlement of insurance proceeds if insured and otherwise within thirty (30) days after receipt of a written statement from Lessee specifying the actual cost of such work and the amount of such reimbursement by Agency and if not paid within said thirty (30) day period such share shall bear interest at the same rate of interest charged by Agency pursuant to Section 605.

The rights reserved in this Section 1210 shall not create any obligations on Agency or Lessee or increase obligations imposed on Agency or Lessee elsewhere provided in this Lease, and shall not

defeat, render invalid or limit the rights or interests expressly provided in this Lease for the protection of leasehold mortgagees.

G. [§1211] Remedies and Rights of Termination by Agency

In the event that any time during the Term of this Lease, and in violation of this Lease, any of the following defaults by Lessee shall occur:

1. Lessee shall have used Parcel 2 or the Improvements or the Common Area for any purpose other than those provided for in this Lease;

2. Lessee shall have failed or refused to pay Agency when due the applicable Annual Rent, additional rent or other sums required by this Lease to be paid by Lessee;

3. Lessee shall have failed or refused to pay when due any Impositions required by this Lease, subject, however, to the rights of Lessee to contest such Impositions pursuant to Section 608 of this Lease;

4. Lessee shall have made or suffered to be made any voluntary or involuntary Transfer of the leasehold interest in Parcel 2, or of the Improvements or Lessee's rights in the Common Area under this Lease, except as permitted under this Lease;

5. Lessee shall have committed or suffered to be committed any permissive or voluntary waste of Parcel 2 or the Improvements or any part thereof;

6. Lessee shall have altered the Improvements in any manner except as permitted by this Lease;

7. Lessee shall have failed to maintain insurance as required by this Lease;

8. Lessee shall have failed to make repair and restoration of Parcel 2 and the Improvements in the event of damage or destruction or condemnation, if required by this Lease;

9. Lessee shall have engaged in any financing or entered into any other transaction creating any mortgage on Parcel 2 or the Improvements, or Lessee's rights in the Common Area, or placing thereon any lien or other encumbrance or suffering any levy or attachment to be made thereon except as permitted by the terms of this Lease;

10. Lessee shall have voluntarily filed or shall have involuntarily filed against it any petition under any bankruptcy or insolvency act or law or be adjudicated a bankrupt, or make a general assignment for the benefit of creditors;

11. Lessee shall have failed to cure any default under a leasehold mortgage at least thirty (30) days prior to the last date Lessee may cure such default before an acceleration of the indebtedness thereunder;

12. Lessee shall have abandoned or surrendered possession of Parcel 2, the Improvements, and/or Common Area, or Lessee's interest therein except as permitted by this Lease;

13. Lessee shall have failed to continuously operate the Improvements on Parcel 2 for the purposes and in the manner required by Section 501 of this Lease;

14. Lessee shall have failed to continuously manage, or cause to be managed, the Improvements on Parcel 2 in a prudent and businesslike manner, as provided in Section 502 of this Lease;

15. Lessee shall have expended any amount from Gross Revenues, other than as provided for in Section 309 of this Lease and in accordance with the priorities for payment set forth in Section 309;

16. Lessee shall have failed to clean up any contamination or to comply with federal, state or local environmental laws or regulations, or orders of any governmental authority respecting Hazardous Substances, as required by Section 711;

17. Lessee shall have made any extension, modification, change or amendment of the terms and conditions of any leasehold mortgage (including any and all instruments and documents related thereto), without the prior written approval of Agency, as required by Section 901; or

18. Lessee shall have failed to perform or comply with any other material term or provision of this Lease;

and if any such default shall not be cured within ten (10) days after service of the Notice of Default if an obligation to pay money, or within thirty (30) days after service of 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, then, in such event, Agency may, at its option and in addition to any other remedy provided for in this Lease, but subject to the rights of any leasehold mortgagee, terminate the Lease and revert in Agency the leasehold interest theretofore transferred to Lessee, by written notice to Lessee of its intention to do so.



In the event Agency elects to terminate this entire Lease pursuant to this Section 1211 or as otherwise expressly permitted by this Lease, or it is terminated by operation of law, such termination shall cancel all of Lessee's options, if any, to extend or renew the term of this Lease.

Upon termination of this Lease pursuant to this Section 1211 or otherwise it shall be lawful for Agency to re-enter and repossess Parcel 2 and the Improvements thereon, and the Common Area and Lessee, in such event, does hereby waive any demand for possession thereof, and agrees to surrender and deliver Parcel 2 and the Improvements and the Common Area and all other appurtenant interests under this Lease peaceably to Agency immediately upon such termination in good order, condition and repair, except for reasonable wear and tear or as otherwise provided by this Lease in the event of damage and destruction or condemnation. Lessee agrees that upon such termination, title to all Improvements on Parcel 2 specified in this Lease to vest in Agency, shall vest in Agency.

No ejectment, re-entry or other act by or on behalf of Agency shall constitute a termination unless Agency gives Lessee notice of termination in writing. Such termination shall not relieve or release Lessee from any obligation incurred pursuant to this Lease prior to the date of such termination.

Termination of the Lease under this Section 1211 shall not relieve Lessee from the obligation to pay any sum due to Agency or from any claim for damages against Lessee. Damages which Agency may recover in the event of default under this Lease shall include, but are not limited to, the worth at the time of award of the amount by which the unpaid Annual Rent for the balance of the Lease Term remaining after the time of award exceeds the amount of such rental loss that Lessee proves could be reasonably avoided. The right of termination provided by this Section 1211 is not exclusive and shall be cumulative to all other rights and remedies possessed by Agency, and nothing contained herein shall be construed so as to defeat any other rights or remedies to which Agency may be entitled.

H. [§1212] Enforced Delay in Performance for Causes Beyond Control of Party

For the purposes of any of the provisions of this Lease, neither Agency nor Lessee, as the case may be, nor any successor in interest (including, without limitation, Lessee's leasehold mortgagee or any successor in interest of said leasehold mortgagee), shall be considered in breach of, or default in, its obligations under this Lease (exclusive of any obligation to pay money) as a result of the enforced delay in the performance of such obligations due to causes beyond its reasonable control and without its fault or negligence, including, but not limited to any law, regulation, ordinance or order of any public agency, acts of public

agencies, acts of God, acts of the public enemy, acts of the federal government, acts of the other party (including but not limited to delays in performing such other party's obligations pursuant to this Lease), fires, floods, epidemics, quarantine restrictions, strikes, labor disputes, freight embargoes, inability to obtain materials or supplies or unusually severe weather or delays of contractors or subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of Agency or Lessee, as the case may be, shall be extended for the period of such enforced delay. Provided that the party seeking the benefit of the provision of this Section shall promptly notify the other party in writing of such enforced delay and of the causes thereof, the extension of time for performance shall run from ten (10) days prior to the date on which such notice is given, but in no event earlier than the date of commencement of the cause.

I.     [§1213]     Arbitration

1.     If any dispute or controversy has arisen as referred to in the last paragraph of Section 1407 of this Lease, no default shall be deemed to have occurred with respect thereto under this Lease unless and until there has been a determination of default by the arbitrators in the manner provided in paragraph 3 below. Either Agency or Lessee may deliver to the other party a notice of dispute and request for arbitration with respect to such dispute or controversy. In connection with any such alleged default, the sole duty of the arbitrators shall be to determine whether a default has occurred and the nature thereof. The decision of the arbitrators shall be final and binding upon the parties in any later action or proceeding concerning the existence of the default being arbitrated.

2.     No party shall be required to submit any matter to arbitration in lieu of judicial determination except as provided in paragraph 1 above with respect to any dispute or controversy referred to in the last paragraph of Section 1407.

3.     Arbitration shall be conducted in Santa Clara, California, before and in accordance with the rules then obtaining of the American Arbitration Association. Notwithstanding anything contained in the foregoing sentence, the parties agree that the provisions of California Code of Civil Procedure Section 1283.05, Depositions for Discovery or any successor and/or amendatory statute thereto, are incorporated into, made a part of and made applicable to this Section 1213 as though fully set forth herein, it being the intent of the parties to incorporate discovery provisions into this Arbitration provision, provided, however, that the period for discovery pursuant to this Section 1213 shall expire on the date which is thirty (30) days from the date of the delivery of notice of dispute and request for arbitration pursuant to

paragraph 1 above; it being understood that any discovery commenced by notice within such thirty (30) day period shall be completed diligently by the noticed party. In the event that the American Arbitration Association shall not then be in existence, the party desiring arbitration shall appoint a disinterested person as arbitrator on its behalf and give notice thereof to the other party who shall, within ten (10) days thereafter, appoint a second disinterested person as arbitrator on its behalf and give written notice thereof to the first party. The arbitrators thus appointed shall appoint a third disinterested person, and such three (3) arbitrators shall, as promptly as possible, determine the matter which is the subject of the arbitration. The decision of the majority of the arbitrators shall be conclusive and binding on all parties and shall be rendered on or before the date which is sixty (60) days from the date of the delivery of notice of dispute and request for arbitration pursuant to paragraph 1 above, it being understood that time is of the essence; however, if the arbitrators have failed to render their decision within the time required in connection with an alleged default under this Lease, the party or parties which were not a cause of such delay may pursue all other rights and remedies which it or they may have under this Lease. If a party who shall have the right pursuant to the foregoing to appoint an arbitrator fails or neglects to do so, then, and in such event, the other party (or if the two arbitrators appointed by the parties shall fail within five (5) days after the appointment of the second arbitrator to appoint a third arbitrator), then either party may apply to any court of competent jurisdiction to appoint such arbitrator. The prevailing party shall be entitled to reasonable attorney's fees, costs and expenses of the arbitration as determined by the arbitrators. Agency and Lessee agree to sign all documents and to do all other things necessary to submit any such matter for arbitration, and further agree to, and hereby do, waive any and all rights they or either of them may at any time have to revoke their agreement hereunder to submit to arbitration once the matter has been submitted, and to abide by the decision rendered thereunder. The arbitrators shall not have any power to modify or amend any of the terms of this Lease.

4. By signing their initials in the space below, Lessee and Agency acknowledge that they have read and understood all of the provisions of this Section 1213 and that they have voluntarily agreed to all such provisions.

Lessee: KBD

Agency: js

XIII. [§1300] GENERAL PROVISIONS

A. [§1301] Notices, Demands and Communications between the Parties

Formal notices, demands and communications between Agency and Lessee shall be in writing and shall be deemed sufficiently given if dispatched by registered or certified mail, postage prepaid, return receipt requested, or by courier not affiliated with the sender at the cost of the sending party with written evidence of receipt, to the principal offices of the Agency or of Lessee as designated in Section 107 and Section 108 hereof, and shall be deemed delivered on the second business day after deposit into the United States mail, or the date of delivery if by courier, as applicable. Such written notices, demands and communications may be sent in the same manner to other addresses as either party may from time to time designate by mail as provided in this Section.

B. [§1302] Time of Essence

Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Lease.

C. [§1303] Conflict of Interests

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

Lessee 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 Lease.

D. [§1304] Nonliability of Agency Officials and Employees

No member, official or employee of Agency or City shall be personally liable to Lessee, or any successor in interest to Lessee, in the event of any default or breach by Agency, or for any amount which may become due to Lessee or successor or on any obligation under the terms of this Lease.

E. [§1305] No Partnership

Nothing contained in this Lease and no acts of Agency or Lessee shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between Agency and Lessee other than that of lessor and lessee.

F. [§1306] Compliance with Law

Lessee agrees to comply with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to Parcel 2, and the Improvements, as well as operations conducted thereon, including all laws prohibiting discrimination or segregation in the use, sale, lease or occupancy of the property, and to faithfully observe and not violate in the use of the Common Area all applicable county and municipal ordinances and state and federal statutes now in force or which may hereafter be in force; except for such requirements, ordinances or statutes which Agency has agreed to comply with or perform pursuant to the terms of this Lease. The judgment of any court of competent jurisdiction, or the admission of Lessee or any sublessee or permittee in any action or proceeding against them, or any of them, whether Agency be a party thereto or not, that Lessee, sublessee or permittee has violated any such ordinance or statute in the use of the premises shall be conclusive of that fact as between Agency and Lessee.

G. [§1307] Surrender of Property

Upon the expiration or termination of this Lease pursuant to the terms hereof, it shall be lawful for Agency to re-enter and repossess Parcel 2, the Improvements thereon and the Common Area without process of law, and Lessee, in such event, does hereby waive any demand for possession thereof, and agrees to surrender and deliver Parcel 2 and the Improvements thereon, and its interest in the Common Area peaceably to Agency immediately upon such expiration or termination in good order, condition and repair, except for reasonable wear and tear, but subject, however to the provisions of Section 1100 of this Lease regarding condemnation and Section 708 and 709 of this Lease regarding damage and destruction.

H. [§1308] Severability

If any provision of this Lease shall be adjudged invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of this Lease shall not be affected thereby, but this Lease shall be construed as if such invalid, illegal or unenforceable provisions had not been contained herein, and the remainder of this Lease shall be valid and enforceable to the fullest extent permitted by law.

I. [§1309] Binding Effect

This Lease, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

J.     [§1310]     Captions

The captions contained in this Lease are for convenience of reference and shall not be construed to limit or extend the meaning of any part of this Lease.

K.     [§1311]     Entire Agreement, Waivers and Amendments

This Lease is executed in six (6) duplicate originals, each of which is deemed to be an original. This Lease includes eighty-nine (89) pages and ten (10) exhibits.

All waivers of the provisions of this Lease must be in writing and signed by the appropriate authorities of Agency or Lessee and all amendments hereto must be in writing and signed by the appropriate authorities of Agency and Lessee.

L.     [§1312]     Approvals

All consents or approvals to be given by Lessee or Agency shall not be unreasonably withheld or delayed unless this Lease expressly provides for the discretion of the party in giving such consent or approval.

M.     [§1313]     Successors, Mutuality, Running With Land

The covenants and agreements contained in this Lease are made for the direct mutual and reciprocal benefit of Lessee, its legal representatives, successors and assigns, the Trade Center, the Improvements, and Parcel 2, and of Agency, its legal representatives, successors and assigns, Agency's Improvements and Parcel 4 (and Parcels 1 and 3 in connection with the provisions of Article XIV) and each such covenant and agreement shall create mutual equitable servitudes upon the respective real properties and shall create reciprocal rights and obligations between the owners, lessors, lessees and any other permissive users of such real properties and privity of contract and estate between the parties hereto and their respective successors and assigns; and shall, as to the owners, lessors, lessees and other permissive users of each parcel of real property and their respective successors and assigns, operate as covenants running with the land. Agency and Lessee agree to execute, acknowledge, deliver and record such documents, instruments and agreements and to take such actions as are necessary or required by California Civil Code Sections 1469 and 1470 to bind all successors and assigns to the obligations set forth in this Lease.

XIV. [§1400] APPURTENANT INTERESTS

A. [§1401] Common Area

1. [§1402] Construction of Common Improvements

a. [§1403] Common Improvements

Agency has constructed, or caused to be constructed, certain improvements within Parcel 4 (the "Common Improvements") consisting of (i) two thousand two hundred sixty (2,260) hereinafter described Surface, Ground Level and Structured Parking spaces, (ii) on site (physical) Permanent Parking Controls as described in Section 1407 (excluding therefrom scheduled parking attendants), (iii) the Main Drive as identified on the Map of Development Areas, Exhibit A-3, (iv) pedestrian walkways, (v) a covered walkway connecting the improvements located on Parcel 1 to the improvements developed on Parcel 2 ("Hotel-Trade Center Space Frame"), (vi) a covered entryway in front of the improvements developed on Parcel 1 ("Hotel Entry Space Frame"), (vii) special entryway paving affecting the improvements developed on Parcels 1, 2 and 3, respectively, (viii) two (2) bridges connecting the Parking Structure described in this Section 1403 and the improvements located on Parcel 3, (ix) fountains located near each of the improvements developed on Parcels 1, 2 and 3, respectively, (x) signs located in front of each of the improvements developed on Parcels 1, 2 and 3, respectively, (xi) a site identification sign located on the Site as described in Section 105 hereof, (xii) landscaping and utilities, and (xiii) a pedestrian and golf cart bridge over San Tomas Aquino Creek between Parcels 4 and 5 (as defined in the Hotel Ground Lease), all in accordance with plans and specifications on file in the offices of Agency. Except as expressly provided in Section 1419 concerning alterations in the Conference Center Area and Hotel Area there shall be no changes or alterations of the Trade Center Common Area or Common Improvements thereon, or the Main Drive as described above or in access or utilities access for Lessee's Improvements and the Parking Structure, without prior written consent of Lessee in its discretion.

Of the two thousand two hundred sixty (2,260) parking spaces developed on Parcel 4 (i) seven hundred (700) spaces constitute surface parking spaces (exclusive of spaces located on the ground floor of the hereinafter described "Parking Structure") ("Surface Parking"), (ii) five hundred thirty-one (531) parking spaces are located on the ground floor of the Parking Structure ("Ground Level Parking") and (iii) one thousand twenty-nine (1,029) spaces ("Structured Parking") are located above grade, 478 on the first level and 551 on the second level of the Parking Structure constructed pursuant to plans on file in the offices of Agency, and located in the area identified as "Structured Parking" on the Site Map attached hereto as Exhibit A-2 and made a part hereof (the "Parking Structure"). It is contemplated by the parties hereto

that the parking spaces referred to above, together with the construction or provision of the Supplemental Spaces referred to in Section 1413 hereof, shall satisfy the parking requirements of Lessee, the lessee of Parcel 1 and Agency with respect to the initial development and projected ultimate development of the Site as provided in this Lease and the Hotel Ground Lease. Agency has heretofore constructed or provided 281 additional off-site parking spaces, and Agency shall be required to construct or provide additional off-site parking spaces at the time of an expansion onto Parcel 1A, as more particularly set forth in Section 1413 hereof.

Parcel 3 shall be allocated twenty-five (25) Surface Parking spaces for the priority, non-exclusive use of the Conference Center and such spaces shall be located in the Conference Center Area. Parcel 3 shall also be allocated for priority, non-exclusive use, all Structured Parking spaces which are not allocated to Lessee or the lessee of Parcel 1 for their respective priority, non-exclusive use, subject to a reduction in such Structured Parking spaces allocated to Parcel 3 in the event the lessee of Parcel 1 elects to expand its improvements as provided in Section 402 of the Hotel Ground Lease.

Parcel 2 shall be allocated one thousand eighty-one (1,081) spaces on a priority, non-exclusive basis. Of said one thousand eighty-one (1,081) spaces, two hundred eighty-nine (289) spaces shall constitute Surface Parking spaces for the priority, non-exclusive use of the Trade Center and shall be located in the Trade Center Area; four hundred fifty-three (453) spaces shall be Ground Level Parking for the priority, non-exclusive use of the Trade Center and shall be located in close proximity to the Trade Center; and three hundred thirty-nine (339) spaces shall be located above grade on the first level of the Parking Structure for the priority, non-exclusive use of the Trade Center. Provided, however, that if the lessee of Parcel 1 expands its improvements pursuant to Section 402 of the Hotel Ground Lease, then upon completion of such expansion, Lessee shall be allocated for its priority, non-exclusive use such number of Structured Parking spaces (not to exceed three hundred thirty-nine (339)) at the lowest level "available" (with such availability determined as set forth below).

For purposes of determining availability of spaces on the first level and second level of the Parking Structure, the following provisions shall apply:

(a) Parking spaces shall be available for allocation to Lessee unless such spaces have been allocated to the lessee under the Hotel Ground Lease, but any allocation to the lessee under the Hotel Ground Lease shall be consistent with subparagraphs (b) and (c) below.



(b) Except upon the consent of Lessee (which may be withheld in its sole discretion), the lessee of Parcel 1 may be allocated no more than two hundred thirty-nine (239) of the total spaces on the first above-grade level of the Parking Structure.

(c) Except upon the consent of Lessee (which may be withheld in its sole discretion), the lessee of Parcel 1 may be allocated no more than two hundred seventy-five (275) of the total spaces on the second above-grade level of the Parking Structure.

Agency acknowledges and agrees that Lessee and the lessee of Parcel 1 may enter into agreements between themselves exchanging the location of the respective priority nonexclusive spaces allocated to each Lessee within the various parking areas described above, which agreements Agency shall recognize while this Lease and the Hotel Ground Lease remain in effect; provided Agency shall incur no additional cost because of such exchange.

Notwithstanding the designation of specific locations for parking spaces and their priority, non-exclusive use in this Section, without affecting any other provision of this Lease regarding parking spaces (including without limitation the allocation of costs pertaining thereto for initial capital costs of construction, cleaning, repairing, maintaining, replacement, restoration, implementation and operation of Parking Controls, allocation of revenues therefrom, or any other matter), the Management Review Committee (referred to in Section 1407) may recommend, as a manner in which the Common Area can be more efficiently and effectively operated and managed, that specified amounts of parking spaces allocated for priority, non-exclusive use of Lessee, the lessee of Parcel 1 and/or Agency, may be withheld until later determined to be needed for priority, non-exclusive use (but without reducing in number the 1,081 parking spaces allocated to Lessee for priority, non-exclusive use, without the consent of Lessee), or may be exchanged between or within the areas of Surface Parking, Ground Level Parking, the first level of the Parking Structure, and/or the second level of the Parking Structure, as necessary or appropriate to achieve the Parking Goals. If such a delay in designation of priority non-exclusive use, or relocation of priority non-exclusive parking spaces, is approved in accordance with the procedures of Section 1407, and therefore implemented or effectuated, the Management Review Committee may subsequently, and from time to time, recommend a revision in such delay in designation and/or relocation, and any such recommendation shall be considered for approval, in accordance with the procedures of Section 1407.

b.     [§1404]     Assessment District

(1) The costs of constructing the Common Improvements were financed by the formation by the City of Santa Clara of a special assessment district comprised of all property within the boundaries of the Site. Upon formation of such assessment district, assessments were levied, bonds were sold and the proceeds thereof were used to construct the Common Improvements and liens securing the unpaid assessments were allocated, levied and assessed against Parcels 1, 2 and 3 of the Site in the manner consistent with Section 1405.

Wherever this Lease refers to the capital cost of construction (or constructing) or cost of construction of the Common Improvements (or any of them) or cost to finance construction, such costs shall mean the construction contract(s), all incidental construction costs and adjustments to such costs resulting from change orders necessary to accomplish completion of the Common Improvements.

(2) The cost of constructing the Common Improvements was financed by a combination of assessment district financing and other financing for Agency's share of Common Improvements. Lessee's proportionate share of such cost was determined in a manner consistent with Sections 1405(1) through 1405(8) and Lessee shall pay its share of such cost based on the assessments levied against Lessee's leasehold estate created by this Lease. Agency borrowed money from others to finance Agency's share of the capital cost of construction of the Common Improvements. Notwithstanding that the Agency borrowed money from others as stated above, Lessee's proportionate share of the capital cost of construction of the Common Improvements was not modified, and shall remain as provided in Sections 1405(1) through 1405(8) hereof.

c.     [§1405]     Benefit; Assessments

The cost of constructing the Common Improvements was separately divided or allocated into eight (8) major categories as follows:

(i) Cost to finance construction of the pedestrian bridge over San Tomas Aquino Creek connecting Parcels 4 and 5;

(ii) Cost to finance construction of the paved Surface Parking areas; Permanent Parking Controls which are permanent or fixed signs within the Surface Parking areas and which control the parking for such Surface Parking areas; internal circulation drives to service parking spaces, pedestrian walkways, landscaping, storm drainage facilities or system and light standards, all located within the Surface Parking areas; plus the Ground Level Parking (but excluding Permanent Parking Controls

related thereto which shall be allocated to category (iii) below), it being understood that any costs related to foundations, structural supports, Permanent Parking Controls and other facilities, amenities or improvements to prepare the area of the Ground Level Parking for the Parking Structure shall be allocated to category (iii) below;

(iii) Cost to finance construction of the Parking Structure and Permanent Parking Controls within or related thereto (but on the Site), including, without limitation, related structural costs, utilities and related facilities and amenities and the costs described in category (ii) above to be included hereunder;

(iv) Cost to finance construction of the Hotel-Trade Center Space Frame referred to in Section 1403 hereof;

(v) Cost to finance construction of the Hotel-Entry Space Frame referred to in Section 1403 hereof;

(vi) Cost to finance construction of the special entryway paving, signs (excluding the Site identification sign) and fountains referred to in Section 1403 hereof;

(vii) Cost to finance construction of the two (2) bridges connecting the Parking Structure and the improvements to be located on Parcel 3, which bridges are referred to in Section 1403 hereof;

(viii) Cost to finance Common Improvements not included within categories (i) through (vii) above, including, without limitation, a Site identification sign, Permanent Parking Controls as hereinafter described in Section 1407 (including, without limitation, the underground infrastructure necessary for implementation of a charge or validation system but excluding therefrom the scheduled parking attendants, permanent or fixed signs referred to in (ii) above and the Permanent Parking Controls referred to in (iii) above), fixed Dynamic Parking Controls, utilities, pedestrian walkways, streetscaping, the Main Drive and sidewalks and landscaping within parkways along the public streets adjacent to the Site; excluding however all off site Parking Controls.

Agency and Lessee agree that, except as otherwise provided below in subparagraphs (1) through (8) of this Section 1405, the total assessment levied to finance the Common Improvements was allocated, levied and assessed against Parcels 1 and/or 3 and Lessee shall have no obligations with respect thereto notwithstanding anything to the contrary contained in Section 609 of the Lease.

Agency and Lessee agree that, notwithstanding the actual number or location of parking spaces allocated to Lessee for its priority, nonexclusive use, the portion of the total capital cost of construction of the Common Improvements including the Parking Structure was levied against Parcel 2 as follows:

(1) No portion of the total capital cost of construction levied to finance construction of the pedestrian bridge (as described in subparagraph (i) of this Section 1405) was levied against Parcel 2;

(2) The capital cost of construction of two hundred eighty-nine (289) Surface Parking spaces which is forty-one and twenty-eight one hundredths percent (41.28%) of the total capital cost of construction of the Surface Parking was levied against Parcel 2; forty-one and twenty-eight one hundredths percent (41.28%) of the other improvements described in category (ii) of this Section 1405 (excluding Ground Level Parking) was levied against Parcel 2; and, the capital cost of construction of four hundred fifty-three (453) Ground Level Parking spaces which is eighty-five and thirty-one hundredths percent (85.31%) of the total capital cost of construction of the Ground Level Parking was levied against Parcel 2.

(3) The capital cost of construction of three hundred thirty-nine (339) Structured Parking spaces which is thirty-two and ninety-four one hundredths percent (32.94%) of the total capital cost of construction of the Parking Structure and related facilities as described in category (iii) of this Section 1405 was levied against Parcel 2.

(4) Fifty percent (50%) of the total capital cost of construction of the Hotel-Trade Center Space Frame as described in category (iv) of this Section 1405 was levied against Parcel 2.

(5) No portion of the total capital cost of construction of the Hotel-Entry Space Frame as described in category (v) of this Section 1405 was levied against Parcel 2.

(6) One hundred percent (100%) of the total capital cost of construction of the special entryway paving, sign (excluding the Site identification sign) and fountain directly affecting the Improvements (and zero percent (0%) of the total capital cost of construction of the special entryway paving, sign and fountain affecting the improvements on Parcels 1 and/or 3) as described in category (vi) of this Section 1405 was levied against Parcel 2.

(7) Zero percent (0%) of the total capital cost of construction of the two (2) bridges connecting the Parking Structure and the improvements located on Parcel 3 as described in category (vii) of this Section 1405 was levied against Parcel 2.

(8) Thirty-three and one-third percent (33-1/3%) of the total capital cost of construction of the balance of the Common Improvements identified in category (viii) of this Section 1405 was levied against Parcel 2.

Notwithstanding any provisions of this Lease to the contrary, this Lease provides neither rights nor remedies with respect to the payment of the principal or interest or on the security of any bonds or other obligations that were or may be issued by or on behalf of the City of Santa Clara and/or Agency for the acquisition and construction of the Common Improvements, and further there is no agreement or arrangement, formal or informal, which provides any such rights or remedies with respect to the payment or security of any such bonds or obligations.

At such time as the assessments are fully paid, Lessee shall have no obligation to pay any further monies in connection with the capital costs of the Common Improvements referred to above. Notwithstanding anything to the contrary in Section 609 of the Lease, Agency agrees that any taxes or other Impositions as defined in Section 603 levied or assessed with respect to the Parking Structure shall be paid by Lessee only to the extent of Lessee's proportionate share of the capital costs to construct the Parking Structure as provided herein. It is understood that any assessments levied against Parcel 2 shall be levied against the leasehold estate created by this Lease.

d. [§1406] Alteration of and/or Addition to Common Improvements After Initial Construction

If the Common Improvements are altered pursuant to the terms of Section 1419, or any other improvement permissible under this Lease, including, without limitation, an alteration which adds additional parking spaces or an additional parking structure, Agency agrees that the total amount of any special assessment levied to finance such alteration shall be levied against any portion of the Site over which Agency has control, and no portion of which shall be levied against Parcel 2 or Lessee's leasehold estate hereunder unless Lessee consents in writing to the alteration and/or improvement and the costs to construct same.

It is the intent of Agency and Lessee that the assessment district formed pursuant to Section 1404 construct all Common Improvements including alterations thereto required by any permissible alteration of the Site, and if necessary Agency and Lessee agree to cooperate in formation of supplemental or

additional assessment districts or assessments if necessary for the construction of additional Common Improvements as a result of such alterations to the initial Common Improvements consented to by Lessee.

Notwithstanding the foregoing, if for any reason supplemental or additional assessment districts cannot be formed or bonds awarded or sold therefor in connection with alterations to the Common Improvements resulting from an expansion or other alteration, Lessee or Agency, as the case may be, shall construct such alterations at its sole cost and expense.

2.     [\$1407]     Use of the Common Area and Implementation of the Parking Controls and Charges

The entire Common Area (including the Parking Structure) shall be used to provide utilities access, pedestrian and vehicular access and parking for Lessee and Lessee's guests, invitees, sublessees, their respective guests and invitees, and other authorized users of Lessee's Improvements and for authorized users of other improvements on the Site. The Trade Center Common Area described in Section 105 hereof, consisting of one thousand eighty-one (1,081) Surface, Ground Level and Structured Parking spaces allocated to Parcel 2 as provided for heretofore shall be operated in such a manner as to insure the availability of all such spaces to Lessee's Improvements on a priority, non-exclusive basis. Priority, non-exclusive spaces allocated to Lessee may only be used by authorized users of other improvements on the Site when not in use or not needed for use by Lessee, its guests, invitees, sublessees, their respective guests and invitees and other authorized users of Lessee's Improvements; it being understood that "priority, non-exclusive" shall mean (a) that at peak periods (or anticipated peak periods) of use of the Improvements, as necessary to accommodate the parking requirements of Lessee and its guests, invitees and employees, the parking spaces allocated to Lessee for its priority, non-exclusive use should not be used by persons other than Lessee or its guests, invitees or employees, and (b) that immediately prior to periods of peak demand (i.e., weekends, noon, when a conference or convention is taking place in the improvements on Parcel 3) the parking spaces allocated to Lessee on a priority, nonexclusive basis should be left vacant as necessary to accommodate Lessee's guests and invitees who intend to use the Improvements. All other parking spaces within the Common Area (e.g. other than the Trade Center Common Area comprising Surface Parking, Structured Parking and Ground Level Parking spaces allocated to Parcel 2 for its priority, non-exclusive use) may be used by Lessee, its guests, invitees, sublessees, their guests and invitees and other authorized users of Lessee's Improvements on a non-priority, non-exclusive basis subject however to the priority use thereof (as described in (a) and (b) above) by authorized users of other improvements on the Site.

Lessee's rights to use the parking spaces on the Common Area other than those allocated to Lessee for its priority, nonexclusive use shall be subject to the rights of Agency to develop the Conference Center Area and/or the Hotel Area as expressly provided in Section 1419.

Anything herein to the contrary notwithstanding, Lessee shall have the right, at its sole cost and expense, to institute valet parking or similar such parking service at any time, or from time to time, in the area or areas designated for Lessee's priority, non-exclusive use, and Lessee may conspicuously identify such spaces as "valet" and the like. The operation of any valet parking or similar parking service shall be subject to the reasonable approval of the assessment district or other entity responsible for parking operations on the Site and shall be coordinated so as not to unreasonably interfere with such other parking operations on the Site.

The parties hereto acknowledge that Agency heretofore engaged or caused the engagement of the services of Barton-Aschman Associates, a parking/traffic consultant (as consultant to Creegan and D'Angelo, assessment district engineers) for the purpose of ascertaining the optimum parking requirements and location of such parking on the Site as well as developing a parking control and management plan to insure efficient Site and Parking Structure circulation and availability of parking sufficient to satisfy the demands and requirements of the users of the Site when used as an integrated development.

In connection with its study of the parking requirements and circulation of traffic on and near the Site, Barton-Aschman recommended certain parking control measures be adopted to achieve efficient circulation and to insure the availability of parking to users of the improvements to be developed on the Site. Such measures, as set forth in the memorandum attached hereto as Exhibit F and made a part hereof (the "Parking Study"), contemplate the use of certain parking controls (e.g., fixed directional signs including electronic signs, automatic vehicle counting devices, cashiering stations, ticket printer, dispensers, card readers, cashier booths and regularly scheduled parking attendants and guards) which are to be in effect for normal daily operations of the improvements on the Site (hereinafter referred to as "Permanent Parking Controls") and other dynamic controls (e.g., moveable barriers and barrier placement, special parking attendants and guards, implementation of adjustable gates, special directional signs, implementation of electronic signs (if available) and other similar methods or controls) (hereinafter referred to as "Dynamic Parking Controls"). The Dynamic Parking Controls are those measures or controls necessary or desirable to (a) assure the availability of parking spaces allocated to Lessee; (b) eliminate, alleviate or prevent traffic congestion on the Site (especially at or near the entrance to the Improvements); (c) protect and preserve

access to the Improvements by users of same; and (d) route, reroute or direct users of the Convention Center onto the Site through entrances and exits located only on Tasman Drive as illustrated on the Site Map attached hereto as Exhibit A-2 and to route, reroute and direct users of the Convention Center to use the east entrance to the Parking Structure when there is an event or activity taking place at the Conference Center ((a) through (d) above being collectively referred to as "Parking Goals").

The Permanent Parking Controls and the Dynamic Parking Controls shall be activated by Agency without notice, whenever necessary (or reasonably foreseen to be necessary), and to the extent necessary, to accomplish the Parking Goals referred to above. Such Permanent Parking Controls and Dynamic Parking Controls shall also be activated at any other time Lessee reasonably determines they are necessary and so notifies Agency.

In connection with any management or parking attendants or guards whose cost is to be borne in whole or in part by Lessee, the type and quality of the service to be provided and the cost of such service shall be subject to Lessee's reasonable approval.

Lessee and Agency hereby agree to adopt the Permanent Parking Controls and Dynamic Parking Controls (collectively sometimes referred to as "Parking Controls") described in the Parking Study referred to above and shall incorporate such Parking Controls into the operation and management of the Common Area to the extent such Parking Controls are effective in satisfying the Parking Goals referred to above. If, however, initial development of the Site and full use thereof having been accomplished, the Parking Controls are determined by Lessee, the lessee of Parcel 1, or Agency to be inadequate or ineffective, such parties shall exercise good faith efforts to agree upon alternative or additional methods or means of controlling parking to satisfy the Parking Goals described herein. Such good faith efforts may include contracting with or retaining Barton-Aschman Associates or other parking and/or traffic consultants to provide suggestions or recommendations for maximizing usage of the Common Area, assuring the availability of parking as provided herein and satisfying the Parking Goals referred to above. Such additional costs incurred in connection with the hiring of Barton-Aschman Associates or other parking and/or traffic consultants shall be shared on an equal basis among Lessee, the lessee of Parcel 1 and Agency.

The adequacy and effectiveness of the Parking Controls described above shall be continuously reviewed by a Management Review Committee composed of Lessee, the lessee of Parcel 1 and Agency. The Management Review Committee shall meet not less than once every year, completion of the initial development of the Site (i.e., prior to expansion of the Hotel) having been accomplished, for the purpose of reviewing the operation and management of the Common Area and to make recommendations as to the manner in which



the Common Area can be more efficiently and effectively operated and managed. Recommendations shall be made by a unanimous decision of the Management Review Committee or, if not unanimous, by Barton-Aschman Associates or other traffic and/or parking consultant (hired by Lessee, the lessee of Parcel 1 and Agency). The applicable parties shall exercise good faith efforts to review and consider any recommendation. A recommendation shall be implemented or effectuated if approved in writing by either (i) the concurrence of Lessee, the lessee of Parcel 1 and Agency, or (ii) the concurrence of any one of the persons or entities described in (i) above and Barton-Aschman Associates or other traffic and/or parking consultant hired by the applicable parties. Any traffic and/or parking consultant, other than Barton-Aschman Associates, requested to be retained as provided herein, shall be mutually approved by Lessee, the lessee of Parcel 1 and Agency. The cost of such consultant or Barton-Aschman Associates shall be borne equally by Lessee, the lessee of Parcel 1 and Agency. Nothing stated herein is intended or shall be construed to reduce or eliminate the obligation of Agency to utilize and activate the Dynamic Parking Controls as provided herein or to operate the Site in such a manner as to assure Lessee's use of the priority spaces allocated to Lessee.

Until regularly scheduled parking attendants are available to assist in achieving the Parking Goals, Lessee or its employees shall be authorized by Agency to enter onto Parcel 4 as necessary to achieve the Parking Goals, subject to the direction of Agency or other operator of the parking areas.

The Common Improvements, together with the Parking Controls, shall be designed to permit a charge or validation system of parking to be instituted. The parties hereto acknowledge and agree that a charge or validation system, as a Permanent Parking Control (including, without limitation, the underground infrastructure constructed concurrently with the construction of other Common Improvements and the above-ground infrastructure (i.e. ticket printers, card readers, cashiering stations) to be constructed at such time as the charge or validation system is implemented or instituted), may become necessary in the future as a means of assuring Lessee's use of the priority, non-exclusive spaces allocated to Lessee; however, such system shall not be implemented initially and shall not be considered or implemented (pursuant to the Management Review Committee, or traffic consultant, recommendation process described above) as a means of insuring the respective parties the use of the priority, non-exclusive spaces allocated to such parties, until a history of operating the Common Area proves that such system is necessary.

Agency constructed and installed the off-site Parking Controls recommended by the Parking Study concurrently with completion of the Common Area. All capital costs of constructing and installing the off-site Parking Controls were borne solely by Agency or

others; it being understood that Agency was responsible for the payment of such capital costs. Lessee has no responsibility for the payment of the capital costs of construction and installation of the off-site Parking Controls.

In the event of a dispute or controversy with respect to parking or traffic circulation, or the effectiveness of the Parking Controls, or any other use of the Common Area, then Lessee and Agency shall submit such dispute or controversy to arbitration pursuant to the terms of Section 1213 hereof.

3. [§1408] Maintenance and Operation of the Common Area

a. [§1409] Manner

The Common Area shall be cleaned, repaired and maintained in a first-class manner.

b. [§1410] Responsibility

Lessee, Agency and the lessee of Parcel 1 shall have the joint responsibility to arrange for the cleaning, repairing, maintenance and replacements to the Common Area (including, without limitation, the Parking Structure), which shall be performed through an assessment maintenance district, unless Agency, Lessee and the lessee of Parcel 1 agree to a separately created association formed by Agency, Lessee, and the lessee of Parcel 1 or other independent entities chosen and approved by Lessee, Agency and the lessee of Parcel 1. If an assessment maintenance district cannot be formed and if the parties cannot agree upon any of the foregoing substitute procedures, Agency, Lessee and the lessee of Parcel 1 shall prepare specifications for the contract for such cleaning, repairing and maintenance of the Common Area and offer the same for bidding by financially responsible parties and Lessee may bid upon such contract.

Not more than ninety (90) days nor less than thirty (30) days prior to the end of each calendar year (or fiscal year of Agency, at Agency's election), completion of the Common Improvements having been accomplished, Agency shall deliver to Lessee for its approval (which approval shall not be unreasonably withheld) a budget of the estimated Common Area costs (as described in subparagraphs (iv), (v), (vi) and (vii) of Section 1411 to be incurred in the following calendar year (or fiscal year, as applicable). The budget shall contain a line item for each category of Common Improvements referred to in Sections 1405(i) through (viii) and the corresponding estimated costs (as described in paragraphs (iv), (v), (vi) and (vii) of Section 1411) allocable to each category. Concurrently with the delivery of the aforementioned budget, Agency shall deliver to Lessee for its approval (which approval shall not be unreasonably withheld) an estimate of Lessee's proportionate

share of the Common Area expenses based on the percentage allocations referred to in Section 1411 below. The budget and estimate of Lessee's proportionate share of Common Area expenses (completion of the Common Improvements having been accomplished) shall be approved or disapproved by Lessee within fifteen (15) days following receipt of same. In the event Lessee does not approve or disapprove, in writing, the budget and estimated cost allocation, within the fifteen (15) day period stated above, such budget and estimated cost allocation shall be deemed approved by Lessee.

Any expense for maintenance of the Common Improvements, insurance, utilities and other operating costs (as provided in subparagraphs (iv), (v), (vi) and (vii) of Section 1411) in excess of the amounts therefor set forth in the approved budget shall be submitted to Lessee for its approval. If Lessee does not approve such expense, the parties agree to work together, in good faith, to reduce the cost of such item(s) so as to not exceed the approved budget.

c. [§1411] Payment of Costs After Initial Construction of the Common Improvements

All costs of cleaning, repairing and maintaining of the Common Area, replacements to the Common Area, restoration of the Common Improvements, operation of the Common Area and implementation of Permanent Parking Controls, initial construction of the Common Improvements having been accomplished, shall be shared by Lessee, Agency and the lessee of Parcel 1 in the manner described below. Agency and Lessee agree that the costs of cleaning, repairing, maintaining, replacing and operating the off-site Parking Controls shall be borne solely by Agency, or others, and Lessee shall have no responsibility for the payment thereof.

Agency and Lessee agree to exercise their best efforts to separately divide or allocate the Common Area costs incurred by the respective parties, initial construction of the Common Improvements having been accomplished, into seven (7) major categories as follows:

(i) Modifications and/or corrections to any Common Improvement designed to improve the utility and functioning of such Common Improvement and construction of the above-ground infrastructure and facilities for the charge or validation system not previously completed if approved pursuant to the terms of Section 1407; it being understood that any modifications or corrections to the Common Improvements shall not increase the allocation of actual costs to be borne by Lessee unless Lessee approves such modification and/or correction and the costs related to same;

(ii) Additions to the Common Improvements not included within subcategory (i) above, which additions (and costs of same) must be approved by Lessee, the lessee of Parcel 1 and Agency;

(iii) Capital repairs, replacements or restoration; it being understood that restoration or replacement of any Common Improvement shall not be undertaken or commenced until Lessee, the lessee of Parcel 1 and Agency have approved, in writing, the replacement or restoration work to be performed and the cost of same;

(iv) Routine maintenance, non-capital repairs and cleaning (including, without limitation, costs of maintenance personnel, tools, equipment, materials, supplies and rentals of tools and equipment used or consumed in connection with the Common Improvements);

(v) Insurance;

(vi) Utilities (including, without limitation, water, electricity and gas used in connection with Common Areas but excluding utilities servicing the Hotel, Trade Center and Convention Center); and

(vii) The cost of operating the Parking Controls and the costs of management related thereto.

It is the intent of Agency and Lessee that the assessment district formed pursuant to Section 1404 construct all Common Improvements referred to in subcategories (i), (ii) and (iii) above (unless the cost thereof is too little to make such financing economically efficient), and if necessary Agency and Lessee agree to cooperate in formation of supplemental or additional assessment districts or assessments if necessary for the construction of such Common Improvements.

Agency and Lessee agree that, except as otherwise provided below in subparagraph (1) through (7) of this Section 1411, the total assessments levied to finance the Common Area costs referred to above shall be allocated, levied or assessed against Parcels 1 and/or 3 (or shall be borne by Agency and/or the lessee of Parcel 1, as they shall agree) and Lessee shall have no obligations with respect thereto.

Agency and Lessee agree that, notwithstanding the actual number or location of parking spaces allocated to Lessee for its priority, nonexclusive use, the portion of the Common Area costs incurred, initial construction of the Common Improvements having been accomplished, shall be levied against Parcel 2 as follows:

(1) That percentage of the cost of modifications and/or corrections to a Common Improvement referred to in subcategory (i) above equal to the same proportion as Parcel 2 had originally borne the costs of construction of that element of the Common Improvements being modified or corrected;

(2) That percentage of the costs of other additions to the Common Improvements referred to in subcategory (ii) above as Lessee, lessee of Parcel 1 and Agency shall agree;

(3) That percentage of the costs of capital repairs, restoration and replacements referred to in subcategory (iii) above equal to the same proportion as Parcel 2 had originally borne the costs of construction of that element of the Common Improvements being repaired, restored or replaced;

(4) That percentage of the costs of routine maintenance, non-capital repairs and cleaning of the Common Area referred to in subcategory (iv) equal to the percentage that the portion of the initial capital costs allocated to Parcel 2 for construction of all elements of the Common Improvements bears to the total, initial capital costs of construction of all elements of the Common Improvements;

(5) Cost of insurance shall be allocated in the manner provided in Section 1414;

(6) That percentage of the costs of utilities referred to in subcategory (vi) above equal to the percentage that the portion of the initial capital costs allocated to Parcel 2 for construction of all elements of the Common Improvements bears to the total, initial capital costs of construction of all elements of the Common Improvements;

(7) (a) Until a charge or validation system is instituted as provided in Section 1407, the costs of operating and implementing the Dynamic Parking Controls and management costs related thereto shall be shared by Agency, Lessee and the lessee of Parcel 1 in proportion to their comparative fault in causing the Dynamic Parking Controls (and such management costs) to be implemented. Lessee, the lessee of Parcel 1 and/or Agency, as the case may be, shall be deemed at fault in causing the Dynamic Parking Controls (and such management costs) to be implemented if, as a result of activities generated at their respective improvements, more parking spaces are required for the use of Lessee, lessee of Parcel 1 and/or Agency, as the case may be, than are allocated to that party on the Site on a priority basis. Provided, however, that if there is an event at the improvements on Parcel 3 utilizing more than 25,000 square feet (exclusive of use of the Ballroom by the lessee of Parcel 1), then it shall be presumed that Agency alone has caused the need for implementation and operation of the Dynamic Parking Controls (and management

costs) except to the extent Agency can prove the comparative fault of Lessee.

(b) Until a charge or validation system is instituted as provided in Section 1407, the costs of operating and implementing the Permanent Parking Controls shall be shared by Agency, Lessee and the lessee of Parcel 1 in proportion to the number of parking spaces on the Site then allocated to each party on a priority basis.

(c) At such time as a charge or validation system is recommended by the Management Review Committee or a parking and/or traffic consultant (including Barton-Aschman Associates) and such recommendation is approved as provided in Section 1407 hereof, the cash revenues generated from the operation of the parking within the Common Area (including, without limitation, the Parking Structure) shall first be applied to the cost of operating the Parking Controls (including such charge or validation system) and management related thereto; and, the remainder of any such cash revenues if any, shall be distributed to Lessee, the lessee of Parcel 1 and Agency as hereinafter set forth in Section 1412. If, at the end of each fiscal year (or other period mutually agreed to), the revenues generated from the operation of the parking within the Common Area are less than the costs and expenses of operating the Parking Controls (including such charge or validation system) and management related thereto, the shortfall for such activities existing as of the end of such fiscal year (or other period mutually agreed to) shall be borne by Agency. It is understood by the parties hereto that "cash revenues" as referred to in this paragraph are receipts from persons or entities and that guests, invitees, licensees, concessionaires, agents and employees of Lessee may be validated as more particularly described in Section 1412 for use of parking spaces within the Common Area (including the Parking Structure) and cash collected directly or indirectly by Lessee, Agency, or the lessee of Parcel 1 for such validations shall not be deemed "cash revenues".

The Assessment District, or the parties, as the case may be, shall use their best efforts to allocate the Common Area costs referred to in Section 1411(i) through (vii) in the manner provided above and shall direct the district's accountants and engineers to fairly allocate in good faith such of the above costs which cannot reasonably be directly determined by inspection of the district's or parties' records.

d. [\$1412] Distribution of Net Cash Revenues

At the end of each fiscal year (or other period mutually agreed to), an amount equal to the remainder of the cash revenues from parking defined in Section 1411(7)(c) (after paying the costs described in Section 1411(7)(c)) plus the value of all validations made by Lessee, lessee of Parcel 1 and Agency and collected with

respect to parking on the Common Area, shall be distributed to Lessee, the lessee of Parcel 1 and Agency in the same proportion that the number of parking spaces on the Common Area allocated to each such entity for priority use, bears to the total number of such parking spaces on the Common Area. Such distribution shall be made by first crediting to each such entity the value of validations made by each such entity and then paying to each such entity (from the remainder of the cash revenues) such amount as is necessary to equal its allocable share of the aggregate value of cash revenues and validations as described above; provided, however, if the amount of cash available for such distribution is less than the total amount of cash otherwise owed to all entities, then the cash actually available shall be distributed to each entity pro rata in proportion to its respective entitlement to cash (after crediting the value of validations). It is understood that if any entity's validations exceed its pro rata share of the aggregate value of cash and validations, such entity shall have no obligation to make any contributions to the other entities nor shall such excess be carried over to subsequent fiscal years. The value of validations shall initially be set to be the same value as paid parking for the same durations.

It is the intent of Agency and Lessee that the net cash parking revenues after fair and equitable adjustment for the effect of validations be distributed generally in approximate proportion to the number of parking spaces on the Common Area allocated to each entity for priority use. In the event a substantial variation from this principle is experienced in the operations of the charge or validation system, then Agency or Lessee or the lessee of Parcel 1 may seek an equitable adjustment of the charge and validation and/or parking revenue distribution from the Management Review Committee in accordance with the procedures for revision of the operation and management of the Common Area set forth in Section 1407 of this Lease.

Nothing herein shall be construed to prevent Lessee, the lessee of Parcel 1 or Agency from charging the users of their respective improvements on Parcels 1, 2 or 3, as the case may be, for parking on the Common Area, either when an overall charge or validation system as described above has not been implemented or concurrently therewith. The cost of operating such a separate charge system shall be borne by the entity implementing it, and all revenues derived therefrom shall be retained by the entity implementing the charge system as its property and shall not be considered "cash revenues" for the purposes of Section 1411(7)(c) or for distributions under this Section 1412. Any such separate charge system implemented concurrently with an overall charge or validation system as described above shall be operated so as not to interfere with the purpose of the overall charge or validation system to control parking (and not to generate revenues).

An example of the application of the foregoing provisions is set forth in the "Distribution of Cash Revenues from Parking" (attached hereto and incorporated herein as Exhibit G).

e. [§1413] Supplemental Spaces

Agency has constructed or provided, or caused to be constructed or provided, off the Site, at no cost to Lessee, two hundred eighty-one (281) additional surface and/or structured parking spaces. The 281 spaces, together with the additional parking spaces to be constructed or provided by Agency upon expansion of the Improvements onto Parcel 1A as described below, shall collectively be referred to as "Supplemental Spaces".

In the event the lessee of Parcel 1 elects to expand its improvements onto Parcel 1A, Agency agrees to provide or construct, or cause to be provided or constructed, at no cost to Lessee, additional surface and/or structured parking spaces equal to the number of additional structured parking spaces in the Parking Structure allocated to the lessee of Parcel 1 as a result of such expansion. The Supplemental Spaces referred to in this paragraph shall be completed not later than the date expansion onto Parcel 1A is completed.

All Supplemental Spaces shall be located off-site in an area sufficiently convenient to the Conference Center to assure that there will be no interference with Lessee's priority use of the Trade Center Area as provided in Section 1407.

The Supplemental Spaces shall be operated and maintained by Agency or others at no cost to Lessee. Agency shall have priority, non-exclusive use of such Supplemental Spaces and such Supplemental Spaces may be used by authorized users of other improvements on the Site (i.e. improvements other than the Conference Center constructed on Parcel 3) only when not in use or not needed for use by Agency, its guests, invitees, sublessees, their guests and invitees and other authorized users of Agency's improvements on the Site.

Agency may implement a charge or validation system in the area in which the Supplemental Spaces are to be located whether or not a charge or validation system is implemented with respect to Parcel 4, and in such event all revenues derived from the charge or validation system implemented with respect to such Supplemental Spaces shall belong to Agency, all expenses incurred in connection with such Supplemental Spaces shall be borne by Agency, and validations shall be excluded from any consideration related to parking on Parcel 4. Guests, invitees, licensees, concessionaires, agents and employees or other authorized users of Lessee's Improvements may be validated in lieu of charge for use of the Supplemental Spaces if Lessee establishes a system for such validation in cooperation with Agency.



4.     [§1414]     Insurance

a.     [§1415]     Insurance Coverage

Agency shall, during the Lease Term procure and keep in force with respect to the Common Area, for the benefit of Agency and Lessee, the same type of insurance required to be (but not voluntarily) maintained by Lessee pursuant to paragraphs 1, 2 and 4 of Section 1002 of this Lease, or as may otherwise be agreed in writing by Lessee and Agency; provided, however, that with respect to the Parking Structure only, Agency shall procure earthquake insurance to the extent available on commercially reasonable terms (including a premium not exceeding \$.50 per \$100 of replacement cost of the Parking Structure). The policies of insurance to be maintained hereunder shall include Lessee and Lessee's leasehold mortgagee as additional insureds. Such insurance shall be in coverages and amounts consistent with the requirements of paragraphs 1 (but including earthquake insurance also to the extent set forth above), 2 and 4 of Section 1002, and shall meet the requirements of Sections 1003 and 1004 to the extent comparable to the Common Area. If Agency fails to maintain such insurance, Lessee shall have the right at its election to procure and maintain the insurance described above for the benefit of Lessor and Agency, and may recover from Agency, Agency's portion of the premium for such insurance.

b.     [§1416]     Insurance Costs

The costs and premiums for the insurance coverage described in Section 1415 shall be divided into two categories: (i) casualty insurance and (ii) all other insurance (including, without limitation, liability insurance). With respect to the casualty insurance referred to above, the portion of the costs and premiums of such casualty insurance to be borne by Lessee shall be equal to the percentage that the portion of the initial capital costs allocated to Parcel 2 for construction of the Common Improvements covered under the casualty insurance policy bears to the total, initial capital costs of construction of all those Common Improvements covered under the casualty insurance policy. With respect to all other insurance (including, without limitation, liability insurance), the portion of the costs and premiums of such other insurance to be borne by Lessee shall be equal to the percentage that the portion of the initial capital costs allocated to Parcel 2 for construction of all elements of the Common Improvements bears to the total, initial costs of construction of all elements of the Common Improvements.

Agency and Lessee agree that, except as otherwise provided above, the costs and premiums for the insurance coverage described in Section 1415 shall be allocated or borne by Agency and/or the lessee of Parcel 1, and Lessee shall have no obligation with respect thereto.

c.     [§1417]     Use of Proceeds

If the Common Area including the Common Improvements is damaged or destroyed in whole or in part from any cause (except condemnation) all damaged or destroyed portions shall be rebuilt or restored by Agency, and any and all insurance proceeds shall be applied against the cost of rebuilding or restoring. In the event the insurance proceeds are insufficient to rebuild or restore, Agency, Lessee, and the lessee of Parcel 1 shall share the excess cost of rebuilding in the same ratio, as such ratios may be amended following expansion, as provided in Section 1411(iii) and 1411(3). It is the intent of Agency and Lessee that the assessment district formed pursuant to Section 1404 construct all Common Improvements referred to in this paragraph (unless the cost thereof is too little to make such financing economically efficient), and if necessary Agency and Lessee agree to cooperate in formation of supplemental or additional assessment districts or assessments if necessary for the construction of such Common Improvements.

All proceeds of insurance with respect to loss or damage to the Parking Structure and other Common Area improvements to be maintained pursuant to Section 1410 shall be payable under the provisions of the policy of insurance jointly to Lessee, Agency and the lessee of Parcel 1, except as provided below, and said proceeds shall constitute a trust fund to be used for the repair, restoration or reconstruction of such improvements in accordance with the provisions of this Section 1417. At the request of either Lessee, the lessee of Parcel 1, or Agency with respect to any particular casualty resulting in damage or destruction exceeding One Hundred Thousand Dollars (\$100,000) in the aggregate, such proceeds shall be payable to a bona fide institutional lender as trustee, selected by Agency and approved by Lessee and the lessee of Parcel 1 to be held and disbursed in a manner consistent with this Article XIV and subject to such conditions as are customarily imposed by such trustees.

d.     [§1418]     Indemnification re: Common Area

Agency and Lessee hereby mutually agree to indemnify and hold the other, their respective contractors, agents, servants, officers and employees harmless for loss or damage, including property damage (subject to the waiver of right of recovery set forth below), personal injury, or wrongful death, arising out of or in connection with their respective wrongful, willful or negligent acts or omissions or the wrongful, willful or negligent acts or omissions of their respective contractors, agents, servants, officers or employees in the use of the Common Area. This indemnity shall not apply to loss or damage caused by guests or invitees.

Lessee and Agency hereby mutually waive any claim against the other, and their respective agents and contractors for any property damage to the Common Area covered by insurance of the type referred to in Section 1415, to the extent such waiver does not prejudice coverage under the insurance policy, and Agency shall obtain from the insurance company or companies that issue the insurance pursuant to Section 1415, if available from such company or companies, a waiver of any right of subrogation that it may have against Lessee or Agency.

B.     [§1419]     Use and Development of the Site; Development Conditions and Requirements

So long as this Lease remains in effect Agency covenants and agrees for itself and its successors in interest to the property constituting the Site (or any portion thereof) that improvements on and development of the Conference Center Area and the Hotel Area, each as shown on the Map of Development Areas, Exhibit A-3, shall comply with the following conditions and requirements:

(a) All improvements and development on the Hotel Area and the Conference Center Area, which Agency or its successors in interest to the property (or any portion thereof) may undertake, at no cost to Lessee, at any time without the consent of Lessee except as set forth in paragraphs (e) and (f) below, shall comply with the conditions and requirements set forth in paragraphs (b) through (h) below as applicable.

(b) All improvements and development shall be constructed and maintained in first class condition, shall be designed and developed as an integrated part of the overall development of the Site and in a manner which will insure that each new improvement is complimentary to each of the existing buildings, and shall have architectural excellence, individually as well as in the context of a total complex. The open spaces around any building or structure shall be designed, landscaped and developed with the same degree of excellence. The design and development of public and private improvements shall sensitively blend together for continuity. Particular attention shall be paid to pedestrian activities, mass, scale, bulk, color and materials.

(c) All improvements and development shall be for uses compatible with Lessee's Improvements and shall be operated in such first class manner as is consistent with the physical condition in which they are required to be maintained.

(d) In the event of development of the Hotel Area for uses other than as contemplated by the Hotel Ground Lease and/or development of the Conference Center Area for uses other than conference/convention center facilities (as contemplated by the Hotel Ground Lease) then there shall be provided for such development, at no cost to Lessee (for use, construction,

maintenance or restoration), sufficient parking spaces (but not more than the number of parking spaces required by then current zoning laws or other municipal codes for the uses developed, as would be required of any private developer, without a variance and without counting parking spaces within the Trade Center Common Area) on the Conference Center Area or Hotel Area if available or off the Site within the vicinity of the Site, to assure that there will be no interference with Lessee's priority use of the Trade Center Common Area as provided in Section 1407.

(e) Agency constructed, or caused construction of, the Parking Structure. Agency shall not make, or permit to be made, any alterations, changes, or additions to the Parking Structure, or change the location of the Parking Structure, or any portion thereof, without Lessee's prior written approval (which approval shall not be unreasonably withheld). In the event Lessee consents to the making of alterations, changes or additions to the Parking Structure, or change in the location of the Structure, the same shall be done in accordance with plans and specifications approved by Lessee and subject to the following requirements: (i) Agency strictly complies with the terms of paragraph (f) below, (ii) the number of spaces available to Lessee on a priority, non-exclusive basis following the alteration or change are greater than or equal to the number of spaces allocated to Lessee for its priority, non-exclusive use under Section 1403 of this Lease, (iii) Agency shall not be relieved of its obligation to provide the additional structured parking spaces (as described in Section 1413) upon expansion of the improvements onto Parcel 1A, (iv) if the location of the Parking Structure is changed, the distance between the Parking Structure and the Trade Center following the change in location is comparable to the distance between the Parking Structure initially constructed and the Trade Center, and (v) the change or alteration of the Parking Structure and subsequent costs to maintain and operate the Parking Structure are at no additional cost to Lessee.

(f) No improvement or development shall alter or change the Trade Center Common Area, the Parking Structure in which Lessee's priority spaces are located, access, (including all circulation and service roads) or utilities access for Lessee's Improvements and the Parking Structure, except with the written consent of Lessee, which shall not be unreasonably withheld, but which Lessee may withhold if such changes or alterations would impair the utility, economic benefit, access, aesthetics, views or parking for the Improvements. Lessee shall continue to be entitled to priority use of the Trade Center Common Area in the same manner as provided by Section 1407. Parking controls shall continue to be implemented as provided in Section 1407.

(g) No improvements or development shall change or alter the Main Drive (as initially constructed) or impair Lessee's rights to use the Main Drive (as initially constructed) unless that portion thereof giving access to Great America Parkway remains

subject to use by Lessee with no material adverse effect on access to and from Parcel 2 and Great America Parkway, and Agency reimburses Lessee for Lessee's share of the costs of constructing the balance of the Main Drive including the unamortized capital improvements made thereto.

(h) Maintenance costs of the Common Area shall be adjusted in the manner described in Section 1420 in the event of any development of the Hotel Area for uses other than as contemplated by the Hotel Ground Lease and/or development of the Conference Center Area for uses other than conference/convention center facilities as contemplated by the Hotel Ground Lease. No such improvements or development shall increase any costs or expenses (including assessments) payable by Lessee in connection with the construction, operation or maintenance of the Common Area or improvements thereon without the consent of Lessee in its discretion.

C.     [\$1420]     Procedure for Alternate Site Development

1. In connection with construction, maintenance and operation of the entire Common Area and Common Improvements, Sections 1401 through 1418 (inclusive) and references therein to Parcels 1, 3 and 4 and the Common Area, and references elsewhere in this Lease to Parcels 1, 3 and 4 and the Common Area and Common Improvements assume that the Site will be subdivided as shown on the Site Map and that Parcels 1, 2 and 3 will be developed in a manner accommodating shared parking on Parcel 4. Agency is under no obligation to Lessee under this Lease to develop and/or use the Hotel Area or the Conference Center Area in the manner so assumed or in any other particular manner, or to continue such development and/or use if initially made, except Agency shall be obligated to comply with the conditions and requirements of Section 1419 concerning improvements and development of the Hotel Area and the Conference Center Area and paragraph 2 below. During any period when the entire Site is subdivided as so assumed and all of Parcel 4 is available for Common Area (except Parcel 1A when used for expansion purposes as described in the Hotel Ground Lease), the provisions of Sections 1401 through 1418 hereof (inclusive) and references therein to Parcels 1, 3 and 4 and the Common Area, and references elsewhere in this Lease to Parcels 1, 3 and 4 and the Common Area and Common Improvements shall govern.

2. In the event Agency subdivides or transfers or encumbers the Hotel Area and/or the Conference Center Area (or any portion of either) or develops or uses or permits the development or use thereof (to the extent permitted by this Lease) resulting in uses other than initially contemplated for initial construction of the entire Site under this Lease and the Hotel Ground Lease, all of which Agency may do at any time without any consent of Lessee being required, except as expressly provided otherwise in this Lease, then: (1) Agency and Lessee shall establish terms for the

construction, maintenance, use, operation, insurance, repair and replacement of the Trade Center Common Area (including the Parking Structure, if applicable, and the Parking Controls) and access thereto (including access to Great America Parkway over the Main Drive) identical to those set forth in this Lease including Sections 1401 through 1418 to the extent applicable, and otherwise comparable under the circumstances, including the principles that Lessee shall bear such portion of the costs (for construction, maintenance, operation, insurance, repairs and replacements) of any shared common area to the extent (and only to the extent) such costs are attributable to the Trade Center Common Area; and (2) any development and use of the Site, and each portion thereof, shall comply with the conditions and requirements set forth in Section 1419.

REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA (Agency)

Date: 5/13/98

By: Jennifer Sparacino  
Jennifer Sparacino  
Executive Director

CARRAMERICA TECHMART, L.L.C.,  
a Delaware limited liability company  
(Lessee)

By: CARRAMERICA REALTY CORPORATION, a  
Delaware corporation,  
Its Managing Member

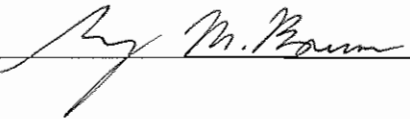
Date: 5/12/98

By: Robert G. Stuckey  
Name: Robert G. Stuckey  
Title: Chief Investment Officer

Date: 5/12/98

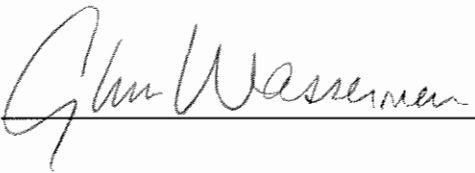
By: Karen B. Dorigan  
Name: Karen B. Dorigan  
Title: Senior Vice President

APPROVED AS TO FORM AND  
LEGALITY:  
MICHAEL R. DOWNEY  
Agency General Counsel

By: 

Date: 5/13/98

APPROVED:  
KANE, BALLMER & BERKMAN  
Agency Special Counsel

By: 

Date: 5-5-98

DISTRICT OF COLUMBIA, to wit:

On May 12, 1998, before me, Diana C Pratts,  
personally appeared Robert G. Stuckey, personally known to  
me (or proved to me on the basis of satisfactory evidence) to be the person whose name is  
subscribed to the within instrument and acknowledged to me that he/she executed the  
same in his/her authorized capacity, and that by his/her signature on the instrument the  
person, or the entity upon behalf of which the person acted, executed the instrument.

GIVEN under my hand and seal this 12 day of May, 1998

Diana C Pratts  
Notary Public

My commission expires: My Commission Expires March 14, 2003

DISTRICT OF COLUMBIA, to wit:

On May 12, 1998, before me, Diana C. Pratts  
personally appeared Karen B. Derigan, personally known to  
me (or proved to me on the basis of satisfactory evidence) to be the person whose name is  
subscribed to the within instrument and acknowledged to me that he/she executed the  
same in his/her authorized capacity, and that by his/her signature on the instrument the  
person, or the entity upon behalf of which the person acted, executed the instrument.

GIVEN under my hand and seal this 12 day of May, 1998

Diana C Pratts  
Notary Public

My commission expires: My Commission Expires March 14, 2003



State of California

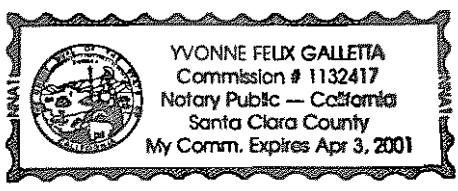
County of Santa Clara

On May 13, 1998, before me, Yvonne Felix Galletta, Notary Public  
personally appeared Jennifer Sparacino, 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.

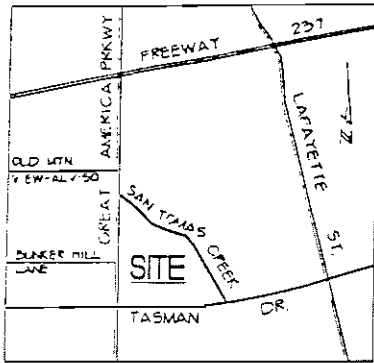
WITNESS my hand and official seal.

Yvonne Felix Galletta  
Notary's Signature

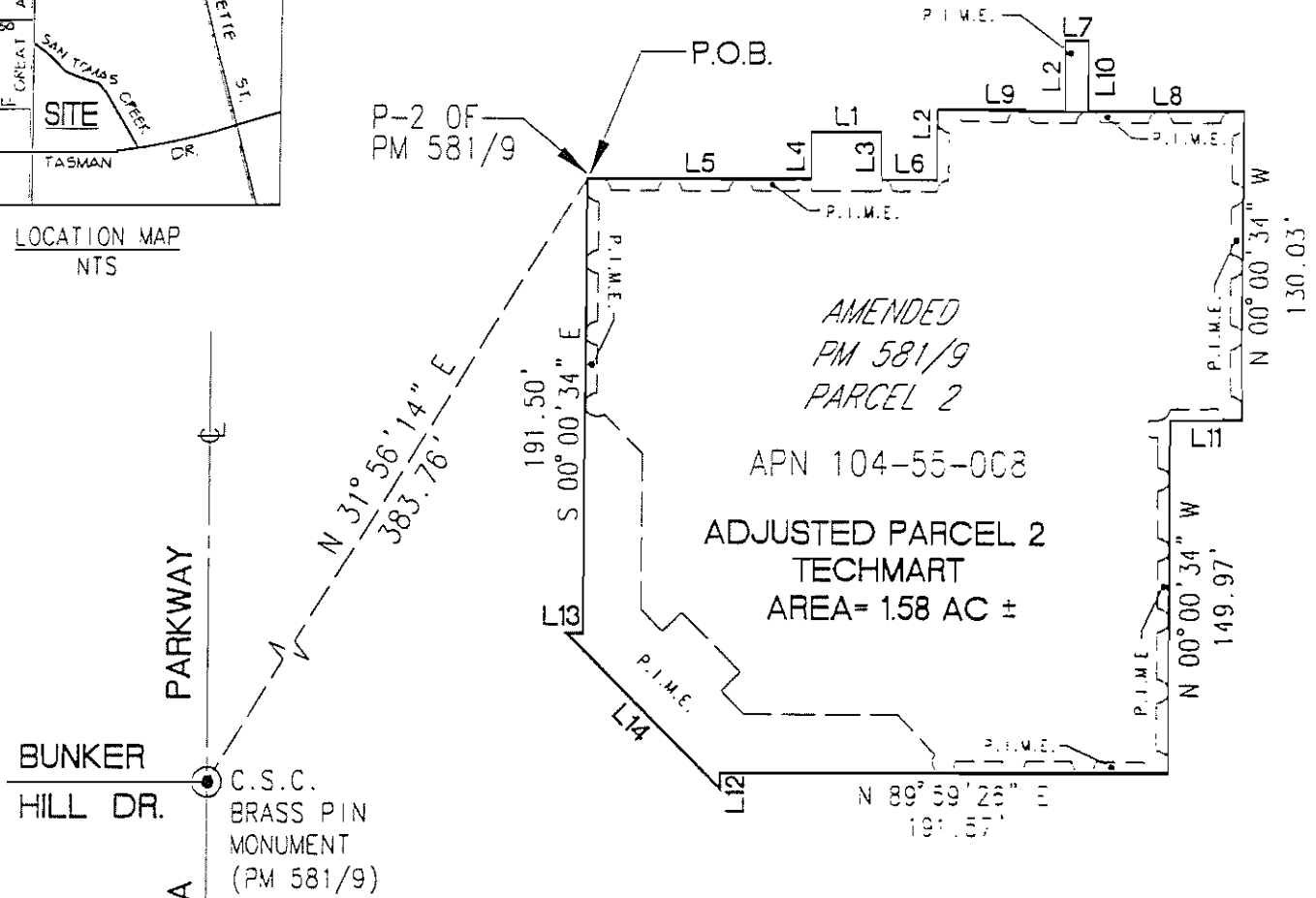
(SEAL)



Map of Parcel 2



LOCATION MAP  
NTS



LINE TABLE:

LINE	BEARING	DISTANCE
L1	S 89° 59' 26" W	30.00'
L2	S 00° 00' 34" E	30.00'
L3	N 00° 00' 34" W	20.00'
L4	S 00° 00' 34" E	20.00'
L5	S 89° 59' 26" W	94.96'
L6	S 89° 59' 26" W	25.00'
L7	S 89° 59' 26" W	10.00'
L8	S 89° 59' 26" W	63.04'
L9	S 89° 59' 26" W	53.00'
L10	N 00° 00' 34" W	30.00'
L11	N 89° 59' 26" E	29.93'
L12	N 00° 00' 34" W	7.00'
L13	S 89° 59' 26" W	7.00'
L14	S 45° 00' 34" E	92.63'

NOTE:

P. I. M. E. — PUBLIC IMPROVEMENT AND MAINTENANCE EASEMENT

I:\ENGINEER\DRAWING\CAD\LPD\HUNG\10711-A.DWG

Revised		2-19-98
Drawn By	HL	12-4-97
Checked By	<i>[Signature]</i>	2-23-98
Approved By	<i>[Signature]</i>	Date 2-23-98

BRUCE C. AUGASON  
CITY ENGINEER

CITY OF SANTA CLARA

TECHMART PLAT

(Page 1 of 1)

Scale 1" = 80'

Ref. SC 17,295

Tracing No. 10,711-A

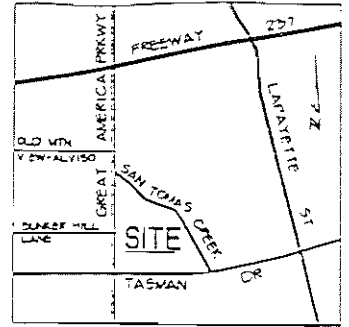
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Site Map

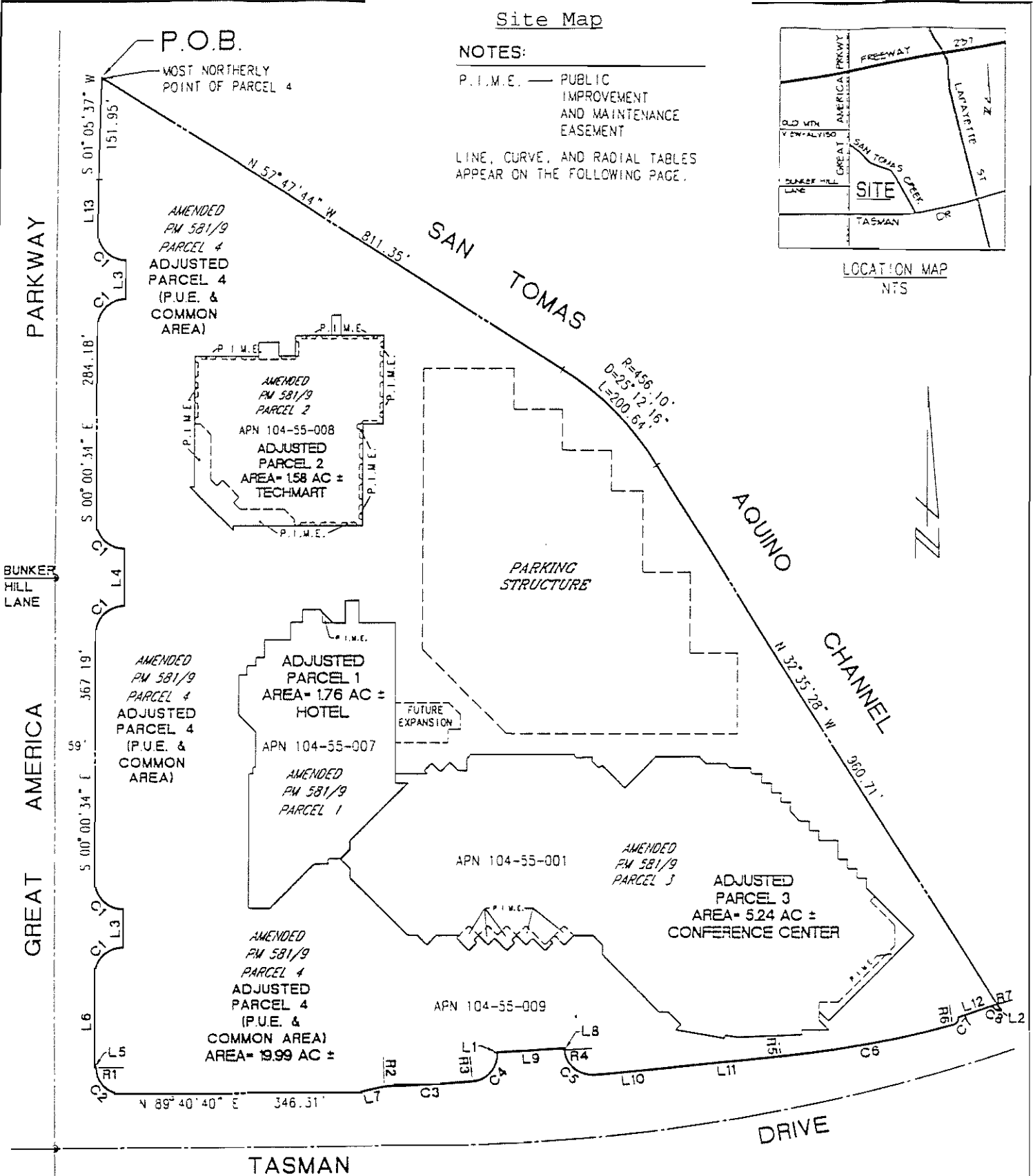
NOTES:

P.I.M.E. — PUBLIC IMPROVEMENT AND MAINTENANCE EASEMENT

LINE, CURVE, AND RADIAL TABLES APPEAR ON THE FOLLOWING PAGE.



LOCATION MAP  
NTS



I:\ENGINEER\DRAWING\CAD\LPD\HUNG\10710-A.DWG	
Revised	2-19-98
Drawn By	HL 12-2-97
Checked By	2-23-98
Approved By	Date 2-23-98
BRUCE C. AUGASON CITY ENGINEER	

CITY OF SANTA CLARA

SITE MAP PLAT

(Page 1 of 2)

Scale	1"=200'
Ref.	SC 17.295
Tracing No.	10.710-A

10.710-A

LINE TABLE:

LINE	BEARING	DISTANCE
L1	N 03° 38' 18" W	1.00'
L2	N 72° 45' 45" E	2.13'
L3	S 00° 00' 34" E	56.00' (R)
L4	S 00° 00' 34" E	84.00' (R)
L5	N 89° 59' 26" E	2.00' (R)
L6	S 00° 00' 34" E	137.26'
L7	N 77° 44' 15" E	40.58'
L8	S 03° 38' 18" E	2.69'
L9	N 86° 21' 42" E	100.00'
L10	N 84° 19' 49" E	113.85'
L11	N 84° 19' 47" E	167.94'
L12	N 71° 40' 23" E	55.01'
L13	S 00° 00' 34" E	77.78'

CURVE TABLE:

CURVE	RADIUS	DELTA	LENGTH
C1	42.00'	90° 00' 00"	65.97'
C2	40.00'	90° 18' 44"	63.05'
C3	1990.00'	3° 46' 32"	131.13'
C4	40.00'	88° 23' 48"	61.71'
C5	40.00'	92° 01' 08"	64.24'
C6	1590.00'	9° 21' 39"	259.77'
C7	10.03'	90° 00' 00"	15.76'
C8	10.00'	79° 59' 29"	13.96'

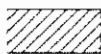
RADIAL TABLE:

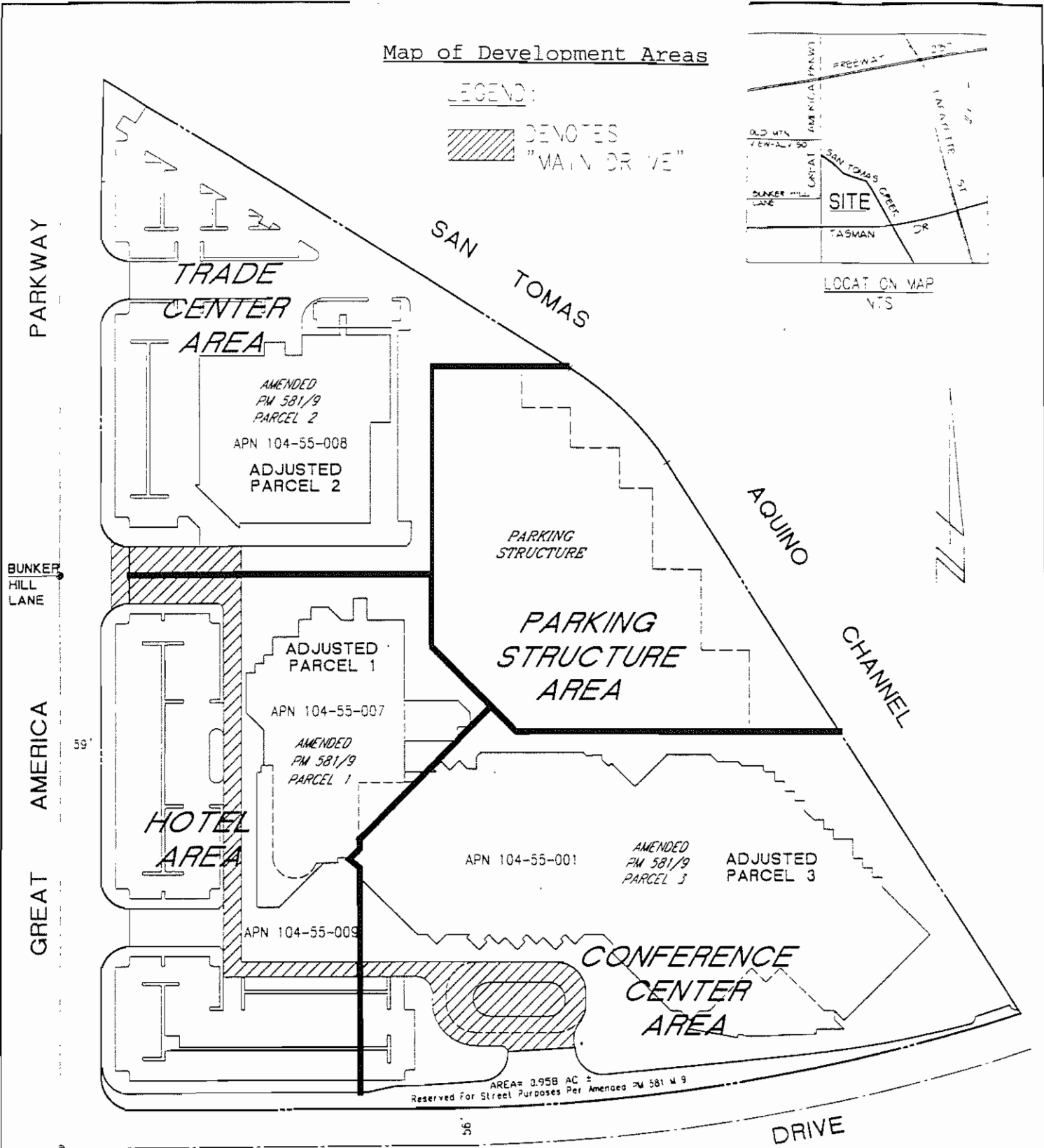
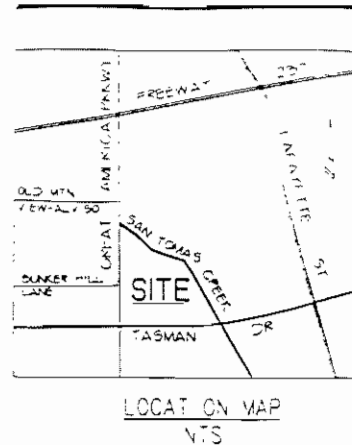
RADIAL	RADIUS	BEARING
R1	40.00'	S 89° 59' 26" W
R2	1990.00'	S 01° 27' 56" E
R3	40.00'	S 05° 14' 29" E
R4	40.00'	S 86° 21' 26" W
R5	1590.00'	S 05° 39' 53" E
R6	10.03'	S 08° 23' 06" E
R7	10.00'	S 76° 03' 36" W

I:\ENGINEER\DRAWING\CAD\LPO\HUNG\10710-A.DWG		<h2 style="margin: 0;">CITY OF SANTA CLARA</h2> <h3 style="margin: 0;">SITE MAP PLAT</h3> <p style="margin: 0;">(Page 2 of 2)</p>	Scale 1"=200'
Revised	2-19-98		Ref. SC 17,295 Tracing No. 10,710-A
Drawn By	HL		
Checked By	2-23-98		
Approved By	Date 2-23-98		
BRUCE C. AUGASON CITY ENGINEER			

10,710-A

Map of Development Areas

LEGEND:  
 DENOTES "MAIN DRIVE"



TASMAN

3-17-98

I:\ENGINEER\DRIFT\CAD\LPD\HUNG\CONVENTION-DEV.DWG	
Revised	2-4-98
Drawn By	HI 1-23-98
Checked By	<i>DP</i> 3-17-98
Approved By	<i>DP</i> Date 3-17-98

BRUCE C. AUGASON  
 CITY ENGINEER

CITY OF SANTA CLARA

MAP OF DEVELOPMENT AREAS

Scale " " = 200'  
 Ref. SC 7,295  
 Tracing No. 10,710-A  
 10,710-A

EXHIBIT B-1

Description of Parcel 2

All that certain real property in the City of Santa Clara, County of Santa Clara, State of California described as follows:

Adjusted Parcel 2 as shown on that certain Parcel Map filed for record in the Office of the Recorder of the County of Santa Clara, State of California on October 30, 1984 in Book 535 of Maps, at pages 47 and 48, as corrected by that certain Certificate of Correction filed for record on April 24, 1985 as Instrument No. 8389033, in Book J327, page 1212, Official Records, as amended by the Amended Parcel Map recorded in the Office of the Recorder of the County of Santa Clara, State of California, on December 2, 1987 in Book 581 of Maps, at pages 9, 10 and 11, and as further amended by that certain Grant Deed between the Redevelopment Agency of the City of Santa Clara as grantor and grantee recorded in the Office of the Recorder of the County of Santa Clara, State of California, on March 24, 1998 as Instrument No. 14106142 pursuant to that certain Notice of Lot Line Adjustment issued by the City of Santa Clara and recorded concurrently therewith in the Office of the Recorder of the County of Santa Clara, State of California, on March 24, 1998 as Instrument No. 14106143.

EXHIBIT B-2

Description of the Site

All that certain real property in the City of Santa Clara, County of Santa Clara, State of California described as follows:

Adjusted Parcels 1, 2, 3 and 4 as shown on that certain Parcel Map filed for record in the Office of the Recorder of the County of Santa Clara, State of California on October 30, 1984 in Book 535 of Maps, at pages 47 and 48, as corrected by that certain Certificate of Correction filed for record on April 24, 1985 as Instrument No. 8389033, in Book J327, page 1212, Official Records, as amended by the Amended Parcel Map recorded in the Office of the Recorder of the County of Santa Clara, State of California, on December 2, 1987 in Book 581 of Maps, at pages 9, 10 and 11, and as further amended by that certain Grant Deed between the Redevelopment Agency of the City of Santa Clara as grantor and grantee recorded in the Office of the Recorder of the County of Santa Clara, State of California, on March 24, 1998 as Instrument No. 14106142 pursuant to that certain Notice of Lot Line Adjustment issued by the City of Santa Clara and recorded concurrently therewith in the Office of the Recorder of the County of Santa Clara, State of California, on March 24, 1998 as Instrument No. 14106143.

EXHIBIT C

List of Existing Title Exceptions

- 1.(A) **PROPERTY TAXES**, including any assessments collected with taxes, for the fiscal year 1998-1999, a lien not yet due or payable.
- (B) Said land is vested in a public agency and may be subject to special improvement assessments.
- (C) **Bond for Traffic Mitigation Assessment District 1988-1**  
Bond No. : **HB2**  
Assessment No. : **None Shown**  
Balance of principal : **\$\$116,800.00**

The above information was provided by the City of Santa Clara. The report contains the following comment: "Figures are approximations and are based on assessment formula in Traffic Mitigation Report."

Said matter affects Parcel 2.

2. **INTENTIONALLY OMITTED**

3. **Bond for Santa Clara Convention Center Complex Improvement Project #186**  
Bond No. : **52P**  
Assessment No. : **2**  
Balance of principal : **\$6,271,578.57**  
Balance of interest through maturity : **\$3,522,439.62**

The above Amount excludes **\$291,277.96** principal and **\$462,082.14** interest and **\$8.00** handling charge. These amounts are "hand billed" by the City of Santa Clara.

Said matter affects Parcel 2.

4. **REDEVELOPMENT PLAN** as adopted and set forth in that certain statement and ordinance for  
Project : **North Bayshore, City of Santa Clara**  
Recorded : **December 31, 1973 in Book 0708, page 585, Official Records**

Said Redevelopment Plan was amended on March 1, 1977 by the City Council by Ordinance No. 1347, as disclosed by the Trade Center Ground Lease recorded April 30, 1985 in Book J333, page 1014, Official Records.

Said matter affects the Site.



5. EASEMENTS, Streets and Common Area as shown on the Parcel Map filed October 30, 1984 in Book 535 of Maps, pages 47 and 48 and as shown on and superseded by the Amended Parcel Map filed December 2, 1987 in Book 581 of Maps, pages 9, 10 and 11 for the purposes stated herein and incidents thereto

- A) Purpose : Public Utilities and Common Area  
Affects : Parcel 4 of the filed Parcel Map
- B) Purpose : Public Improvement and Maintenance  
Affects : Parcels 1, 2 and 3 of the filed Parcel Map
- C) Purpose : Reserved Area for Street Acquisition  
Affects : A strip of land contiguous to Tasman Drive

6. The rights of the tenants shown in the Rent Roll dated May 12, 1998, as tenants only, without options to purchase or rights of first refusal to purchase any or all of said land attached to the Owner's Affidavit dated May 12, 1998.

Said matter affects Parcel 2.

7. Rights of access to the telephone utility rooms in favor of Dialink Corporation pursuant to Paragraph 5(g) of the Asset Purchase and Shared Tenant Service Agreement dated November 30, 1995 between Dialink Corporation and the Redevelopment Agency of the City of Santa Clara.

Said matter affects Parcel 2.

8. HOTEL GROUND LEASE for the term and upon the terms and conditions contained therein  
Dated : **April 30, 1985**  
Lessor : **Redevelopment Agency of the City of Santa Clara**  
Lessee : **SCCC Associates, a California general partnership**  
Term : **50 years**  
Recorded : **May 16, 1985 in Book J348, page 042, Official Records.**

As amended and supplemented by various instruments of record.

Said matter affects Parcel 3 (Hotel Area) and Parcel 4.

9. ANY CLAIMS OF LIEN that may be recorded against said land by reason of construction of an improvement thereon in connection with the Fire Panel Improvements described in Section 13(f) of the Purchase and Sale Agreement dated May 5, 1998, as amended, by Signal Electric, Inc. and Al Keller Consulting.

EXHIBIT D

List of Improvement Components

***Roof Shop***

<u>Qty.</u>	<u>Description</u>
1	Wyse keyboard Serial k/b, wy50/350
1	Wyse 11in monitor model wy-50 serial # 11401058
1	Hayes accura 144 fax modem serial # A10356113215
Misc	Muzak equipment, in roof office

***Building Engineer Shop - Suite 220***

<u>Qty.</u>	<u>Description</u>
1	AMS keyboard keytronic model E03600QI-C Serial J954402319
1	AMS CPU 133 pentium model 1.2gb/16mb/amm64pid Serial 67A01497
1	Epson FX-870 printer model P710A Serial 61P1297768
1	HP laser jet printer model C3941A Serial JPBK 019825
1	14400 US Robotics (sportster) modem Serial 2680103993596
1	AMS CPU model 540mb/8mb/ATIM32VLBID Serial 4FIQ00374
1	13in monitor display SyncMaster 15GL model E03600QL Serial J950115605
1	AMS keyboard keytronic model E03600QL Serial J950115605
1	GE Lighting Software
1	Insignia 600 - Landis & Gyr Software for HVAC

***Lobby Area - 1st Floor***

<u>Qty.</u>	<u>Description</u>
2	14in Sony trinitron color video monitor model SSM-14N1U
1	Time lapse video cassette recorder model SVT-3000
4	CCD color video camera model SSC-C354

***Leasing Office - Suite 243***

<u>Qty.</u>	<u>Description</u>
1	Touch monitor model CAD14RG Serial 4040949Z
1	Mitsumi Keyboard model KPQ-E99YC Serial 9311-972908
1	Basic Time CPU 286 Serial 3408000604
1	Okidata 9 Pin printer Microline 184 Turbo Serial 46AY3065404K
1	AMS Keyboard - Serial J943315719
1	AMS CPU - Serial CCTD31100464
1	KFC Monitor - Serial T4KKU2C41469

Window, wall and floor coverings  
 Locks  
 Hanging fixtures  
 Extinguisher cabinets  
 Panelbreaker boxes  
 Antenna cables  
 Intercom systems  
 Exterior and interior signage

EXHIBIT E

List of Personal Property

**PERSONAL PROPERTY**

***Meeting Rooms***

<u>Qty.</u>	<u>Description</u>
3	Green leather chairs
23	96in x 18in white tables in the Palo Alto, Campbell, and Saratoga Rooms
172	Green/grey seating chairs in the meeting rooms and audio visual room

***Roof Shop***

<u>Qty.</u>	<u>Description</u>
1	Genie mix n match lift
1	5 drawer black/brown desk
1	10 drawer screws & bolts rack
1	2 door wall cabinet (grey)
1	3/4 hp bench grinder Model 1788 (Black and Decker)
1	5in jaw vise-grip (Wilton)
1	Quartz Light- model PUL-500Q-HC (Fortoria)
1	Multi room air circulator fan (Patton)
1	7 gal. portable air tank (Niowest Products)
3	Shelves with misc. building supplies
1	4 drawer file cabinet

***Storage/Audio Visual Room***

<u>Qty.</u>	<u>Description</u>
1	Blueprint racks
1	2 drawer beige file cabinet (moved to suite 243)
3	Shelves with misc office products and TECHMART historical records
1	Gray debris cart
1	Flat bed dolly
Misc	Building supplies (ie. ceiling tiles, base, paint, etc.)

***Building Engineer Shop- Suite 220***

<u>Qty.</u>	<u>Description</u>
1	55in x 38in x 15in metal book shelf
1	96in x 36in x 44in blueprint table
1	2 drawer file cabinet grey
1	3 drawer wood oak color desk
1	3 drawer mahogany wooden desk with left return

**PERSONAL PROPERTY (Cont.)**

***Building Engineer Shop- Suite 220 (Cont.)***

<u>Qty.</u>	<u>Description</u>
1	Black small metal book shelf
1	Large grey book shelf
1	Leather black chair
4	Stackable chairs
1	Beige secretarial chair
1	Beige executive chair
2	36in x 18in grey table
1	5 drawer blueprint storage unit
2	Blueprint racks
1	2 door black cabinet
2	9in suction cups
1	18in bolt & wire cutter
1	Powers pneumatic calibration kit model 832-177 by Landis & Gyr
1	Makita cordless drive drill model 6095D
1	Circuit tester electrical
1	Black round table
2	Hand trucks
2	Dollies
1	Refrigerator (24" x 30")
4	Motorola GP350 Radio (walkie-talkie) w/ charger
2	Motorola GP50 Radio (walkie-talkie) w/ charger
6	Motorola HT90 Radio (walkie-talkie) w/charger

***Janitors Closet***

<u>Qty.</u>	<u>Description</u>
1	6ft ladder each floor (total 5)
2	8ft ladder (1st floor)
1	6ft ladder (electrical room roof)
2	12ft ladder (loading dock)

***Lobby Area - 1st floor***

<u>Qty.</u>	<u>Description</u>
12	14" x 48" Brushed aluminum plant containers
2	8' - 10' Caryota Mitus Palms
23	5' - 18" Caryota plants
10	6" Rotating Bromelads plants
50	6" Spathiphyllum plants
5	3 1/2ft black tables
20	Stackable chairs
2	Upholstered couches

**PERSONAL PROPERTY (Cont.)**

***Lobby Area - 1st floor (Cont.)***

<u>Qty.</u>	<u>Description</u>
4	Upholstered chairs
2	Coffee tables- mahogany/frosted glass
2	12 1/2ft x 10ft rugs
1	70" x 34 1/2" Glass faced illuminated directory
1	6' x 30' Wall Mural

***Common Areas - 2nd-5th Floors***

<u>Qty.</u>	<u>Description</u>
458	6" Potho plants
20	30"L x 10"W x 8"T Planter boxes
4	30" x 24 1/2" Floor directory monument signs

***Leasing Office - Suite 243***

<u>Qty.</u>	<u>Description</u>
2	AT&T BIS-22D Phone
2	AT&T BIS-10 Phone

EXHIBIT F

Parking Study

**Barton-Aschman Associates, Inc.**

99 Almaden Boulevard, Suite 925 San Jose, California 95113

408-280-6600

MEMORANDUM TO: Mark A. Kenning  
Creegan & D'Angelo

FROM: Robert C. Scales

DATE: January 18, 1984

SUBJECT: Santa Clara Trade and Conference Center Parking and Access Requirements

This memorandum documents Barton-Aschman's preliminary investigation of the parking and access system proposed in the November 16, 1983 Master Plan for the subject project. Topics addressed by this report include developer review concerns, program development assumptions, parking and access requirements, and a summary of findings. Redesign of the schematic parking and access system is not addressed by this initial report.

To facilitate review and discussion, assumptions and findings are sequentially numbered.

**DEVELOPER CONCERNS**

(1) -- The following issues and concerns have been raised by Double Tree Hotel regarding the site development plans dated November 16, 1983.

1. Can the site's access and egress system support an on-site parking supply of 2,200 spaces?
2. What is the impact of the Techmart and Hotel expansions on parking utilization?
3. How can the parking supply be controlled to guarantee (exclusive) availability for Techmart, Hotel, and Conference Center patrons?
4. Who should operate the parking system controls?
5. Can the site plans be adjusted to minimize on-site traffic congestion, turning and cross traffic conflicts?

This preliminary investigation focuses primarily on these questions.



<sup>1</sup> Letter dated December 30, 1983 from Don R. Hart to S. M. Cristofano.

## Barton-Aschman Associates, Inc.

- (2) The City of Santa Clara shares many of these concerns and has also observed that sidewalks will be required along all street frontages; the exact locations of the light-rail stations have not yet been determined; sufficient on-site traffic stacking must be provided to accommodate anticipated exit demands; and adequate corner radii must be provided for full-size buses and trucks.<sup>2</sup> These concerns will be addressed by Barton-Aschman in subsequent design refinements.

### TRADE AND CONFERENCE CENTER DEVELOPMENT PROGRAM

The following assumptions have been utilized in analyzing parking and access system requirements.

- (3) Techmart will provide 200,000 square feet of space operating as wholesale showrooms/exhibits/offices during weekdays from essentially 9:00 AM to 5:00 PM. In Phase II, this space will be expandable to 300,000 square feet.
- (4) Double Tree Hotel will initially provide 500 guest rooms; meeting and banquet space totaling 15,000 square feet; and restaurants and lounges seating 300 and 200 persons, respectively. Phase II will increase the number of guest rooms to 750.
- (5) For space planning purposes, Double Tree Hotel has assumed an inventory of 1,388 hotel rooms available to support conventions during Phase I (Double Tree - 500, Marriott - 758, and Ramada - 130). Approximately 70 percent of these guest rooms (972) will be "saleable" to convention planners, and these will support approximately 1,200 delegates.<sup>3</sup>
- (6) Santa Clara Convention & Conference facilities will include a 100,000 square foot divisible exhibition hall; a 24,000 square foot ballroom; meeting rooms totaling 15,000 square feet; and a 650-seat media center/theatre with fixed seating.
- (7) For financial planning purposes, the City of Santa Clara has assumed that convention and conference facilities will be utilized with the following annual frequencies:<sup>4</sup>
- |   |               |
|---|---------------|
| - Major Trade Shows of 100,000 s.f.     | 15 days       |
| - Exhibit Trade Shows of 50,000 s.f.    | 18 days       |
| - Public Shows of 50,000 s.f.           | 10 days       |
| - Exhibit/Conference Use of 25,000 s.f. | 50 days       |
| - Media Center Use                      | 157 days      |
| - Meeting Room Use of 1,200 s.f.        | 473 half-days |

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<sup>2</sup> City of Santa Clara Project Clearance Committee Minutes, January 9, 1984.

<sup>3</sup> Gary A. Chalupsky, Santa Clara Convention Center Proposed Program, May 14, 1982.

<sup>4</sup> Geoffrey Goodfellow, Internal Planning Document, April 22, 1983.

## Barton-Aschman Associates, Inc.

- (8) Based on the above Development Program, it appears that the Trade and Conference Center space is physically capable of supporting the following event scenarios:
1. A 1,200 delegate convention in Phase I, expandable to 1,400 delegates in Phase II.
  2. The above convention plus an independent minor trade show using 50,000 square feet of exhibit space and the 24,000 square foot ballroom.
  3. The above convention plus an independent major trade show or event using the 100,000 square foot exhibit hall.

These scenarios plus a no convention situation will be utilized for subsequent parking and access analyses.

### PARKING REQUIREMENTS

Barton-Aschman Associates, Inc. has undertaken an independent assessment of the parking supply needed to support the Santa Clara Trade and Conference Center. The results of this investigation are reported as follows.

- (9) Techmart will provide 4.0 parking spaces per 1,000 square feet of occupied floor area. This parking supply is consistent with that recommended for freestanding retail shopping centers having between 25,000 and 400,000 square feet;<sup>5</sup> and at the high end of that needed for suburban office buildings in Santa Clara County (3.5-4.0 spaces/1,000 GLA).
- (10) Guests and employees of Double Tree Hotel will generate a maximum parking accumulation equivalent to 1.0 spaces per guest room. This assumes one employee per guest room (per day), distributed over two major daytime shifts and one minor nighttime shift. The requirement also assumes an 80 percent auto mode split with 20 percent of guests using taxis or airport shuttle buses, and 20 percent of employees using public transportation.
- (11) Patrons of Double Tree's restaurants and lounge will also require parking. Assuming that 50 percent of these patrons are non-guests, 12.0 parking spaces will be required per 1,000 square feet of occupied floor area. The restaurants and lounge will in combination seat 500 persons, equivalent to 10,000 square feet of space.

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<sup>5</sup> Wilbur Smith & Associates, Inc., Parking Requirements for Shopping Centers, Urban Land Institute, 1981.

<sup>6</sup> Source: Barton-Aschman Associates, Inc., Parking Accumulation Surveys.



**Barton-Aschman Associates, Inc.**

- (12) The estimated peak parking demand for Convention Center banquet/meeting rooms is 0.5 spaces per person, assuming 100 percent of conference attendees are non-guests. For conventions requiring hotel guest accommodations, 1.25 delegates per guest room are assumed along with 80 percent auto use by non-Double Tree Hotel delegates.
- (13) The estimated peak parking ratio for trade show events is 30 spaces per 1,000 square feet of exhibit hall utilized. This reflects a high density of attendees utilizing approximately 16 square feet per person (typical fire code limit), 100 percent auto mode split, and 2.0-person occupancy per automobile.
- (14) Parking accumulation for the land-uses included within the development will vary by time of day as depicted in Tables 1 and 2. For the purpose of determining overall parking requirements, convention and trade exhibit functions are represented as full-day events since they can be scheduled for any time period of the day or night.
- (15) Total combined parking needs for the Santa Clara Trade and Conference Center are depicted in Tables 3 and 4. These are reported for weekdays and Saturdays by function type. These requirements will increase or decrease depending on the following:
1. Exclusive use of parking spaces (as opposed to guaranteed availability) will increase the overall parking space requirement.
  2. Captive market effects or "market synergy" will tend to reduce parking requirements. For example, some Techmart patrons may also be Double Tree Hotel guests. Some trade show attendees may also visit Techmart or the Hotel. The magnitude of this synergy is difficult to predict for this type of mixed-use project; our educated guess is a 15 percent reduction of peak accumulation.
  3. Conventions and/or banquets oriented exclusively to "local" residents could increase the parking requirements listed in Tables 1-4; and certain types of trade shows and sporting events will have lower average auto occupancies -- hence, higher parking requirements.

Given the above variables, it is recommended that the quantities listed in Tables 3 and 4 be used for site design and/or event scheduling purposes.

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<sup>7</sup> Barton-Aschman Associates, Inc., Shared Parking Study, Urban Land Institute, 1983. Parking requirements for hotels, hotel restaurants, banquet and convention facilities based on surveys of 18 major suburban hotels, supplemented by comprehensive data on facility utilization compiled at over 60 hotels by a major hotel chain operator.

TABLE 1

PHASE I - PARKING ACCUMULATION BY TRADE AND CONFERENCE USE TYPE

Hour	Techmart		Hotel Rms.	Hotel Rest.		1200 Delegate Convention	Minor Trade	Major Trade
	Wk.	Sat.		Wk.	Sat.			
6 am	—	—	450	24	24	—	—	—
7	60	16	500	24	24	—	—	—
8	140	48	450	24	24	200	500	1,000
9	320	64	400	24	24	500	1,500	3,000
10	520	64	300	24	24	500	1,500	3,000
11	660	80	250	36	36	500	1,500	3,000
12 noon	740	80	250	60	36	500	1,500	3,000
1 pm	760	64	250	84	54	500	1,500	3,000
2	800	48	250	72	54	500	1,500	3,000
3	720	32	250	66	54	500	1,500	3,000
4	600	32	300	60	54	500	1,500	3,000
5	380	16	400	84	72	500	1,500	3,000
6	180	16	450	108	108	500	1,500	3,000
7	60	16	450	120	114	500	1,500	3,000
8	60	16	500	120	120	500	1,500	3,000
9	20	—	500	120	120	500	1,500	3,000
10	20	—	500	108	114	200	500	1,000
11	—	—	450	84	102	—	—	—
12	—	—	450	60	84	—	—	—

**TABLE 2**  
**PHASE II - PARKING ACCUMULATION BY TRADE AND CONFERENCE USE TYPE**

Hour	Techmart		Hotel Rms.	Hotel Rest.		1400 Delegate Convention	Minor Trade	Major Trade
	Wk.	Sat.		Wk.	Sat.			
6 am	—	—	675	24	24	—	—	—
7	90	24	750	24	24	—	—	—
8	210	72	675	24	24	200	500	1,000
9	480	96	600	24	24	500	1,500	3,000
10	780	96	450	24	24	500	1,500	3,000
11	990	120	375	36	36	500	1,500	3,000
12 noon	1,110	120	375	60	36	500	1,500	3,000
1 pm	1,140	96	375	84	54	500	1,500	3,000
2	1,200	72	375	72	54	500	1,500	3,000
3	1,080	48	375	66	54	500	1,500	3,000
4	900	48	450	60	54	500	1,500	3,000
5	570	24	600	84	72	500	1,500	3,000
6	270	24	675	108	108	500	1,500	3,000
7	90	24	675	120	114	500	1,500	3,000
8	90	24	750	120	120	500	1,500	3,000
9	30	—	750	120	120	500	1,500	3,000
10	30	—	750	108	114	200	500	1,000
11	—	—	675	84	102	—	—	—
12	—	—	675	60	84	—	—	—

TABLE 3

## PHASE I - TOTAL PARKING ACCUMULATION

Hour	Weekday			Saturday		
	No Conv.	Conv. + Minor Trade	No Conv. + Major Trade	No Conv.	Conv. + Minor Trade	No Conv. + Major Trade
6 am	474	474	474	474	474	474
7	584	584	584	540	540	540
8	614	1,314	1,614	722	1,222	1,522
9	744	2,744	3,744	988	2,488	3,488
10	844	2,844	3,844	888	2,388	3,388
11	946	2,946	3,946	866	2,366	3,366
12 noon	1,050	3,050	4,050	866	2,366	3,366
1 pm	1,094	3,094	4,094	868	2,368	3,368
2	1,122	3,122	4,122	852	2,352	3,352
3	1,036	3,036	4,036	836	2,336	3,336
4	960	2,960	3,960	886	2,386	3,386
5	864	2,864	3,864	988	2,488	3,488
6	738	2,738	3,738	988	2,488	3,488
7	630	2,630	3,630	1,074	2,574	3,574
8	680	2,680	3,680	1,080	2,580	3,580
9	640	2,640	3,640	1,136	2,636	3,636
10	628	1,328	1,628	1,120	2,620	3,620
11	534	534	534	814	1,314	1,614
12	510	510	510	552	552	552
				534	534	534

TABLE 4  
PHASE II - TOTAL PARKING ACCUMULATION

Hour	No Conv.		Conv.		Weekday		Saturday	
	No Conv.	Conv.	No Conv.	Conv.	Conv. + Minor Trade	No Conv. + Major Trade	Conv. + Minor Trade	No Conv. + Major Trade
6 am	695	695	695	695	695	695	695	695
7	864	864	864	864	864	864	798	798
8	909	1,109	1,909	2,109	1,609	2,109	1,471	1,771
9	1,104	1,604	4,104	4,604	3,104	4,604	2,720	3,720
10	1,254	1,754	4,254	4,754	3,254	4,754	2,570	3,570
11	1,401	1,901	4,401	4,901	3,401	4,901	2,531	3,531
12 noon	1,545	2,045	4,545	5,045	3,545	5,045	2,531	3,531
1 pm	1,599	2,099	4,599	5,099	3,599	5,099	2,475	3,475
2	1,647	2,147	4,647	5,147	3,647	5,147	2,501	3,501
3	1,521	2,021	4,521	5,021	3,521	5,021	2,477	3,477
4	1,410	1,910	4,410	4,910	3,410	4,910	2,552	3,552
5	1,254	1,754	4,254	4,754	3,254	4,754	2,696	3,696
6	1,053	1,553	4,053	4,553	3,053	4,553	2,807	3,807
7	885	1,385	3,885	4,385	2,885	4,385	2,813	3,813
8	960	1,460	3,960	4,460	2,960	4,460	2,894	3,894
9	900	1,400	3,900	4,400	2,900	4,400	2,870	3,870
10	888	1,088	1,888	2,088	1,588	2,088	1,564	1,864
11	759	759	759	759	759	759	677	677
12	735	735	735	735	735	735	759	759

ACCESS/EGRESS REQUIREMENTS

The Environmental Impact Report prepared for this project<sup>8</sup> included an assessment of site-generated traffic impacts and external roadway requirements. This EIR forms the basis for Barton-Aschman's analysis which updates the assessment with respect to site access/egress requirements. Our analysis will be conducted for three conditions: the weekday PM peak period for Phases I & II and an evening or weekend event held during Phase I.

- (16) Techmart will generate an estimated 4.9 vehicle trips per 1,000 square feet during the PM peak hour according to the EIR. Because Techmart will not be open during evening hours, the majority of peak-hour trips (70 percent) will be outbound, consistent with office park observances.
- (17) The EIR<sup>9</sup> estimated hotel trip generation using a rate of 10.5 weekday trips per occupied room and an assumed average guest room occupancy rate of 62 percent. The percent of daily trips occurring in the peak hour is assumed to be 7.3, split equally between inbound and outbound traffic. For design purposes, 100 percent room occupancy will be assumed.
- (18) The parking requirements analysis indicates that on-site parking (2,225 spaces) will be sufficient to accommodate Techmart, Double Tree Hotel, and a 1,200 to 1,400 delegate convention held on weekdays. For egress design purposes, it will be assumed that 60 percent of the non-guest convention delegates depart during the PM peak hour.
- (19) Independent of the above activities, an evening or weekend event can also be hosted, utilizing the exhibit hall space and/or the Convention Center ballroom. It is assumed that this function would utilize on-site parking supplies, not guaranteed for Hotel and Techmart needs. Use would total a minimum of 900 spaces in Phase I, up to a maximum of approximately 1,500 spaces. These events can be expected to discharge and attract some 60 to 70 percent of their attendees in one hour.

Vehicle trips resulting from the above estimates and assumptions are summarized in Table 5. Differences observed between trip generation and parking accumulation are attributable to data base discrepancies.

- (20) Seventy-five percent of the site-generated traffic is assumed to be oriented to the south, southeast, and southwest according to the EIR traffic analysis. The EIR also assigned 80 percent of the remaining (northbound) traffic to eastbound Tasman Drive, to avoid weekday peak period traffic congestion experienced on Route 237.

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<sup>8</sup> City of Santa Clara, Final Supplemental Environmental Impact Report - Santa Clara Conference and Trade Center, April 15, 1983.

<sup>9</sup> ITE, Trip Generation Report, 1979.

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TABLE 5  
VEHICLE TRIP GENERATION (ON-SITE PARKING)

Traffic Generator	Hourly Trips	Inbound	Outbound
<u>Phase I (PM Peak Hour)</u>			
Techmart	980	290	690
Double Tree Hotel	380	190	190
Conference Facilities	300	—	300
Exhibit/Banquet	—	—	—
Totals	1,660	480	1,180
<u>Phase II (PM Peak Hour)</u>			
Techmart	1,470	440	1,030
Double Tree Hotel	580	290	290
Conference Facilities	300	—	300
Exhibit/Banquet	—	—	—
Totals	2,350	730	1,620
<u>Phase I (Saturday)</u>			
Techmart	50	20	30
Double Tree Hotel	270	140	130
Conference Facilities	—	—	—
Exhibit/Banquet	1,000	—	1,000
Totals	1,320	160	1,160

- (21) The November 15, 1983 Master Plan illustrates one major entrance/exit on Great America Parkway, with a minor exit for northbound traffic at the northwest corner of the site. A major entrance/exit is also illustrated on Tasman Drive, but this effectively serves only a very small portion of the parking supply. An additional entrance/exit is illustrated adjacent to San Tomas Aquino Creek -- oriented to service vehicles and goods movement.
- (22) Based on the directions of approach and departure noted above and the trip generation estimates provided in Table 5, it appears that the Great America Parkway entrance/exit will need to accommodate at least 1,200 southbound (left-turn) exiting vehicles and over 500 entering vehicles during the PM peak hour. This design condition (Phase II) will require two left-turn lanes plus one shared through plus right-turn lane.

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- (23) Assuming a 50:50 traffic signal timing split between Great America Parkway and the Center's entrance/exit, and no conflicting traffic movements; the exit will operate at LOS "C/D" during Phase I PM peak hours and LOS "D" during Phase II PM peak hours.<sup>10</sup> The corresponding vehicle queues will extend from Great America Parkway eastward, approximately 400 feet during Phase I and 500 to 600 feet in Phase II -- into the parking structure.
- (24) This analysis suggests that a second, useful access/egress point would be desirable to accommodate Phase II site traffic oriented to and from the south, southeast, and southwest. Although not required by Phase I development, this additional entrance/exit would be beneficial. It could be provided through an upgrade of the Tasman Drive service roadway or by linkage of the parking structure with the future hotel site, east of San Tomas Aquino Creek (see Figure 1).

PARKING DESIGN, OPERATION, AND MANAGEMENT REQUIREMENTS

Barton-Aschman intends to address these important requirements in detail during the design phase of its agreement with Creegan & D'Angelo. To respond to the concerns of Double Tree Hotel, however, the following observations are provided.

- (25) The major entrance/exits with Great America Parkway and Tasman Drive will need to be redesigned to reduce turning conflicts and cross traffic. Opportunities to do so exist and/or these may require the reorientation of access and egress driveways.

- (26) For the parking supply to work as desired, it must:

1. Guarantee that a sufficient number of spaces are available to the Double Tree Hotel, with the majority being located to the front of the Hotel during periods of good weather; and sheltered spaces available during inclement weather. The design must also recognize the differing needs of patrons and visitors (short-term) versus guests and employees (long-term).
2. Provide an association of parking supply with Techmart that does not conflict with Double Tree Hotel needs. These spaces must also relate to the entrance of Techmart and be capable of being shared among other Trade and Conference Center land-uses during evening and weekend hours.

The primary means of achieving these objectives will be through directional signing and roadway/garage design since free parking and no valet service are anticipated.

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<sup>10</sup> Level of service (LOS) "D" is characterized by severe congestion with long-standing queues on critical approaches.



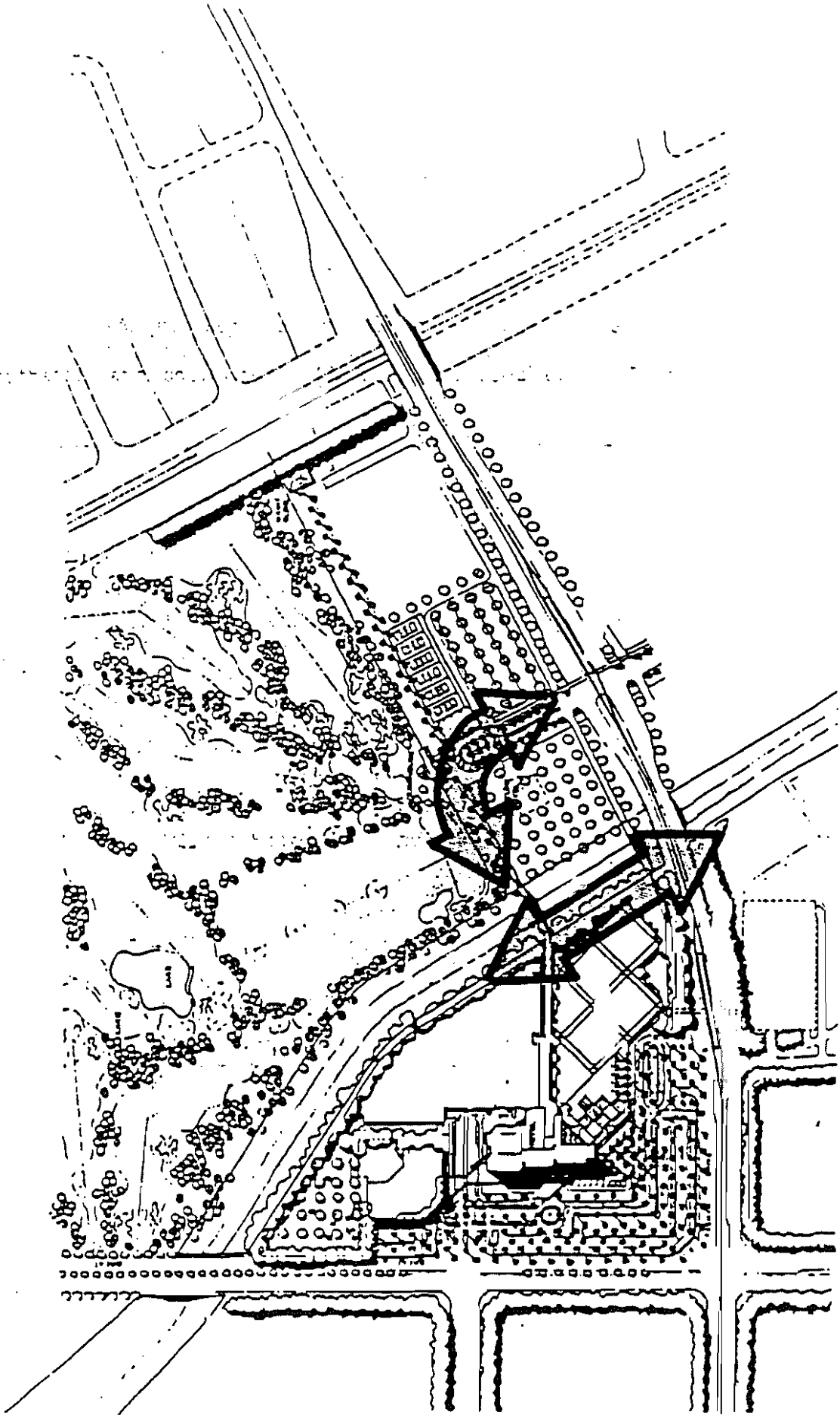


Figure 1

# ALTERNATIVE ACCESS ENHANCEMENT

## Barton-Aschman Associates, Inc.

(27) Signing is important in all parking facilities and especially so with multi-use developments. General guidelines which can be implemented for the Trade and Conference Center include:

- Directional signs at the entrances to the development from the public highways; with Techmart and Hotel patrons directed toward the Great America Parkway entrance and trade show attendees directed toward Tasman Drive parking entrances.
- Signs at the development exits giving directions to the various streets surrounding the site.
- Internal signing that directs parkers to various parking areas that serve specific land-uses; i.e., Double Tree visitors and guests to the front of the hotel, Techmart patrons to ground floor of parking structure, etc.
- Internal electronic signing or hand-placed barricades which direct drivers to available spaces. These will be especially important for large events and functions.
- Pedestrian message information that will direct parkers to and from their destinations. Garage patrons may be directed up to the second level pedestrian bridge connecting to the Conference Center or down to the ground floor walkways to Techmart and the Hotel.

To the greatest extent possible, these parking controls will be inherent within the design of the parking supply. For major events such as trade shows, however, these controls may need to be supplemented with human assistance -- supplied by the event sponsor or host.

### SUMMARY OF FINDINGS

- (28)
1. On-site parking is adequate to accommodate Techmart, Double Tree Hotel, and Conference Center convention requirements in both Phase I and Phase II:
  2. On-site plus off-site parking is adequate to accommodate the above uses plus a minor trade show exhibition of 50,000 square feet.
  3. A major trade show can be accommodated if scheduled on the weekend with no coinciding convention.
  4. Major trade shows held during weekdays, with or without parallel conventions, will require additional parking supplies.
  5. Parking supply can be guaranteed for Double Tree Hotel and Techmart use; but should not be set aside and held exclusively.

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6. Site access/egress, as currently configured, is considered to be inadequate to accommodate on-site parking supplies. An additional access/egress point on Tasman Drive would be beneficial for both Phase I and Phase II development programs.
7. The primary means of traffic access and parking control will be through directional signing and driveway design.
8. Cross traffic conflicts can be minimized through redesign of the site's internal roadways.

## Barton-Aschman Associates, Inc.

99 Almaden Boulevard, Suite 925 San Jose, California 95113

408-280-6600

MEMORANDUM TO: Mark A. Kenning  
Creegan & D'Angelo

FROM: Robert C. Scales

DATE: February 17, 1984

SUBJECT: Santa Clara Trade and Conference Center  
Parking Control Requirements

This memorandum outlines our preliminary concept of parking management and control for the above-referenced project. The discussion relates to our parking and access plan dated February 9, 1984 and the revised parking structure schematic plan dated February 20, 1984.

### Parking Control Concept

As discussed in our memorandum of January 18, 1984, parking control will be achieved primarily through directional signing and the design of parking supply access points and circulation roadways.

Directional signs will be located at the entrances to the development from the adjacent public highways; with Techmart and Hotel patrons entering from Great America Parkway and Conference Center patrons entering from Tasman Drive. Trailblazer or advance directional signing will be utilized to guide Conference Center patrons toward Tasman Drive.

Internal signing will be provided to direct motorists to parking areas which serve specific land-uses; i.e., Doubletree visitors and guests to the front of the hotel, Techmart patrons to the ground floor of the parking structure and the front of Techmart.

Internal electronic signing will be provided to direct parkers to available spaces. During Conference Center events, these and the above fixed messages will be supplemented by hand-placed barricades and parking attendants as necessary.

Parking revenue collection, the most common and effective means of control, is not anticipated for normal daily operations; i.e., Techmart and Hotel use. Parking revenue may be collected for special event parking, however.

### Equipment Requirements

Although revenue collection is not anticipated for normal daily operations, the design of the parking system should allow for the installation of this capability at a



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later date. For example, each controlled entrance lane will require a gate, two detectors and loops, a ticket printer/dispenser, card reader head and stand, and full sign. Each controlled exit lane will require a gate, detectors and loops, fee indicator, card reader, and cashier booth with register and clock.

For special event parking, a prepay system of revenue collection is more appropriate. No special equipment will be required other than traffic cones, barricades, and two-way radio communication. Free standing attendants will collect revenue.

In addition to the above, a parking (supply) control center will be required whether or not revenue is collected. This system will include space counters for each level of the parking garage and other at-grade parking supplies as desired. Memory units, monitors, "full" indicators, a console and a printer will also be required.

At the Great America Parkway entrance to the parking garage, a changeable message display will also be required. The purpose of this directional signing will be to segregate parkers between the ground level and the above ground levels of the facility. Techmart and Hotel patrons could thus be directed to the ground level while Conference Center parkers are directed to Levels 1 and 2, for example.

Optional equipment to be considered will include a closed circuit TV surveillance system of entrance/exit lanes and the parking garage and an intercom system.

### Personnel Requirements

Under normal circumstances, the parking system will function automatically through the use of directional and electronic signing, automatic vehicle counting devices and so on. Unless revenue is collected, no personnel will be required, other than for security purposes and overall facility management.

If revenue is to be collected, six or more cashiering stations would be required for everyday operations to accommodate anticipated peak-hour flows. To collect revenue from trade exhibit or special event parkers, a prepay flat fee system would be more appropriate using free standing attendants. At least four attendants would be necessary to accommodate 1,000 event parkers on-site, using Levels 1 and 2 of the parking garage. The specific requirements for revenue collection and control will be addressed in subsequent phases of the design effort if deemed necessary.

Whether or not revenue is collected, additional parking control persons will be required for major trade exhibits and special events. These persons will be utilized to direct motorists to available parking supplies, thereby augmenting permanent external and internal directional signing. The precise number of these attendants will be refined over time but at least three and potentially six could be required on-site. These attendants should be equipped with two-way radio communication devices and supervised as necessary.

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### Barrier Placement

During trade show exhibits and special events, it will be desirable to assist inbound circulation and control parking through the use of barricades. These will augment permanent directional signing and reduce the number of attendants needed to control parking utilization. While the exact stationing of barricades will be refined through actual operating experience, a number of locations can be anticipated. These will be illustrated on the site and garage plans when the latter are refined in design development. They will be placed to:

- Restrict vehicular movement from the Conference Center dropoff area to the adjacent surface parking lot.
- Restrict vehicular movement from Tasman Drive to the service driveway when on-site parking supplies (available for use) are full.
- Restrict movement from the service driveway to the Hotel/Conference Center loading area.
- Restrict movement to the ground level of the parking garage.
- Restrict movement to Levels 1 and 2 of the parking garage when full.
- Restrict movement to the at-grade parking supplies of Techmart and the Hotel.

EXHIBIT G

Distribution of Cash  
Revenues from Parking

Assume the following amounts and figures apply as of the end of a given fiscal year:

1. The cash revenues from parking, as defined in §1430(7)(c), minus the costs described in §1430(7)(c), equal the amount of \$4,000 (net cash revenues available for distribution).

2. The value of validations made by the lessee of Parcel 1 equals \$6,000; the value of validations made by Lessee equals \$4,000; and the value of validations made by Agency equals \$3,000.

3. Therefore, the total of net cash revenues plus the value of all validations made equals \$17,000.

4. Lessee and Agency have separately charged and received \$1,000 each for the validations they issued.

5. The proportionate shares of parking spaces on the Common Area allocated to each entity for priority use are 22.12% for the lessee of Parcel 1; 47.78% for Lessee; and 30% for Agency.

The \$4,000 in net cash revenues available for distribution shall be distributed among the entities according to the calculations set forth below:

Entity	Proportionate Share of Parking	Net Cash Revenues + All Validations	Distribution	Value of Validations Made	Cash Owed
Lessee of Parcel 1	22.12%	\$17,000 =	\$3,760.40 -	\$6,000 =	-0-
Lessee	47.78%	\$17,000 =	\$8,122.60 -	\$4,000* =	\$4,122.60**
Agency	30%	\$17,000 =	\$5,100.00 -	\$3,000* =	\$2,100.00**

\*Note that no deduction is made for the \$1,000 separately received for the validations issued.

\*\*Since the net cash revenues available for distribution are less than the total amount of cash otherwise owed to all entities, then the following additional calculations shall be made:

Entity	Cash Owed	Total Cash Owed To All Entities	Proportionate Share of Cash Owed	Net Cash Revenues	Actual Cash Distribution
Lessee	4122.60	6222.60 =	66.25% x	\$4,000 =	\$2,650
Agency	2100.00	6222.60 =	33.75% x	\$4,000 =	\$1,350



Recording requested by  
And when recorded mail to:

Mayer, Brown & Platt  
141 East Palace Avenue  
Santa Fe, New Mexico 87501  
Attn.: Nancy Nieto, Esq.

Mail tax statements to:

CarrAmerica Realty Corporation  
1700 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006  
Attn.: Nancy Rivera

1418 5857  
5-15-98 8:00 am

CERTIFIED TO BE A TRUE AND CORRECT COPY OF THE  
ORIGINAL DOCUMENT RECORDED ON 5-15-98  
UNDER RECORDER'S SERIES NO. 14185857  
SANTA CLARA COUNTY RECORDS  
FIRST AMERICAN TITLE GUARANTY CO.  
BY: [Signature]

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**GRANT DEED**

**FOR A VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged, REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA, a public body ("Grantor"), hereby GRANTS to CARRAMERICA TECHMART, L.L.C., a Delaware limited liability company ("Grantee"), the improvements ("Improvements") existing on that certain real property in the County of Santa Clara, State of California, more particularly described on Schedule 1 attached hereto and made a part hereof, which Improvements are and shall remain real property, subject to

1. Real Estate Taxes not yet due and payable;
2. General and Special Assessments payable after the date hereof;
3. Liens, claims, easements, covenants, restrictions, encumbrances, and other matters of record, including, without limitation, that certain Ground Lease dated May 13, 1998, between Grantor, as lessor, and Grantee, as lessee, recorded concurrently herewith;
4. Zoning and other laws, ordinances, and regulations;
5. Public utility, drainage, and highway easements, whether or not of record;
6. Rights of parties in possession; and
7. Encroachments and other matters which would be disclosed by an accurate survey or an inspection of the above premises.

The Grantee herein covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of, any person or group of persons on account of sex, marital status, race, color, creed, religion, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Improvements 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 Improvements herein conveyed. The foregoing covenants shall run with the Improvements.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of  
May 12, 1998.

"Grantor"

REDEVELOPMENT AGENCY OF  
THE CITY OF SANTA CLARA,  
a public body

By: Jennifer Sparacino  
Its: Executive Director

SCHEDULE 1

Order No. 513619

**LEGAL DESCRIPTION**

REAL PROPERTY in the City of Santa Clara, County of Santa Clara, State of California, described as follows:

Beginning at the Northwestern corner of Parcel 2 as shown on that certain Amended Parcel Map recorded December 2, 1987 in Book 581 of Maps, pages 9, 10, and 11, Santa Clara County Records, said point of beginning also being Point P-2 as shown on said map, and said point being distant North 31° 56' 14" East, 383.76 feet from the City of Santa Clara brass pin monument at the intersection of Bunker Hill Lane and Great America Parkway; thence, from said point of beginning, South 00° 00' 34" East, 191.50 feet; thence, South 89° 59' 26" West, 7.00 feet; thence, South 45° 00' 34" East, 92.63 feet; thence, North 00° 00' 34" West, 7.00 feet; thence, North 89° 59' 26" East, 191.57 feet; thence, North 00° 00' 34" West 149.97 feet; thence, North 89° 59' 26" East, 29.93 feet; thence, North 00° 00' 34" West 130.03 feet; thence, South 89° 59' 26" West, 65.04 feet; thence, North 00° 00' 34" West, 30.00 feet; thence, South 89° 59' 26" West, 10.00 feet; thence, South 00° 00' 34" East, 30.00 feet; thence, South 89° 59' 26" West, 55.00 feet; thence South 00° 00' 34" East, 30.00 feet; thence, South 89° 59' 26" West, 25.00 feet; thence, North 00° 00' 34" West, 20.00 feet; thence, South 89° 59' 26" West, 30.00 feet; thence, South 00° 00' 34" East, 20.00 feet; thence, South 89° 59' 26" West, 94.96 feet to the point of beginning. Containing an area of 1.59 acres, more or less.

APN: 104-55-008

ARB: 104-03-x005, x012

\*\*\*\*

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of Santa Clara

On May 12, 1998 before me, Yvonne Felix Galletta, Notary Public  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Jennifer Sparacino  
Name(s) of Signer(s)

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.

Yvonne Felix Galletta  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: Grant Deed

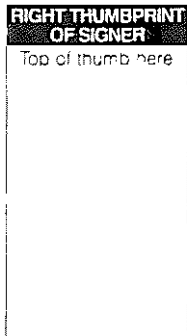
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

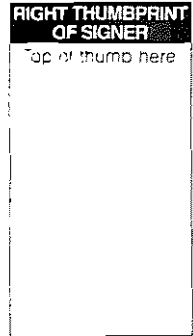
- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer  
Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_