

AUG 28, 2002 2:52 PM

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

Law Offices of William J. Harris
777 South Highway 101, Suite 123
Solana Beach, California 92075
Attention: William J. Harris, Esq.

MAIL TAX STATEMENTS TO:

Arena Group 2000 L.P.
3500 Sports Arena Boulevard
San Diego, California 92110
Attention: Ronald E. Hahn

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER

FEES: 83.00

OC: NA



2002-0732655

(Space Above For Recorder's Use Only)

23038139-413

The undersigned declares that the documentary transfer tax is \$-0-.

The real property is located in the City and County of San Diego, State of California.

MEMORANDUM OF GROUND LEASE

This MEMORANDUM OF GROUND LEASE (the "Memorandum") is made as of July 30, 2002, by and between the CITY OF SAN DIEGO, a municipal corporation ("Landlord"), and ARENA GROUP 2000 L.P., a California limited partnership ("Tenant").

1. This Memorandum is executed in connection with that certain Ground Lease dated as of April 19, 2002, ("Lease") by and between Landlord and Tenant.

2. The real property which is the subject of this Memorandum and of the Lease consists of four (4) parcels generally known as Parcels A, B, C and D, as more particularly described on Exhibit A attached hereto (the "Premises") and depicted on Exhibit B attached hereto. Parcel A of the Premises consists of certain access driveways ("Access Driveways") more particularly depicted on Exhibit B attached hereto.

3. Pursuant to the Lease entered into simultaneously herewith, Landlord leases to Tenant the Premises, and Tenant leases the Premises from Landlord, for the rent and on the terms and conditions set forth in the Lease.

4. Tenant (or its affiliate) has previously leased from Landlord additional property described in the Lease as the Sports Arena Premises ("Sports Arena Premises") pursuant to the Sports Arena Operating Agreement, more particularly described in Exhibit C attached hereto (the "Operating Agreement"). The Sports Arena Premises are depicted on Exhibit B attached hereto. The Premises previously were part of the Sports Arena Premises, however, pursuant to the Fourth Amendment to the Sports Arena Operating Agreement on file in the Office of the City Clerk as document number RR-296247, the Premises were de-annexed from the Sports Arena Premises concurrently with the execution of the Lease.

5. The term of the Lease is thirty (30) years commencing on May 1, 2002 and expiring on April 30, 2032, subject to potential earlier termination as provided therein.

6. The Lease includes the following reservation of easement:

Landlord reserves unto itself or its designees the right of access over Parcel A effective upon expiration or earlier termination of the Operating Agreement.

7. This Memorandum is prepared for the purpose of recordation and in no way modifies the terms and conditions of the Lease. If there is any inconsistency between the terms and conditions of this Memorandum and the terms and conditions of the Lease, the terms and conditions of the Lease shall control.

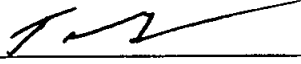
8. This Memorandum may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together constitute one in the same instrument.

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the parties executed this Memorandum on the date first above written.

LANDLORD:

THE CITY OF SAN DIEGO

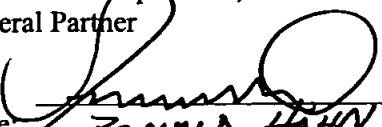

City Manager by Tim C. Rothans, Deputy Director

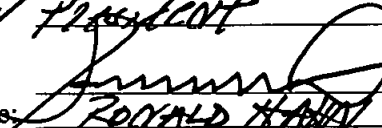
TENANT:

ARENA GROUP 2000 L.P.,
a California limited partnership

By: Arena Founders, L.P.,
a California limited partnership,
Managing General Partner

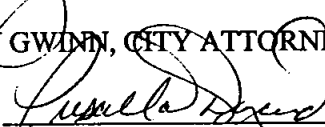
By: Founders of Arena Group 2000,
a California corporation,
General Partner

By: 
Name: RONALD HAHN
Title: President

By: 
Name: RONALD HAHN
Title: G.P.

APPROVED as to form and legality this 27 day of August, 2002.

CASEY GWINN, CITY ATTORNEY

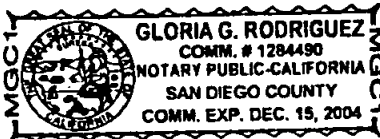
By: 
Deputy City Attorney

*[Signatures must be acknowledged by a notary-
Notary acknowledgements on following pages]*

STATE OF CALIFORNIA)
)ss.
 COUNTY OF SAN DIEGO)

On JULY 31, 2002 before me, GLORIA G. RODRIGUEZ personally appeared RONALD HAHN, 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.

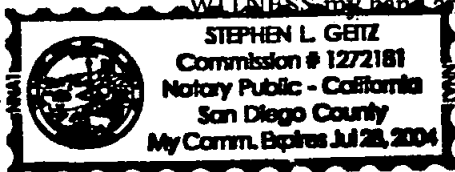


Gloria G. Rodriguez
 Notary Public

STATE OF CALIFORNIA)
)ss.
 COUNTY OF SAN DIEGO)

On August 24, 2002, before me, Stephen L. Getz, personally appeared Tim C. Rothman, 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.

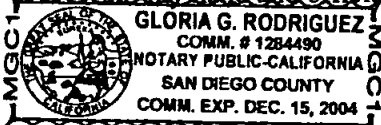


Stephen L. Getz
 Notary Public

STATE OF CALIFORNIA)
)ss.
 COUNTY OF SAN DIEGO)

On JULY 31, 2002 before me, GLORIA G. RODRIGUEZ personally appeared RONALD HAHN, 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.



Gloria G. Rodriguez
 Notary Public

017015

STATE OF CALIFORNIA)
)ss.
COUNTY OF SAN DIEGO)

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

WITNESS my hand and official seal.

Notary Public

017016

EXHIBIT A TO MEMORANDUM OF GROUND LEASE

LEGAL DESCRIPTION OF THE PREMISES

[ATTACHED]

017017

J-13575B

EXHIBIT "A"

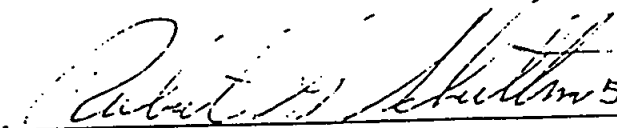
CITY LEASE PARCEL

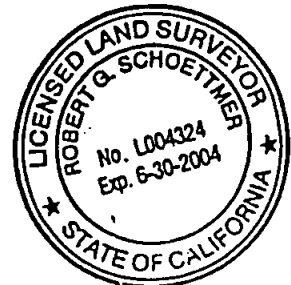
Parcel "A"

All of those portions of Pueblo Lots 311, 312, 313, 241 and 242 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof by James Pascoe in the year 1870, a certified copy of which was filed November 14, 1921 in the Office of the County Recorder of San Diego County, and is known as Miscellaneous Map No. 36, being more particularly described as follows:

Beginning at the centerline intersection of Sports Arena Boulevard and Kemper Street as shown and delineated on Arena Plaza Subdivision Map No. 6629 in the City of San Diego, County of San Diego, State of California, recorded April 20, 1970 in the Office of the Recorder of San Diego County; thence along the centerline of Sports Arena Boulevard North $77^{\circ}23'37''$ West (record North $77^{\circ}52'25''$ West per said Map No. 6629) 53.74 feet; thence North $12^{\circ}36'23''$ East 65.00 feet to a point on the Northerly Right-of-way line of said Sports Arena Boulevard and the TRUE POINT OF BEGINNING; thence North $12^{\circ}36'23''$ East 199.03 feet; thence South $77^{\circ}23'37''$ East 677.04 feet; thence North $65^{\circ}44'11''$ East 51.62 feet; thence South $77^{\circ}23'37''$ East 307.67 feet; thence South $12^{\circ}36'23''$ West 25.00 feet; thence North $77^{\circ}23'37''$ West 224.75 feet; thence South $26^{\circ}38'35''$ West 46.38 feet; thence South $12^{\circ}36'23''$ West 160.00 feet; thence North $77^{\circ}23'37''$ West 60.00 feet; thence North $12^{\circ}36'23''$ East 160.00 feet; thence North $03^{\circ}09'24''$ East 42.41 feet; thence South $67^{\circ}37'56''$ West 48.56 feet; thence North $77^{\circ}23'37''$ West 262.25 feet; thence South $12^{\circ}36'23''$ West 174.00 feet; thence North $77^{\circ}23'37''$ West 20.00 feet; thence North $12^{\circ}36'23''$ East 174.00 feet; thence North $77^{\circ}23'37''$ West 335.00 feet; thence South $12^{\circ}36'23''$ West 174.00 feet; thence North $77^{\circ}23'37''$ West 66.00 feet to the TRUE POINT OF BEGINNING.

Containing 1.230 acres more or less.


Robert G. Schoettmer L.S. 4324 5-22-2001



017018

J-13575B

EXHIBIT "A"

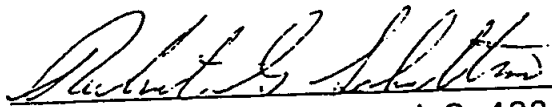
CITY LEASE PARCEL

Parcel "B"

All of those portions of Pueblo Lots 241, 242, 311, and 312 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof by James Pascoe in the year 1870, a certified copy of which was filed November 14, 1921 in the Office of the County Recorder of San Diego County, and is known as Miscellaneous Map No. 36, being more particularly described as follows:

Beginning at the centerline intersection of Sports Arena Boulevard and Kemper Street as shown and delineated on Arena Plaza Subdivision Map No. 6629 in the City of San Diego, County of San Diego, State of California, recorded April 20, 1970 in the Office of the Recorder of San Diego County; thence along the centerline of Sports Arena Boulevard South $77^{\circ}23'37''$ East (record North $77^{\circ}52'25''$ West per said Map No. 6629) 12.26 feet; thence North $12^{\circ}36'23''$ East 65.00 feet to a point on the Northerly Right-of-way line of said Sports Arena Boulevard and the TRUE POINT OF BEGINNING; thence continuing North $12^{\circ}36'23''$ East 174.00 feet; thence South $77^{\circ}23'37''$ East 335.00 feet; thence South $12^{\circ}36'23''$ West 174.00 feet to said Northerly Right-of-way line; thence Westerly along said Northerly Right-of-way line North $77^{\circ}23'37''$ West 335.00 feet to the TRUE POINT OF BEGINNING.

Containing 1.338 acres more or less.

 5-22-2001
Robert G. Schoettmer L.S. 4324



jb/13575.001

EXHIBIT "A"

CITY LEASE PARCEL

Parcel "C"

All of that portion of Pueblo Lot 312 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof by James Pascoe in the year 1870, a certified copy of which was filed November 14, 1921 in the Office of the County Recorder of San Diego County, and is known as Miscellaneous Map No. 36, being more particularly described as follows:

Beginning at the centerline intersection of Sports Arena Boulevard and Kemper Street as shown and delineated on Arena Plaza Subdivision Map No. 6629 in the City of San Diego, County of San Diego, State of California; recorded April 20, 1970 in the Office of the Recorder of San Diego County; thence along the centerline of Sports Arena Boulevard South $77^{\circ}23'37''$ East (record North $77^{\circ}52'25''$ West per said Map No. 6629) 367.25 feet; thence North $12^{\circ}36'23''$ East 65.00 feet to a point on the Northerly Right-of-way line of said Sports Arena Boulevard and the TRUE POINT OF BEGINNING; thence leaving said Northerly Right-of-way line North $12^{\circ}36'23''$ East 174.00 feet; thence South $77^{\circ}23'37''$ East 262.25 feet; thence North $67^{\circ}37'56''$ East 48.56 feet; South $03^{\circ}09'24''$ West 42.41 feet; thence South $12^{\circ}36'23''$ West 160.00 feet to said Northerly Right-of-way line; thence Westerly along said Northerly Right-of-way line North $77^{\circ}23'37''$ West 309.00 feet to the TRUE POINT OF BEGINNING.

Containing 1.248 acres more or less.

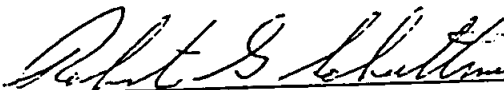
 5-22-2001
Robert G. Schoettmer L.S. 4324



EXHIBIT "A"

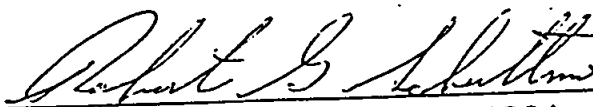
CITY LEASE PARCEL

Parcel "D"

That portion of Pueblo Lots 312 and 313 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof by James Pascoe in the year 1870, a certified copy of which was filed November 14, 1921 in the Office of the County Recorder of San Diego County, and is known as Miscellaneous Map No. 36, being more particularly described as follows:

Beginning at the centerline intersection of Sports Arena Boulevard and Kemper Street as shown and delineated on Arena Plaza Subdivision Map No. 6629 in the City of San Diego, County of San Diego, State of California, recorded April 20, 1970 in the Office of the Recorder of San Diego County; thence along the centerline of Sports Arena Boulevard South $77^{\circ}23'37''$ East (record North $77^{\circ}52'25''$ West per said Map No. 6629) 736.25 feet; thence North $12^{\circ}36'23''$ East 65.00 feet to a point on the Northerly Right-of-way line of said Sports Arena Boulevard and the TRUE POINT OF BEGINNING; thence leaving said Northerly Right-of-way North $12^{\circ}36'23''$ East 160.00 feet; thence North $26^{\circ}38'35''$ East 46.38 feet; thence South $77^{\circ}23'37''$ East 224.75 feet; thence South $12^{\circ}36'23''$ West 205.00 feet to said Northerly Right-of-way line; thence Westerly along said Northerly Right-of-way line North $77^{\circ}23'37''$ West 236.00 feet to the TRUE POINT OF BEGINNING.

Containing 1.105 acres more or less.

 5-22-2001
Robert G. Schoettmer L.S. 4324



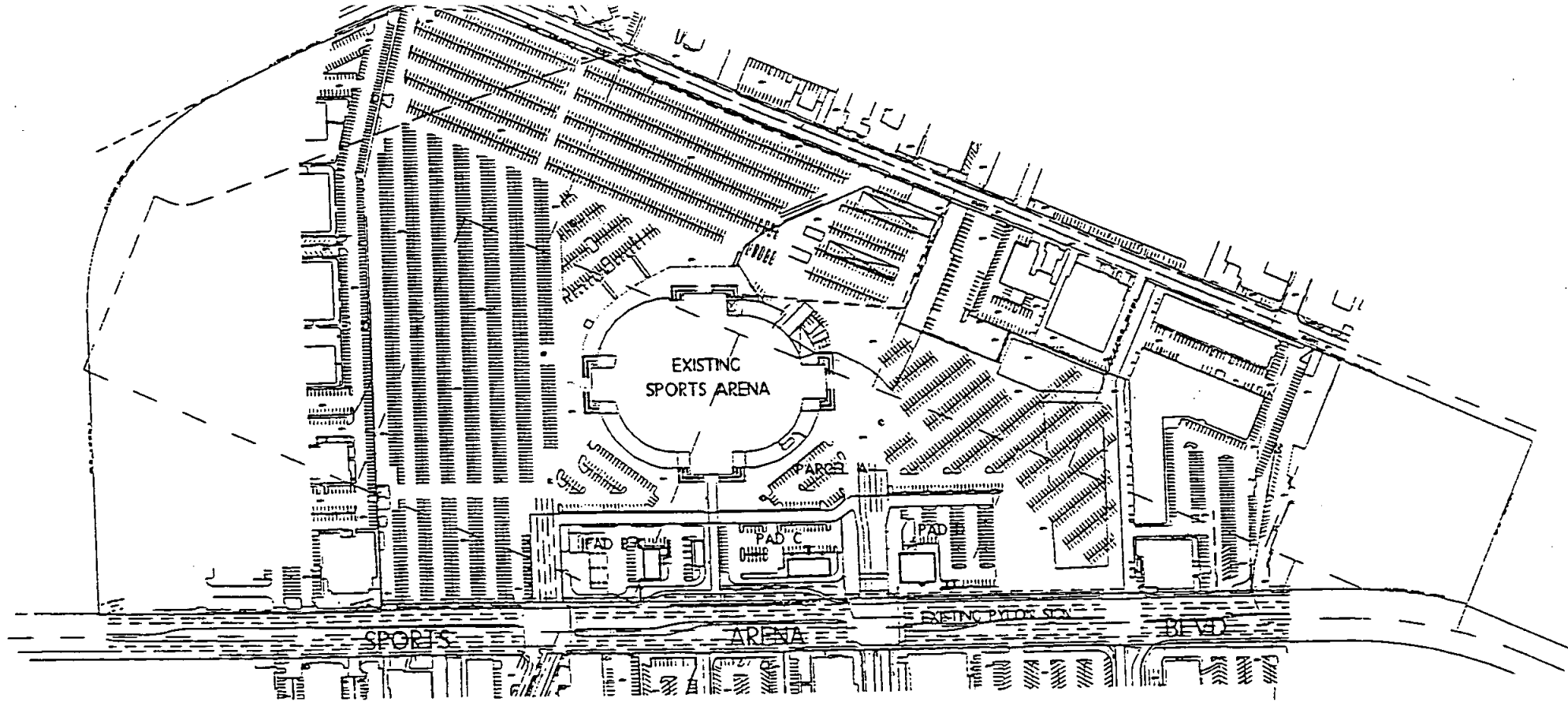
017021

EXHIBIT B TO MEMORANDUM OF GROUND LEASE

SITE PLAN

[ATTACHED]

017022



LEASE EXHIBIT A

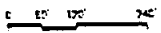
ARENA 2000

SPORTS ARENA MASTERSITE

SAN DIEGO, CALIFORNIA



NORTH



1

1

SGPA ARCHITECTURE • PLANNING
SAN DIEGO SAN FRANCISCO

Project No. 99019-P-03
Date: 4-18-02
Copyright 2002



EXHIBIT C TO MEMORANDUM OF GROUND LEASE**DESCRIPTION OF THE OPERATING AGREEMENT**

Tenant currently leases property from Landlord commonly known as the San Diego Sports Arena ("Sports Arena Premises"), pursuant to an Operating Sublease dated August 6, 1971, recorded on August 6, 1971 as File/Page No. 174413, Book 1971 of the Official Records of San Diego County, California. The relationship of the parties with respect to the San Diego Sports Arena Property are more fully delineated in a Memorandum of Termination of Ground Lease, Amendment to Operating Sublease and Parking Lot Lease, filed March 29, 1993 in the Office of the City Clerk as document number RR-281708-4, and in the documents referenced in the Memorandum (collectively, the "Sports Arena Operating Agreement").

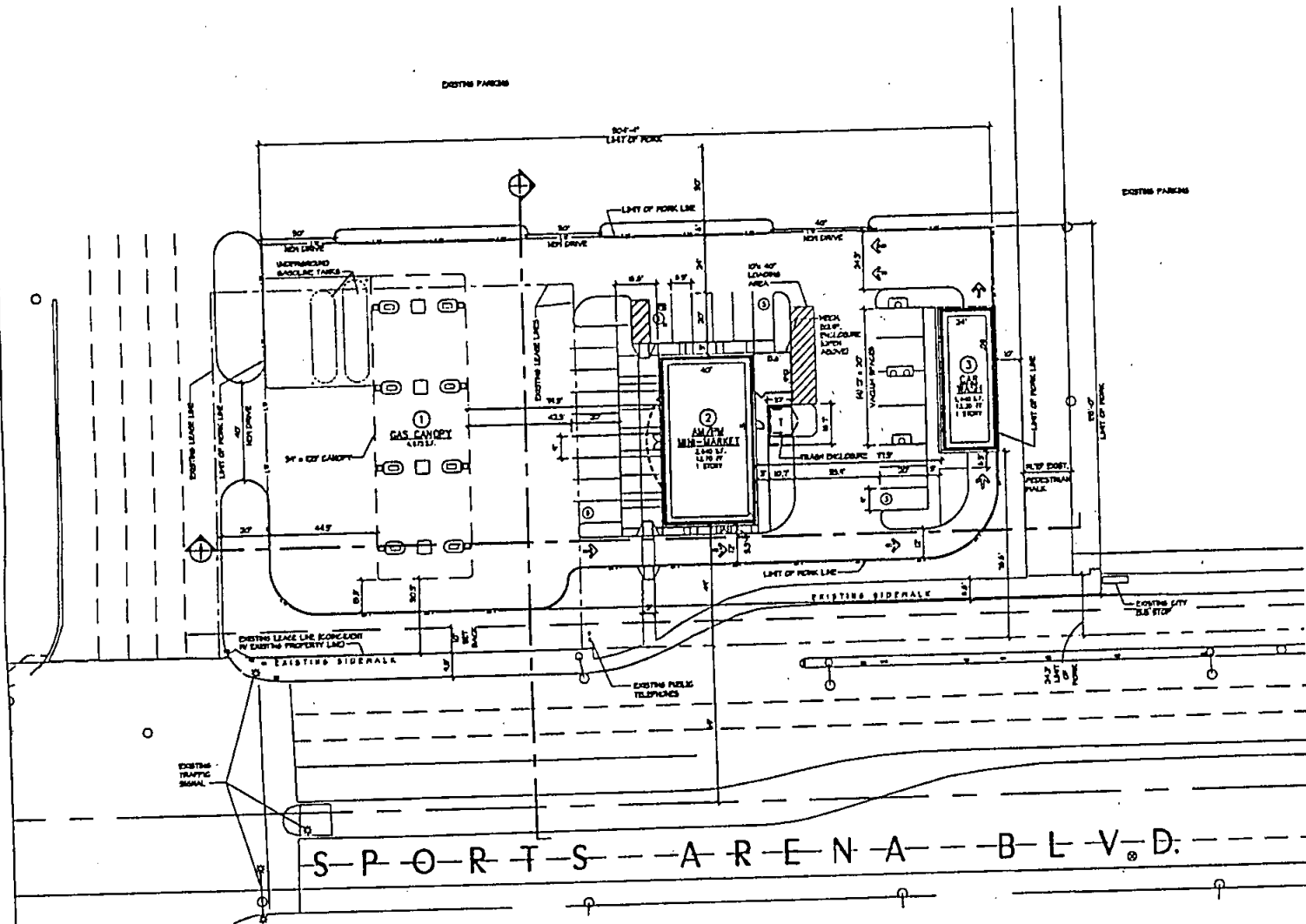
12.2 General Development Plan.

The General Development Plan consists of:

- a. Plot Plan - Copy of the plot plan showing three buildable pad parcels and the access driveway parcel are attached as Exhibit A-1..
- b. Development Schedule - Pad preparation work completed; sublessees to construct their improvements pursuant to each CITY approved sublease.
- c. Approved Hard Construction Costs - Information submitted and attached as Exhibit A-2, per section 3.3 of the Lease the approved hard construction cost to be credited are limited to a maximum of \$950,000.
- d. Financial Plan - Existing pad work was previously performed and paid for by LESSEE. Sublessees to construct their own improvements on each pad pursuant to subleases and plans to be approved separately by CITY in accordance with the Lease.
- e. Schematic Elevations - To be submitted by sublessees for approval by CITY in accordance with the Lease.
- f. Landscape Plan - Additional landscaping will be covered in the sublessee improvement plans.

and shall be filed in the Office of the City Clerk as referenced in this Lease.

Exhibit A-1

**NOTE**

- NOTES**
1. ALL STANDARD PARKING SPACES TO BE 8'5" BY 18' AND ACCESSIBLE PARKING SPACES TO BE 8' WIDE, WITH A 5' WIDE ACCESS Aisle AND WITH AN 8' WIDE ACCESS Aisle AT VAN ACCESSIBLE SPACES.
 2. SEE CIVIL GRADING PLAN SHEET 3, FOR LOCATION OF PROPOSED AND EXISTING EASEMENTS AND TREE UTILITIES.

LEGAL DESCRIPTION

LEGAL DESCRIPTION
THOSE PORTIONS OF PUEBLO LOTS 241, 242 AND 311 OF THE PUEBLO LANDS OF SAN DIEGO STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AND KNOWN AS MISCELLANEOUS MAP NO. 38, DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTHEASTLY LINE OF
PUEBLO LOT 312 WITH THE NORTHERLY LINE OF SPORTS ARENA WILDFLOW; THENCE
NORTHEASTLY ALONG SAID NORTH EASTLY LINE TO A POINT OF INTERSECTION WITH
A LINE BEING THE DISTANCE OF 100.00 FEET NORTHEASTLY; BEING ANGLE 77° 27' 16"
WEST; A DISTANCE OF 725.56 FEET TO THE TRUE POINT OF BEGINNING; BEING ANGLE
120° 26' 14" CAST; A DISTANCE OF 130.00 FEET NORTHEASTLY; BEING ANGLE
A DISTANCE OF 150.00 FEET; BEING ANGLE 120° 26' 14" CAST; A DISTANCE OF
150.00 FEET TO THE TRUE POINT BECOMING CONTAINING 312 ACRES OR LESS.
150.00 FEET TO THE TRUE POINT SUCCEEDING PARCEL NUMBER 312-040-42, 43

UPON

1.  INDICATES STANDARD ACCESSIBLE STALL (WITH V INDICATES VAN ACCESSIBLE STALL)
2.  INDICATES TRASH ENCLOSURE
3.  INDICATES MEN'S RESTROOM
4.  INDICATES WOMEN'S RESTROOM
5.  INDICATES UNISEX RESTROOM
6.  INDICATES STANDARD CAR PARKING SPACE SUB-TOTAL
7.  INDICATES ACCESSIBLE CAR PARKING SPACE SUB-TOTAL
8.  INDICATES LIGHT FIXTURE

PREPARED BY:
SCPA ARCHITECTURE & PLANNING
1545 HOTEL CIRCLE SOUTH, SUITE 200
SAN DIEGO, CA 92108
PH (619) 287-0931

PROJECT ADDRESS
3500 SPORTS ARCADE BLVD.
SAN DIEGO, CALIFORNIA

PROJECT NAME: SPORTS ARENA RETAIL CENTER PAD B

DEPT FILE: SMC PLAN

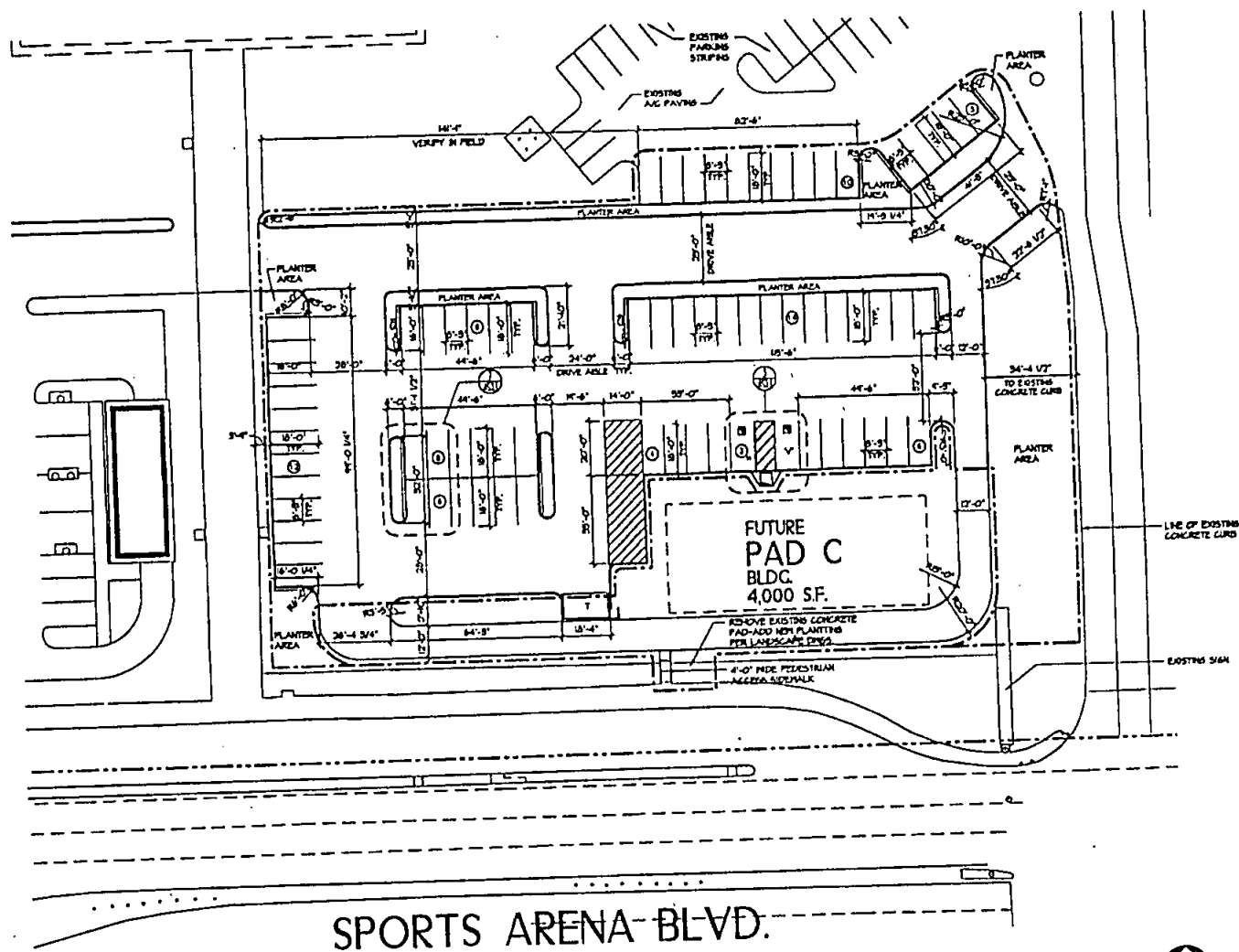
REVISION 14 _____
REVISION 13 _____
REVISION 12 _____
REVISION 11 _____
REVISION 10 _____
REVISION 9 _____
REVISION 8 _____
REVISION 7 _____
REVISION 6 _____
REVISION 5 _____
REVISION 4 _____
REVISION 3 _____
REVISION 2 _____
REVISION 1 _____

DATE: OCTOBER 1, 2000

1001 1001

DLF

Exhibit A-1



- PROPERTY LINE
CENTER LINE
PARCEL LINE
LIMITED PARK LINE
- STANDARD CONCRETE WITH DROOP
FRESH CONCRETE BORDER
- RIGHT OF WAY
TELEPHONE/ELECTRIC ROOM LOCATION
ELECTRIC MANHOLE
TRANSFORMER PAD
TELEPHONE PEDestal
GAS METER
WATER METER
FIRE HYDRANT, SEE CIVIL SHEETS
POST INDICATOR VALVE
FIRE DEPARTMENT CONNECTION
REDUCED PRESSURE-VALVE DEVICE
FIRE RISER
SQUARE TREE MELL WITH CURB
POLE LIGHT, BASE DETAIL
SEE ELECT. Dwg. #
PIPE GUARD
RETAINING OR SCREEN WALL
RETAINING OR SCREEN WALL FOR CIVIL
ACCESSIBLE PARKING SPACE
ACCESSIBLE ACCESS SYMBOL
ACCESSIBLE RAMP
ACCESSIBLE PARKING SIGN
ACCESSIBLE ENTRANCE SIGN
STOP SIGN
YIELD SIGN
WHITE PAINTED TRAFFIC
DIRECTION ARROWS TYPICAL
WHITE PAINTED STOP SIGN LIMIT LINE
AND TRAFFIC LANE STRIPE
PARKING COUNT - STANDARD
PARKING COUNT - COMPACT
PARKING COUNT - ACCESSIBLE SPACE
FOR HARDSCAPE LEGEND, SEE THIS SHEET
BUILDING IDENTIFICATION DESIGNATION
CONCRETE CURB
PARKING SIGN
DASHED OR FUTURE
MATCHLINE

CLARK
ST
CLARK

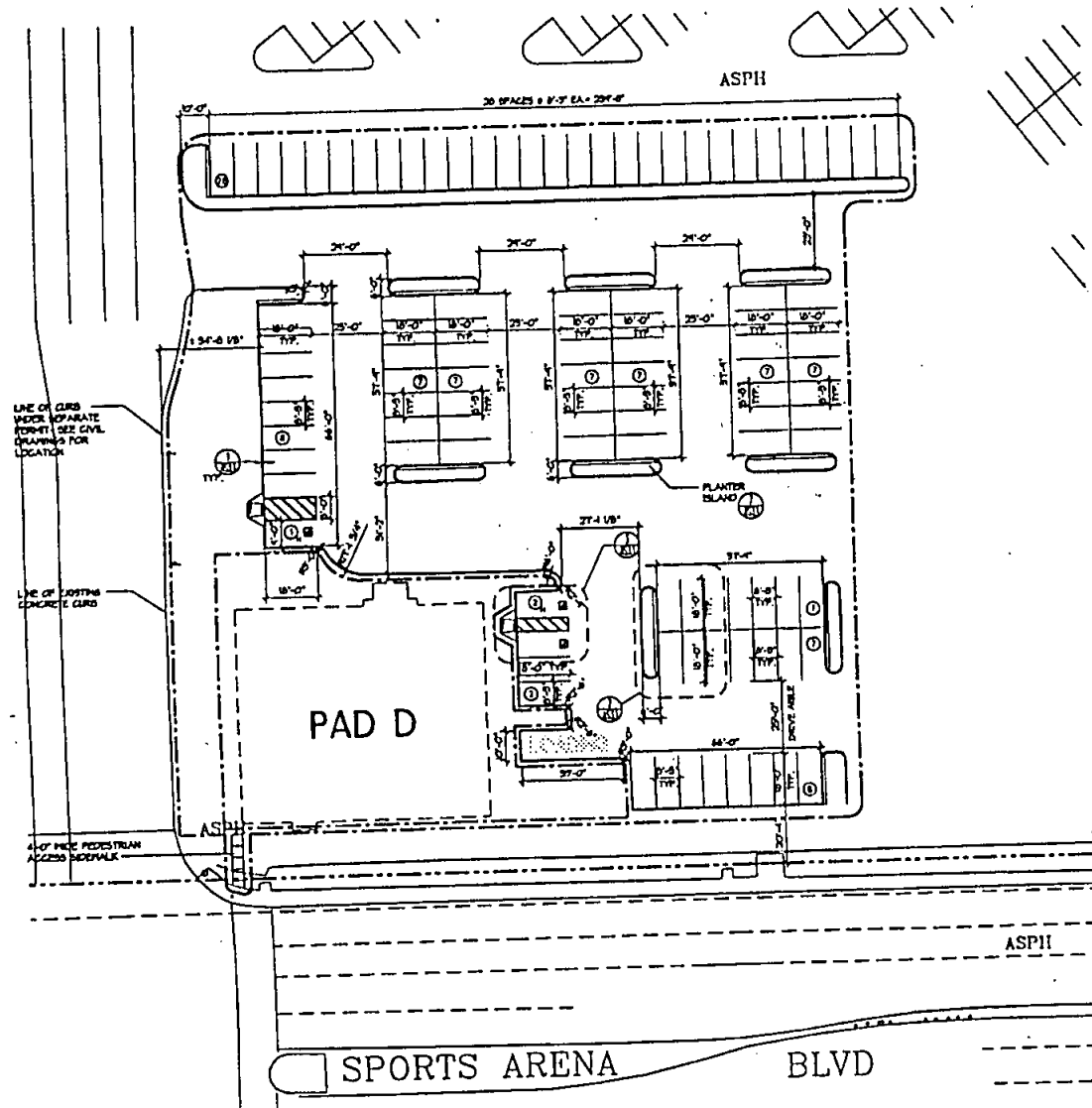
AS2.1

ENLARGED SITE PLAN

LEGEND/ NOTES

REF: 1/70-1-0

Exhibit A-1



1. [Symbol] INDICATES STANDARD ACCESSIBLE STALL WITH "V" INDICATES VAN ACCESSIBLE STALL
2. [Symbol] INDICATES TRASH ENCLOSURE
3. [Symbol] INDICATES NEW LIMIT OF WORK LINE
4. [Symbol] INDICATES PROPERTY LINE
5. [Symbol] INDICATES STANDARD CAR PARKING SPACE
6. [Symbol] INDICATES ACCESSIBLE CAR PARKING SPACE



SCIPA ARCHITECTURE AND PLANNING
 2000
 PROJECT NO. 2000-001
 DATE: 10/1/00
 DESIGNED BY: J. L. LEE
 CHECKED BY: J. L. LEE
 SCALE: AS SHOWN

SPORTS ARENA - PAD D
 SAN DIEGO, CALIFORNIA
 ARENA 2000
 SAN DIEGO, CALIFORNIA

AS2.1

Exhibit A-2

January 10, 2001

Onsite Pad "B"	\$178,500
Onsite Pad "C"	\$213,500
Onsite Pad "D"	\$190,000
Site Slurry and Stripe	\$150,000
Off-Site	\$100,000
Leasing Commissions	\$167,000
Project Management	\$110,000
Reports (Soils, Traffic, etc.)	\$75,000
Architectural & Engineering	\$225,000
City Fees / Permits	\$50,000
Legal	\$50,000
Loan Costs	<u>\$15,000</u>
	<u>\$1,524,000</u>

RESOLUTION NUMBER R- 236248

ADOPTED ON APR 02 2002

WHEREAS, the City currently leases to Arena Group 2000, Inc., a California corporation (as successor-in-interest to San Diego Entertainment, Inc.) [Arena Group], property located at 3500 Sports Arena Boulevard in the City of San Diego, more commonly known as the San Diego Sports Arena; and

WHEREAS, City and Arena Group have a bona fide dispute as to the rights and responsibilities of the parties to the Sports Arena Operating Agreement for naming rights for the Sports Arena Premises; and

WHEREAS, Arena Group desires to commercially develop a portion of the Sports Arena Premises and to sublease the developed area as provided in the Lease Agreement approved by City Council and on file in the Office of the City Clerk as Document No. R 236247 the [Sports Arena Retail Pad Ground Lease]; and

WHEREAS, in consideration of CITY's approval of the Sports Arena Retail Pad Ground Lease for the portion of the Sports Arena Premises identified in the attached Exhibit "A", Arena Group agreed to a Fourth Amendment to the Sports Arena Operating Agreement; NOW
THEREFORE

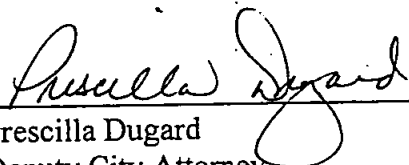
BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager be and he is hereby authorized and empowered to execute, for and on behalf of the City, a Fourth

Amendment to Operating (Sublease) Agreement with Arena Group 2000 deleting the premises included in the Sports Arena Retail Pad Ground Lease and adding naming rights language, under the terms and conditions set forth in the Agreement on file in the office of the City Clerk as

Document No. RR- 296248.

APPROVED: CASEY GWINN, City Attorney

By


Prescilla Dugard
Deputy City Attorney

PD:mm

03/26/02

Or.Dept:READ

R-2002-1311

Form=auagr.frm

Passed and adopted by the Council of the City of San Diego on April 2, 2002 by the following vote:

YEAS: WEAR, ATKINS, STEVENS, MAIENSCHEN, FRYE, MADAFFER, INZUNZA,
MAYOR MURPHY.

NAYS: NONE

NOT PRESENT: PETERS.

AUTHENTICATED BY:

DICK MURPHY
Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(SEAL)

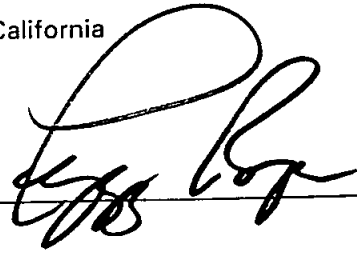
By: PEGGY ROGERS Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION No. R- 296248 passed and adopted by the Council of The City of San
Diego, California on April 2, 2002.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By:  Deputy

COPY

THE CITY OF SAN DIEGO



SAN DIEGO SPORTS ARENA RETAIL PADS Ground Lease

DOCUMENT NO. R-296248
FILED APR 02 2002
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

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CITY OF SAN DIEGO
GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT ("Lease") is executed between the CITY OF SAN DIEGO, a municipal corporation, hereinafter called "CITY," and ARENA GROUP 2000, a California limited partnership, hereinafter called "LESSEE" based upon the following:

RECITALS

- A. LESSEE currently leases property from the CITY commonly known as the San Diego Sports Arena ("Sports Arena Premises"), pursuant to an Operating Sublease dated August 6, 1971, recorded on August 6, 1971 as File/Page No. 174413, Book 1971 of the Official Records of San Diego County, California. The relationship of the parties with respect to the San Diego Sports Arena Property are more fully delineated in a Memorandum of Termination of Ground Lease, Amendment to Operating Sublease and Parking Lot Lease, filed March 29, 1993 in the Office of the City Clerk as document number RR-281708-4, and in the documents referenced in the Memorandum [collectively, the ("Sports Arena Operating Agreement")].
- B. LESSEE also leases the adjoining Sports Arena Square property ("Crake Parcel"), Document Number O-18264, dated February 20, 1996. LESSEE acknowledges that any of the agreements contained herein shall not be construed as consideration for renewal of the Crake Parcel Lease.
- C. LESSEE desires to commercially develop a portion of the Sports Arena Premises and to sublease the developed area as provided in this Lease.
- D. CITY and LESSEE have a bonafide dispute as to the rights and responsibilities of the parties under the Sports Arena Operating Agreement for naming rights for the Sports Arena Premises. CITY is willing to enter into this separate lease for the portion of the Sports Arena Premises identified in Section 1.1 of this Lease and to amend the Sports Arena Operating Agreement to remove the Leased Premises from the premises covered by those agreements in consideration of Lessee's agreement to the Fourth Amendment to the Sports Arena Operating Agreement on file in the Office of the City Clerk as document number _____.
- E. LESSEE understands that CITY intends to include the Leased Premises [Parcels A, B, C and D] as part of any proposal for a comprehensive redevelopment of the CITY's portfolio of property located in the Sports Arena/Midway District.

SECTION 1: USES

- 1.1 Premises. CITY leases to LESSEE and LESSEE leases from CITY all of that certain real property situated in the City of San Diego, County of San Diego, State of California, described as "Parcel A", "Parcel B", "Parcel C" and "Parcel D" (individually, a "Parcel" and collectively, the "Parcels") in Exhibit "A" attached hereto and by this reference made part of this Lease agreement. Said real property is hereinafter called the "Premises" or "Leased Premises."
- 1.2 Uses.
- a. It is expressly agreed that the Premises are leased to LESSEE solely and exclusively for the purposes of developing and subleasing Parcels B, C and D, pursuant to subleases ("Subleases") of such Parcels reasonably approved by the CITY in accordance with Section 4.2 hereof and constructed in accordance with the General Development Plan referenced in Section 7.12 hereof, and for such other related or incidental purposes permitted by the approved Subleases or otherwise first approved in writing by the City Manager and for no other purpose whatsoever. Parcel A of the Premises consists of the access driveways and other circulation elements providing access to and from the Adjacent Property, the Premises and adjacent public streets (collectively, "Access Driveways") and shall be used exclusively for ingress, egress and similar purposes.
 - b. LESSEE covenants and agrees, subject to the terms and provisions hereof, to use LESSEE's commercially reasonable efforts to cause the sublessees of the Premises to use their respective Parcels throughout the term of their respective Subleases for the uses permitted above it being acknowledged by LESSEE and CITY that it is in their mutual best interest to produce the most income and receipts as reasonably possible from the Premises. CITY and LESSEE agree that the approved Subleases shall contain, unless CITY otherwise agrees, either a continuous operation clause and/or a recapture right which would entitle LESSEE to recapture the Parcel leased under such Sublease in the event the sublessee fails to operate its business in accordance with the permitted uses under such Sublease for more than eighteen (18) consecutive months.
 - c. Notwithstanding anything to the contrary contained in this Lease, if at least one sublease, approved by CITY in accordance with the provisions of this Lease has not been executed by LESSEE and such sublessee within three (3) years after the Effective Date of this Lease, then, in such event, CITY shall have the right to terminate this Lease immediately upon written notice delivered to LESSEE. Any LESSEE proposed sublease submitted after the end of Lease Year Three (3) and prior to CITY's exercise of its right to terminate pursuant to this section 1.2(c) will be subject to approval at the sole discretion of the City Manager.

- 1.3 Related Council Actions. By the granting of this Lease, CITY is not obligating itself to LESSEE with respect to any other lease and neither CITY nor the Council of CITY is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to development or operation of the Premises. Discretionary action includes but is not limited to rezonings, variances, environmental clearances, or any other governmental agency approvals which may be required for the development and operation of the Leased Premises.
- 1.4 Quiet Possession. LESSEE, paying the rent and performing the covenants and agreements herein, shall at all times during the term peaceably and quietly have, hold, and enjoy the Premises. If CITY for any reason cannot deliver possession of the Premises to LESSEE at the commencement of the term, or if during the Lease term LESSEE is temporarily dispossessed through action or claim of a title superior to CITY's, then and in either of such events, this Lease shall not be voidable nor shall CITY be liable to LESSEE for any loss or damage resulting therefrom, but there shall be determined and stated in writing by the City Manager of CITY a proportionate reduction of the rent for the period or periods during which LESSEE is prevented from having the quiet possession of all or a portion of the Premises.
- 1.5 Easements and Reservations.
- a. CITY reserves all rights, title, and interest in any and all subsurface natural gas, oil, minerals, and water on or within the Premises; provided, however, CITY shall not be entitled to access such subsurface materials from the surface of the Premises or from a level higher than five hundred (500) feet below the surface of the Premises if lateral entry from outside the Premises is accomplished.
 - b. CITY reserves the right to grant and use easements or to establish and use rights-of-way over, under, along, and across the Leased Premises for utilities, thoroughfares, or access as it deems advisable for the public good, subject to any limitations expressly set forth in any of the approved Subleases.
 - c. CITY has the right to enter the Premises for the purpose of making repairs to or developing municipal resources and services, subject to any limitations expressly set forth in any of the approved Subleases.
 - d. CITY reserves unto itself or its designees the right of access over Parcel A effective upon expiration or earlier termination of the Sports Arena Operating Agreement.

However, CITY shall not unreasonably or substantially interfere with LESSEE's (or its sublessees) use of the Premises and will reimburse LESSEE for physical damages, if any, to the permanent improvements located on the Leased Premises resulting from CITY exercising the rights reserved in this section. Such reimbursement may include a reduction in the rent proportionate to the amount of physical damage as determined by CITY. CITY will pay the costs of maintenance and repair of all CITY installations made pursuant to these reserved rights.

- 1.6 Competent Management. Throughout the term of this Lease, the Leased Premises shall be competently managed, as reasonably determined by the City Manager. For the purposes of this paragraph, "competently managed" shall mean demonstrated ability in the management and operation of approved retail uses and related activities in a fiscally responsible manner. Such management may be provided by LESSEE, LESSEE's manager or LESSEE's sublessees; provided, however, regardless of which person or entity provides such management, the Premises shall be competently managed throughout the term of this Lease.

SECTION 2: TERM

- 2.1 Commencement. The term of this Lease shall be thirty (30) years commencing on the first day of the calendar month following execution by the City Manager ("Effective Date"). "Lease Year" as used in this Lease shall mean each twelve (12) month period commencing on the Effective Date.
- 2.2 Memorandum of Lease. Promptly following the full execution of this Lease, LESSEE and CITY shall execute a memorandum of this Lease (the "Lease Memorandum") in recordable form and shall record the same against the Premises. The Lease Memorandum will (i) contain a description of LESSEE's interests under this Lease, (ii) contain a statement of the Effective Date and the expiration date of the lease term, and (iii) grant easements to the Access Driveways described herein.
- 2.3 Holdover. Any holding over by LESSEE after expiration or termination shall not be considered as a renewal or extension of this Lease. The occupancy of the Premises after the expiration or termination of this Lease constitutes a month-to-month tenancy, and all other terms and conditions of this Lease shall continue in full force and effect; provided, however, CITY shall have the right to apply a reasonable increase in rent to bring the rent to fair market value and to terminate the holdover tenancy at will.
- 2.4 Quitclaim and Surrender of LESSEE's Interest. At termination of this Lease, for any reason LESSEE shall execute, acknowledge and deliver to CITY, within five (5) days after written CITY demand, a quitclaim deed in recordable form quitclaiming all its rights in and to the Premises.

At the expiration or earlier termination of this Lease, LESSEE shall surrender the Premises to CITY free and clear of all liens and encumbrances, except those liens and encumbrances which existed on the date of execution hereof, and those that are otherwise reasonably approved or required by CITY, and in a decent, safe, and sanitary condition.

If LESSEE fails or refuses to deliver the required deed, CITY may prepare and record a notice reciting LESSEE's failure to execute this Lease provision, and the notice will be conclusive evidence of the termination of this Lease and all LESSEE's rights to the Premises.

SECTION 3: RENT

- 3.1 Time and Place of Payment. LESSEE shall pay rent to CITY monthly in arrears as provided in Section 3.5. All such payments shall be due on the first (1st) day of the applicable calendar month. Notwithstanding the foregoing, any portion of the Gross Receipts (as defined in Section 3.2 below) that are percentage rents paid by sublessees under the Subleases, shall be payable annually promptly after receipt by LESSEE from the sublessees. Notwithstanding anything to the contrary contained herein, rent and any other rent payable hereunder will begin upon the Effective Date. All rents required herein must be made payable to the City Treasurer and mailed to the Office of the City Treasurer, City of San Diego, P.O. Box 12289, San Diego, California, 92112-4165, or delivered to the Office of the City Treasurer, Civic Center Plaza, 1200 Third Avenue, First Floor, San Diego, California.

The place of payment may be changed at any time by CITY upon thirty (30) days written notice to LESSEE. Mailed rental payments shall be deemed paid upon the date such payment is postmarked by the postal authorities. If postmarks are illegible, the payment shall be deemed paid upon actual receipt by the City Treasurer. LESSEE assumes all risk of loss and responsibility for late payment charges if payments are made by mail.

- 3.2 Gross Receipts. "Gross Receipts" as used in this Lease, shall consist of all income received by LESSEE from all sources resulting from the occupancy and subleasing of the Premises (but excluding any common area maintenance charges and similar "triple net" charges).
- 3.3 Approved Hard Construction Costs. For purposes of this Lease "Approved Hard Construction Costs" ("AHCC") means a summary of approved hard construction costs per the attached Exhibit 12.2(c). The AHCC are limited to actual hard construction costs submitted by LESSEE for review and approved by the City Manager. The AHCC total is limited to a maximum of Nine Hundred and Fifty Thousand Dollars (\$950,000) and shall be deducted monthly from the Gross Receipts commencing at the beginning of Lease Year Two (2). The amount of the deduction shall be commensurate with the number of subleases that have

commenced. For computation purposes the monthly deduction if all three subleases have commenced will be \$7,916.67, two subleases \$5,277.78, one sublease \$2,638.89 and for no subleases a zero deduction. As new subleases commence the monthly deduction for AHCC will increase to correspond with the prorations outlined above and will be effective on the first day of the calendar month following any new sublease commencement date. If AHCC are not fully credited according to the method outlined above at the end of Lease Year Twelve (12), any remaining amounts shall be reduced to zero (0) and no further deduction will be made. If this lease is terminated as provided in Section 1.2 (c) CITY shall not be obligated to LESSEE for any portion of the AHCC.

- 3.4 Net Income. For purposes of this Lease, "Net Income" means Gross Receipts, less the AHCC during the period they are deducted as outlined in Section 3.3. Once the AHCC are fully credited or reduced to zero (0), the Net Income shall equal the Gross Receipts.
- 3.5 Rent. The rent structure described below is based on the LESSEE's contemplated three (3) Subleases for Parcel B, Parcel C and Parcel D, respectively, which Subleases shall be subject to the prior approval of the City Manager and shall be consistent with the General Development Plan described in Section 12.2 below. If any of the approved Subleases expire or are otherwise terminated during the term of this Lease, any new Sublease(s) shall be subject to the City Manager's approval, which shall not be unreasonably withheld or delayed. Further, any amendments or modifications to any approved Sublease which could materially affect the rents to be received by the CITY pursuant to this Lease shall require the prior approval of the City Manager (which approval shall not be unreasonably withheld or delayed).
- a. Distribution of Revenue. LESSEE shall pay to CITY as rent fifty percent (50%) of LESSEE'S Net Income.
- b. Incidental Uses. The approved Subleases shall provide that the sublessees thereunder shall not conduct any unpermitted incidental uses (e.g., cellular sites) which are not necessary and incidental to their permitted uses without prior approval of LESSEE pursuant to such Sublease and the City Manager pursuant to this Lease. The CITY's approval of any such incidental uses may be subject to the requirement that such sublessee pay reasonable additional rent for such additional incidental use. Rent or other income received by LESSEE with respect to any approved incidental services or operations supplementary to the permitted uses contemplated by the applicable Sublease, shall, notwithstanding anything to the contrary contained herein, be included in Gross Receipts. Any such unpermitted activity conducted on the Premises without prior approval by the City Manager shall be subject to the requirements of Section 3.10, Unauthorized Use Charge, hereof.

3.6 Payment Computation and Procedure. On or before the last day of the calendar month following the calendar month in which the Net Income subject to rents was earned, LESSEE shall provide CITY with a correct statement together with a payment of rent on all applicable net receipts in a form selected by CITY. The statement will be signed by LESSEE or its authorized agent attesting to the accuracy thereof, which shall be legally binding upon LESSEE. Each statement will indicate or include:

- a. (1) Total Gross Receipts from operation of the Premises from all sources. The statement shall delineate base rents and any percentage rents received by LESSEE.
- (2) An itemized list showing the rent distribution between CITY and LESSEE.
- b. The accumulated total of all rents previously paid for the current Lease Year.

3.7 Inspection of Records.

- a. Records. LESSEE shall, at all times during the Lease term, keep or cause to be kept true and complete books, records, and accounts of all financial transactions in the operation of all business activities conducted upon and financial transactions resulting from the use of the Premises. The records shall be supported by source documents such as sales slips, daily cash register tapes, purchase invoices, or other documents as necessary to allow CITY to easily determine the Gross Receipts.

Any retail sales or charges will be recorded by means of cash registers or other comparable devices which display to the customer the amount of the transaction and automatically issue a receipt. The registers will be equipped with devices that lock in sales totals and other transaction numbers and sales details that are not resettable. Totals registered shall be read and recorded at the beginning and end of each business day.

In the event of admission charges or rentals, LESSEE shall issue serially numbered tickets for each such admission or rental and shall keep an adequate record of such tickets, as well as a record of unissued tickets.

All retail sales and charges may be recorded by a system other than cash registers or other comparable devices provided such system is approved by CITY. Notwithstanding the foregoing, with respect to any approved Subleases for which percentage rent is not payable, no such financial records of sales resulting from such Parcel(s) shall be required; provided, however, LESSEE shall be responsible for compliance with this Section 3.7(a) with respect to any Subleases for which percentage rent is payable and with respect to LESSEE's own books and records.

b. Financial Statements. Within sixty (60) days after the end of each Lease Year as previously established herein, LESSEE will, at its expense, submit to CITY a statement in which the total Gross Receipts and the corresponding amounts of rents paid CITY for the year are classified according to the categories of business established for any percentage rental and for any other business conducted on or from the Premises. Said statement shall be signed by LESSEE or its authorized agent attesting to the accuracy thereof, which shall be legally binding upon LESSEE.

c. Right to Inspect. All LESSEE's books of account, records, and supporting documentation, as described under Section 3.7a Records, hereinabove, will be kept for at least five (5) years and made available to CITY in one location within the City of San Diego. Said books and records shall be maintained separate from all other accounts not relating to the Leased Premises. The CITY, at its discretion, shall have the right to inspect and audit the business of LESSEE, its agents, sublessees, concessionaires, and licensees operating on and in connection with the Premises as necessary and appropriate for CITY to determine the amounts of rent due CITY in compliance with the requirements of this Lease.

At CITY's request, LESSEE shall promptly provide, at LESSEE's expense, any necessary data to enable CITY to fully comply with all requirements of the state or federal government for Lease information or reports concerning the Premises. Such data will include, if required, a detailed breakdown of LESSEE's receipts and expenses.

d. Audit Cost. The full cost of CITY's audit(s) will be borne by CITY unless one or both of the following conditions exists, in which case LESSEE hereby agrees to pay CITY's cost of audit(s):

(1) The audit(s) reveal an underpayment of more than five percent (5%) between the rent due as reported and paid by LESSEE pursuant to this Lease and rent due as determined by the audit(s);
or

(2) LESSEE has failed to maintain complete and true books, records, accounts, and supporting source documents in substantial accordance with this section.

LESSEE shall pay any deficiency determined by the audit(s) plus interest on such amount as defined in Section 3.8, Delinquent Rent and Audit Fees, hereof, within thirty (30) days of notice thereof by CITY. CITY will credit any overpayment against incoming rents. Any overpayment determined after the end of this Lease will be refunded by CITY within thirty (30) days of confirmation by the City Manager of the audit(s) findings.

- e. Default. LESSEE's failure to keep complete and accurate records by means of double-entry bookkeeping and make them available for CITY inspection is, like all other failures to comply with covenants of this Lease, a breach of this Lease and cause for termination (subject to the notice and cure provisions hereof). Notwithstanding anything to the contrary contained herein, CITY understands and agrees that, with respect to the Subleases, LESSEE will be relying upon sales reports and other financial information being provided by the sublessees thereunder. Accordingly, notwithstanding anything to the contrary contained herein, LESSEE shall not be considered in default nor shall LESSEE be responsible for paying any audit costs for inaccuracies in any such books or records to the extent such inaccuracy occurs as a result of LESSEE's good faith reliance upon the information provided by such sublessees. LESSEE shall, however, use its commercially reasonable efforts for the benefit of the CITY and LESSEE to cause the sublessees to timely and accurately report their sales information with respect to their operations on their respective Parcels.

- 3.8 Delinquent Rent and Audit Fees. If LESSEE fails to pay the rent required hereunder within ten (10) days after due, LESSEE will pay, in addition to the unpaid rents, five percent (5%) of the delinquent rent. If the rent is still unpaid at the end of twenty (20) days, LESSEE shall pay an additional five percent (5%) [being a total of ten percent (10%)], which is hereby mutually agreed by the parties hereto to be appropriate to compensate CITY for loss resulting from rental delinquency, including lost interest, opportunities, legal costs, and the cost of servicing the delinquent account. Notwithstanding the foregoing, in no event shall the charge for late payments of rent be less than Twenty-five Dollars (\$25). The foregoing does not preclude LESSEE from paying any disputed portion of rent under protest, and such payment under protest shall preserve LESSEE's claim regarding any disputed rent calculation.

In the event CITY audit(s), if applicable, discloses that the rent for the audited period(s) has been underpaid in excess of five percent (5%) of the total required rent, then LESSEE shall pay CITY the cost of the audit(s) plus ten percent (10%) per year on the amount by which said rent was underpaid, in addition to the unpaid rents as shown to be due CITY, as compensation to CITY for administrative costs and loss of interest as previously described herein. In the event CITY audit(s) discloses that the unpaid rent is less than five percent (5%) of the total rent, and should LESSEE fail to pay said unpaid rent within thirty (30) days after written notice from CITY, an additional fee of ten percent (10%) of said unpaid amount shall be added to the unpaid amount to compensate CITY for costs and losses due to such nonpayment. LESSEE agrees to pay such amounts and further agrees that the specific late charges represent a fair and reasonable estimate of the costs that CITY will incur from LESSEE's late payment. Acceptance of late charges and any portion of the late payment by CITY shall in no event constitute a waiver of LESSEE default with respect to late payment, nor prevent CITY from exercising any of the other rights and remedies granted in this Lease.

3.9 Early Termination. On the date that is twenty (20) years after the date the third sublease commences but in no event later than the last day of Lease Year Twenty One (21) and at any time thereafter prior to the expiration of this Lease, CITY shall have the right to terminate this Lease (and all subleases), on the following terms and conditions:

- a. Notice to LESSEE. If the City Manager elects to cancel this Lease solely for the purpose of tearing down improvements and incorporating the Premises as part of an approved master plan to redevelop CITY-owned properties in the Sports Arena area, CITY may deliver a notice of cancellation ("Termination Notice"), specifying that the Lease shall be cancelled at the end of three hundred sixty-five (365) days after serving of the Termination Notice, which CITY so stipulates shall be deemed an acquisition in lieu of condemnation.
- b. Termination Consideration. If the CITY elects to terminate this Lease prior to the Expiration Date as provided in Section 3.9, the CITY shall be obligated to pay LESSEE or Sublessee, as applicable, the "Fair Market Value" (as defined in Section 3.9.b(2)) of LESSEE's interest in the Premises. Notwithstanding the foregoing after the earlier of (i) the date that is twenty (20) years after the commencement of the third sublease or (ii) the end of Lease Year Twenty One (21), in no event shall the consideration payable by the CITY (i) include any relocation expenses or goodwill payable to LESSEE or any sublessee, or (ii) be less than the unamortized value of the cost of improvements existing on the Premises as of the date of termination, depreciated on a straight line basis in accordance with generally accepted accounting principals from the date any such improvements were constructed on the Premises. Within one hundred eighty (180) days after LESSEE's receipt of CITY's Termination Notice, LESSEE shall provide CITY with LESSEE's receipt of CITY's Termination Fair Market Value payable, which written notice shall be accompanied by documentary evidence of LESSEE's computation of the Fair Market Value, including (i) the cost of the improvements and the amortized portion thereof, and (ii) a bona fide, independent appraisal setting forth the Fair Market Value of the improvements and leasehold interests determined as follows:
 - (1) The fair market value of the Premises shall be determined by an appraisal made by a professional independent real estate appraiser selected by mutual consent of the parties from the list of appraisers approved by CITY. If the parties cannot reach agreement upon selection of a mutually acceptable appraiser, then CITY and LESSEE shall each select a professional independent real estate appraiser who in turn will select a third independent real estate appraiser, which third appraiser will be employed to make the appraisal of the Fair Market Value of the Premises as previously described in this Lease. If the two selected appraisers fail to

mutually select a third appraiser within thirty (30) days, then the third appraiser will be appointed by the presiding judge of the Superior Court of the State of California, County of San Diego, acting in his or her individual capacity, on prompt application by either CITY or LESSEE with prior written notice to the other party. If the Superior Court judge declines to make the appointment, the third appraiser shall be promptly determined in accordance with the rules of the American Arbitration Association. The third appraiser shall complete the assignment within sixty (60) days of appointment. Each party shall pay the cost of its own selected appraiser, and both CITY and LESSEE agree to equally share the cost of the mutually selected or court appointed third appraiser. CITY and LESSEE agree to accept and be bound by the valuation determined by the selected or appointed appraiser.

- (2) The appraiser shall determine the Fair Market Value of the improvements and leasehold interest as provided for in Section 3.9 (b) above. For purposes hereof, "Fair Market Value" shall mean the most probable price at which a willing seller and buyer would enter into an agreement to purchase the leasehold interest and the improvements at their approved uses under this Lease.
- (3) The date of value of the appraisal shall be the date of Termination Notice as provided in Section 3.9 (a) above.
- (4) If a termination results in a partial year, the amount due shall be prorated. No such Sublease shall have a term which extends beyond the expiration date of this Lease.

c. At the end of the one-year cancellation period, if CITY is not in a position to demolish the improvements and start its redevelopment plan, then LESSEE, at its sole option, may elect to allow its sublessees to remain month-to-month after Notice of Termination by providing CITY with thirty (30) days written notice prior to the end of the one-year cancellation period, until such time as CITY is actually ready to commence demolition of the improvements. In such event, the Fair Market Value payable by CITY shall not be paid until LESSEE actually vacates the Premises, but rent payments shall continue to be paid by LESSEE until such actual vacation and all the other terms and conditions of this Lease shall remain in full force and effect, except that the term shall be month-to-month.

3.10 Unauthorized Use Charge. LESSEE shall pay CITY a minimum of twenty percent (20%) of the Gross Receipts for any service or use that is not permitted by this Lease or the approved Subleases. Where the City Manager has established and/or reasonably applied percentage rent categories for a certain use that exceeds twenty percent (20%) then the applicable unauthorized use charge shall match the rate for such use plus the twenty percent (20%) unauthorized use charge on the

entire gross proceeds. This payment is subject to the due date provided in this Lease for rental payments and the provision for delinquent rent. The existence of the twenty percent (20%) charge or any other charges in this clause and the payment of this charge or any part of it, does not constitute an authorization for a particular service or use, and does not waive any CITY rights to terminate a service or use or to default LESSEE for participating in or allowing any unauthorized use of the Leased Premises and CITY's approval of Subleases. LESSEE operates the Leased Premises by subleasing the space available for rent to sublessees. LESSEE does not directly operate any business within the Leased Premises and does not in itself act as a sublessee, nor will it do so without CITY consent.

SECTION 4: ASSIGNMENT, SUBLETTING AND ENCUMBRANCES

- 4.1 Definitions. For purposes of Section 4 "Assignment, Subletting and Encumbrances" and Section 5 "Defaults" of this Lease, the following definitions apply:

"Assignment" means any transfer of any ownership interest in this Lease by LESSEE or any transfer by any partners, members, principals, or stockholders of LESSEE of such partner's, member's, principal's, or stockholder's interest in LESSEE, as the case may be, except the following shall be deemed not to be an assignment: (a) a transfer to an Affiliate; (b) if the ownership interests in LESSEE of any shareholder, partner or member of LESSEE are (i) not publicly traded, the transfer of the same that does not result in a change in control (meaning the power and authority to direct the management and policies of LESSEE) or (ii) publicly traded, the transfer of such publicly traded interests; or (c) a sublease approved by the CITY in accordance with this Lease.

"Affiliate" means any Person that directly or indirectly controls or is controlled by or is under common control with LESSEE (for these purposes, control means the power by ownership of stock, partnership or other beneficial interest to direct the policies and decisions of the subject entity).

"Holder" means the mortgagee or beneficiary from time to time under any encumbrance approved by CITY under Section 4.2.d Encumbrance.

"Person" means any natural person or legal entity.

"Prohibited Person" means any Person that at the time of determination provided for in this Lease, (i) has been convicted, or is controlled by a Person who has been convicted, of any felony in the five years immediately preceding such determination, or (ii) has been disbarred or suspended from contracting with CITY, or for the purpose of contracting with CITY, has been placed on ineligibility status, or is a Person or entity with whom CITY is otherwise prohibited by law from contracting (whether by reason of such Person's own acts

or status or by reason of the acts or status of any other Person the acts of which shall be imputed to such Person pursuant to any legal requirement governing the making of contracts by CITY, and whether by reason of actions or determinations made directly by CITY or by reason of actions or determinations made by any other government authority the actions or determinations of which shall be taken into account by CITY pursuant to any such legal requirement).

"Qualified Assignee" means any Person that is not a Prohibited Person and which has financial capability sufficient to fulfill the obligations of LESSEE under the Lease arising after the date of the assignment, as reasonably determined by CITY, and which has, or its principal shareholder, member, or partner or an Affiliate of the Assignee has at least five years prior experience in the ownership or operation of a facility of similar size, nature and quality as the Premises.

"Qualified Financial Institution" means any Person, other than a Prohibited Person, with substantial experience making and/or holding loans secured by commercial real estate and who is in good standing under the laws of the jurisdiction of its formation and the laws of California if required to be qualified to do business in California and having assets equal to the lesser of One Hundred Million Dollars (\$100,000,000) or three (3) times the amount of the loan or portion thereof held by such Person, who is not an Affiliate of LESSEE.

4.2 Assignment and Subletting

- a. Assignments. Except as expressly permitted under the Lease or hereunder, LESSEE shall not assign the leasehold without the prior written consent of the CITY. In the event LESSEE seeks such consent, and as a condition precedent thereto, LESSEE shall provide to CITY (a) the name and identity of the persons involved in the assignment of the Lease and the nature of the interests of such persons, and (b) upon approval in all other respects and if applicable, the additional consideration due to CITY pursuant to Section 4.4 of the Lease. Upon receipt and review of the foregoing, and upon a determination by the CITY that the assignee is a Qualified Assignee or another person reasonably approved by CITY, CITY shall not withhold its consent to such assignment. Such review and determination shall be undertaken in a commercially reasonable period of time. In the event such conditions have not been met, CITY may withhold its consent. Upon any such assignment, the assignor shall be released from any and all obligations or liability under the Lease arising from and after the date of such assignment; provided, however, in the event that an audit by the CITY after the date of assignment discovers a discrepancy in the rent paid prior to the date of assignment, the assignor shall remain responsible therefor. Upon approval of any such assignment, CITY shall, upon request of LESSEE, promptly execute and deliver to LESSEE and the Assignee a consent and estoppel on terms reasonably acceptable to CITY and such Assignee.

- b. Subletting. Following the execution of this Lease, all Subleases must be presented to CITY for written approval prior to their being effective. CITY's right of approval shall include review of the form of the Sublease to see that it meets CITY requirements and CITY standards, review of the Sublessee as to character and suitability as a CITY Sublessee, review of the financial terms of such sublease with a view towards maximizing income under this Lease and minimizing any potential liability CITY may agree to incur for payment of unamortized portions of tenant improvements, and review of the provisions of the sublease with a view towards retaining maximum flexibility with the use of the property. Any amendment to any approved Sublease shall also require the approval of CITY in the event such amendment is likely to alter the rent payable under such approved Sublease. CITY's approval shall not be unreasonably withheld. With respect to any sublease approved by CITY, CITY shall enter into a Non-Disturbance Agreement with such sublessee in a form provided and reasonably approved by CITY.
- c. Foreclosure. Notwithstanding anything to the contrary contained in this Lease, the consent of CITY shall not be required for any transfer, conveyance or assignment resulting from a foreclosure or acceptance of a deed in lieu of foreclosure of any leasehold mortgage, or for any transfer, conveyance, or assignment by any leasehold mortgagee following its acquisition of this Lease and the leasehold estate of LESSEE created hereby as a result of foreclosure or acceptance of a deed in lieu of foreclosure.
- d. Encumbrance. LESSEE shall not encumber the leasehold without the prior written consent of CITY. If LESSEE seeks such consent, as a condition thereto, LESSEE shall provide to CITY (a) the name and identity of the persons involved in such encumbrance and the nature of the interests of such persons, and (b) a true copy of the loan documents. Upon receipt and review of the foregoing and a determination by the CITY that the following conditions have been met: (a) the transferee is a Qualified Financial Institution or another person reasonably approved by CITY, (b) the proposed encumbrance will be a first mortgage on the Premises, (c) the principal amount of the proposed loan encumbering the leasehold (or the release price thereof, in the case of a "blanket" encumbrance) does not exceed eighty percent (80%) of the value of the leasehold (including improvements) as determined by an appraisal in connection with such loan, CITY shall not withhold its consent to such encumbrance. If such conditions have not been met, CITY may withhold its consent to such encumbrance. Upon approval of any such encumbrance, CITY shall, upon LESSEE request, promptly execute and deliver to the Holder a consent and estoppel in a form reasonably acceptable to CITY and the Holder. Any fee payable to the CITY pursuant to the lease upon such encumbrance shall be calculated as set forth in Section 4.4 of this Lease. Notwithstanding anything to the contrary contained herein, CITY agrees

I
encumber leasehold.
• BPA.
• city \$ to build/building
• provides loan
attributable

that sublessees under subleases approved by CITY in accordance with this Lease shall also be permitted to encumber such sublessees leasehold interests (and improvements constructed by such sublessees on their pad parcels) pursuant to leasehold mortgage protection language to be set forth in the Non-Disturbance Agreement to be entered into between CITY and said sublessees.

- e. Sale of Loan. CITY acknowledges that CITY's consent is not needed for a sale of a loan, or any portion thereof, secured by an encumbrance on the Premises. CITY shall, upon reasonable request of the mortgagee, promptly execute and deliver to the mortgagee and/or the proposed assignee of the Mortgage a consent and estoppel in a form reasonably acceptable to CITY in the event of any such sale or assignment of a loan or a portion of a lender's interest in a loan.

4.3 Leasehold Mortgage Protection. CITY agrees that as long as any mortgage approved by CITY shall remain unsatisfied of record or until written notice of satisfaction is given by the Holder to CITY, the following provisions shall apply:

- a. There shall be no termination (except as provided in Sections 1.2(c), 3.9 and 5.4(g) or in the event of a default which shall be subject to the notice and cure rights set forth in Section 5.1 hereof), cancellation, surrender or modification of the Lease by LESSEE or by joint action of CITY and LESSEE without the prior consent in writing of each Holder, provided however, only modifications of the Lease that could reasonably be determined to adversely affect the Holder's security shall require Holder's consent.
- b. Each Holder shall have the right, but not the obligation, at any time prior to termination of the Lease pursuant to Section 5.1 Default and without payment of any penalty, to pay all of the rents due thereunder, to effect any insurance, to pay any taxes or assessments, to make any repairs or improvements, to do any other act or thing required of LESSEE under the Lease, and to do any act or thing which may be necessary and proper to be done in the performance and observance of the agreements, covenants and conditions under the Lease to prevent termination of the Lease. Each Holder and its agents and contractors shall have the full access to the premises for purposes of accomplishing any of the foregoing. Any of the foregoing done by any Holder shall be as effective to prevent a termination of the Lease as the same would have been if done by LESSEE.
- c. Anything contained in the Lease to the contrary notwithstanding, if any default shall occur which, pursuant to any provision of the Lease, entitles CITY to terminate the Lease, CITY shall not be entitled to terminate the Lease, and any notice of termination shall be rendered void, unless (i) CITY, following the expiration of any periods of time given LESSEE in the Lease to cure such default or breach, shall have given written notice to

each Holder stating CITY's intent to terminate the Lease, and (ii) within thirty (30) days after such written notice is given, no Holder shall either:

- i. cure the default or breach if the same consists of the nonperformance by LESSEE of a covenant or condition of the Lease requiring the payment of money by LESSEE to CITY; or
- ii. if the default or breach does not involve a covenant or condition of the Lease requiring the payment of money by LESSEE to CITY, either (A) cure such default or breach, or (B) commence, or cause any trustee under the mortgage to commence, steps and proceedings to foreclose on the interests covered by the mortgage (either judicially or nonjudicially), and thereafter diligently pursue to completion such foreclosure and perform or cause the performance of all of the covenants and conditions of the Lease requiring the payment of money by LESSEE to CITY until such time as the leasehold shall be sold upon foreclosure pursuant to the mortgage or shall be transferred upon foreclosure or by deed or assignment in lieu of foreclosure. In the event any default or breach is not susceptible of being cured by Holder within such thirty (30) day period, such period shall be extended pursuant to Section 5.1 of the Lease for such time as Holder shall diligently pursue to completion a judicial or nonjudicial foreclosure of its interest under its deed of trust, and thereafter diligently pursue to completion all steps in proceeding to cure all defaults or breaches under the Lease which are susceptible of being cured by Holder, and upon such cure of defaults susceptible of being cured by Holder, CITY shall not exercise any rights with respect to defaults or breaches (such as LESSEE's bankruptcy) which are not capable of being cured by Holder.
- d. If any Holder is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by an automatic stay under law or any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving LESSEE, the times specified in Section 4.3(d), above, for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition; provided that the Holder shall have fully cured any default in the payment of any monetary obligations of LESSEE under the Lease and shall continue to pay currently those monetary obligations as and when the same fall due.
- e. In the event of termination of the Lease for any reason, except for early termination by CITY pursuant to Section 1.2(c) or 3.9, (including, without limitation, by reason of any default by LESSEE or by reason of the disaffirmance thereof by LESSEE, as a debtor-in-possession, or by a receiver, liquidator or trustee for LESSEE or its property), CITY, if

receiver, liquidator or trustee for LESSEE or its property), CITY, if requested by any Holder, will enter into a new lease of the premises with the most senior Holder requesting a new lease, which new lease shall commence as of the date of termination of the Lease and shall run for the remainder of the Lease term, at the same rent, percentage rent and additional rent and upon the same terms, provisions, covenants and agreements, and subject to the rights, if any, of any parties then in possession of any part of the premises, provided:

- i. The Holder shall make written request upon CITY for the new lease within thirty (30) days after it is notified of a date of termination;
 - ii. The Holder shall pay to CITY at the time of the execution and delivery of the new lease any and all sums which would, at the time of the execution and delivery thereof, be due and unpaid pursuant to the Lease but for its termination;
 - iii. The Holder shall perform and observe all covenants in the Lease to be performed and observed by LESSEE, and shall further remedy any other conditions which LESSEE under the terminated lease was obligated to perform under its terms, to the extent the same are curable or may be performed by the Holder, and
 - iv. The tenant under the new lease shall have the same right, title and interest in and to the buildings and improvements on the premises as LESSEE had under the terminated lease immediately prior to its termination.
- f. Any new lease made pursuant to Section 4.3(e) above shall be prior to any mortgage, deed of trust, or other lien, charge or encumbrance on the fee of the premises and shall be accompanied by a quitclaim conveyance of title to the improvements (free of any mortgage, deed of trust, lien, charge or encumbrance created by CITY), subject to the reversion in favor of CITY upon expiration or sooner termination of the new lease.
- g. Nothing herein contained shall require any Holder to enter into a new lease pursuant to Section 4.3(e) above, nor to cure any default of LESSEE referred to above.
- h. Neither foreclosure or any mortgage (or any sale thereunder), whether by judicial proceedings or by virtue of any power contained in the mortgage, nor any conveyance of the leasehold from LESSEE to any Holder or its designee through, or in lieu of, foreclosure of other appropriate proceedings in the nature thereof or assignment of the leasehold from Holder or its designee, shall require the consent of CITY, or constitute a breach of any provision of, or a default under, the Lease, or require

payment to the CITY of any additional consideration under Section 4.4 of the Lease, and upon such foreclosure, sale or conveyance, CITY shall recognize such Holder or its designee as the LESSEE under the Lease if such Holder was expressly approved by CITY pursuant to the provisions of Section 4.1 above.

- i. If any Holder or any designee of it becomes the LESSEE under the Lease or under any new lease pursuant to Section 4.3(e) above, the Holder or its designee shall be personally liable for the obligations of LESSEE under the Lease or new lease only to the extent that they arise during the period of time that the Holder or its designee constitutes the actual beneficial holder of the leasehold estate.
 - j. If a Holder shall elect to request a new lease of the premises and such Holder has a right to request a new lease pursuant to Section 4.3(e) above, CITY agrees, at the request of, on behalf of and at the expense of the Holder, upon an indemnity or other assurance from it satisfactory to the CITY in its sole discretion, to institute and pursue diligently to conclusion the appropriate legal remedy or remedies to oust or remove the original LESSEE from the premises, but not any sublessee actually occupying the premises or any part thereof.
 - k. Unless and until CITY has received notice from the Holder that the Holder elects not to request a new lease as provided in Section 4.3(e) above, or until the period therefor has expired, CITY shall not cancel or agree to the termination or surrender of any existing subleases nor enter into any new subleases without the prior written consent of the Holders.
 - l. CITY shall give all Holders notice of any arbitration or condemnation proceedings, or of any pending adjustment of insurance claims, and any Holder shall have the right to intervene therein and shall be made a party to such proceedings. CITY does hereby consent to such intervention. If any Holder shall not elect to intervene or become a party to the proceedings, that Holder shall receive notice and a copy of any award or decision made in connection therewith.
- 4.4 Additional Consideration to CITY. LESSEE and CITY agree that in the event of (i) an assignment or (ii) a refinancing creating an encumbrance against the leasehold after the permanent improvements have been constructed (excluding LESSEE's initial financing whether it occurs concurrently with or after execution of this Lease), pursuant to the General Development Plan as described in Section 7.12 hereof, LESSEE shall pay to CITY two percent (2%) of the gross amount paid for the leasehold in connection with an approved assignment of this Lease involving payment to LESSEE, or two percent (2%) of the amount of any increased loan or encumbrance against the property over and above the amount of the then existing balance(s) of the existing encumbrance(s). The amount upon which the two percent (2%) shall be based shall be the total consideration

resulting from the transaction including total cash payments and the market value of noncash consideration, including but not limited to stocks, bonds, deferred payments, secured and unsecured notes, and forbearances regarding claims and judgments, less appraisal fees, brokerage fees, commissions and fees paid to lenders. Prior to CITY's consent to any assignment, or refinancing, LESSEE shall deliver to CITY a written statement of all sums due and owing to CITY from LESSEE pursuant to the provisions of this paragraph, together with an acknowledgment from the proposed assignee, or refinancing agency as to the amount due CITY. The sum due CITY shall be payable in full to CITY concurrent with the completion of the transaction, be it an assignment, or a refinancing. Any assignment, or refinancing in violation of the terms and conditions of this paragraph shall be void. The provisions of this paragraph shall not apply to:

- a. An assignment or transfer of a beneficial interest in the leasehold to an Affiliate or resulting from devise, bequest, intestate succession, or by operation of law for the benefit of the spouse or descendants (i) of LESSEE (if an individual) or (ii) of LESSEE's principal owner or chief executive officer (if LESSEE is other than an individual);
- b. Such other assignment for which the City Manager determines that the legal and equitable ownership interests in the leasehold have remained unchanged, such as a change in the legal or fictitious name of the LESSEE without any other change in the equity in beneficial use of, or legal title to, the leasehold as an asset or the income produced thereby.
- c. Encumbrances recorded against the interest of any sublessees.

SECTION 5: DEFAULTS AND REMEDIES

5.1 Default. In the event that:

- a. LESSEE shall default in the performance of any covenant or condition of the Lease requiring payment of money by LESSEE to CITY and shall fail to cure said default within ten (10) days following written notice thereof from CITY.
- b. LESSEE shall default in the performance of any covenant or condition of the Lease not requiring payment of money by LESSEE to CITY and shall fail to cure said default within thirty (30) days following written notice thereof from CITY or if any such default is not curable within thirty (30) days, and LESSEE shall fail to commence to cure the default(s) within said thirty day period and diligently pursue such cure to completion; or
- c. LESSEE shall voluntarily file any petition under any bankruptcy or insolvency act or law or have involuntary filed against it any such petition

which is not released within one hundred twenty (120) days after the filing thereof; or

d. LESSEE shall be adjudicated a bankrupt; or

e. LESSEE shall make a general assignment for the benefit of creditors;

then CITY may, subject to Section 4, at its option, without further notice or demand upon LESSEE or upon any person claiming rights through LESSEE, immediately terminate this Lease and all rights of LESSEE and of all persons claiming rights through LESSEE to the Premises or to possession thereof; and CITY may enter and take possession of the Premises.

5.2 Abandonment by LESSEE. Even though LESSEE has breached the Lease and abandoned the property, this Lease shall continue in effect for so long as CITY does not terminate this Lease, and CITY may enforce all its rights and remedies hereunder, including but not limited to the right to recover the rent as it becomes due, plus damages.

5.3 Waiver. Any CITY waiver of a default is not a waiver of any other default. Any waiver of a default must be in writing and be executed by the City Manager in order to constitute a valid and binding waiver. CITY delay or failure to exercise a remedy or right is not a waiver of that or any other remedy or right under this Lease. The use of one remedy or right for any default does not waive the use of another remedy or right for the same default or for another or later default. CITY's acceptance of any rents is not a waiver of any default preceding the rent payment. CITY and LESSEE specifically agree that the property constituting the Premises is CITY-owned and held in trust for the benefit of the citizens of the City of San Diego and that any failure by the City Manager or CITY staff to discover a default or take prompt action to require the cure of any default shall not result in an equitable estoppel, but CITY shall at all times, have the legal right to require the cure of any default when and as such defaults are discovered or when and as the City Council directs the City Manager to take action or require the cure of any default after such default is brought to the attention of the City Council by the City Manager or by any concerned citizen.

5.4 Eminent Domain. If all or part of the Premises are taken through condemnation proceedings or under threat of condemnation by any public authority with the power of eminent domain, the interests of CITY and LESSEE (or beneficiary or mortgagee) will be as follows:

a. In the event the entire Premises are taken, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.

b. In the event of a partial taking, if, in the reasonable determination of CITY and LESSEE, the remaining part of the Premises is unsuitable for the

Lease operation, this Lease shall terminate on the date of the transfer of title or possession to the condemning authority, whichever first occurs.

- c. In the event of a partial taking, if, in the reasonable determination of CITY and LESSEE, the remaining part of the Premises is suitable for continued Lease operation, this Lease shall terminate in regard to the portion taken on the date of the transfer of title or possession to the condemning authority, whichever first occurs, but shall continue for the portion not taken. Rent payable hereunder shall be equitably reduced to reflect the portion of the Premises taken.
- d. Award. Subject to the limitations set forth in Section 5.6(g), in the event of any such taking, LESSEE and its sublessees shall be entitled to any and all condemnation award payable pursuant to applicable law (including, but not limited to, the diminution and the value of Lessee (and its sublessee) leasehold estates, the unamortized cost of the improvements then existing on the Premises, goodwill and relocation expenses. CITY shall have no liability to LESSEE for any award not provided by the condemning authority.
- e. Transfer. CITY has the right to transfer CITY's interests in the Premises in lieu of condemnation to any authority entitled to exercise the power of eminent domain. If a transfer occurs, LESSEE shall retain whatever interest it may have.
- f. No Inverse Condemnation. The exercise of any CITY right under this Lease shall not be interpreted as an exercise of the power of eminent domain and shall not impose any liability upon CITY for inverse condemnation.
- g. Limitation on Relocation Payments and Goodwill Reimbursement. Notwithstanding the forgoing, LESSEE and any Sublessee's agree that after the earlier of (i) the date that is twenty (20) years after the commencement of the third sublease or (ii) the end of Lease Year Twenty One (21), neither CITY nor the City's Redevelopment Agency shall be liable to LESSEE or any Sublessees for any relocation payment or goodwill reimbursement whatsoever from CITY or condemning authority upon termination of this Lease and any Subleases.

SECTION 6: INSURANCE RISKS/SECURITY

- 6.1 Indemnity. LESSEE agrees to defend, indemnify, protect, and hold the CITY, its agents, officers, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to LESSEE's employees, invitees, guests, agents, or officers, which arise out of or are in any manner directly or indirectly connected with the

development or operation of the leasehold or the work and operations to be performed under this Lease, and all expenses of investigating and defending against same; provided, however, that LESSEE's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of the CITY, its agents, officers, or employees.

6.2 Insurance.

- a. LESSEE shall take out and maintain, or cause to be taken out and maintained, at all times during the term of this Lease the following insurance at its sole expense:
 - (1) Public liability and property damage insurance in the amount of not less than Three Million Dollars (\$3,000,000) Combined Single Limit Liability with an occurrence claims form. This policy shall cover all injury or damage, including death, suffered by any party or parties on or in connection with the use or operation of the Premises.
 - (2) Fire, extended coverage, and vandalism insurance policy on all insurable property on the Premises in an amount to cover one hundred percent (100%) of the replacement cost subject to commercially reasonable deductibles. Any proceeds from a loss shall be payable jointly to CITY and LESSEE. In the event LESSEE is required by the terms of this Lease to reconstruct the improvements on the Premises, and there is a mortgage or trust deed on the leasehold in accordance with Section 4.1 (e), Encumbrance, and the mortgagee thereunder so requires, the proceeds from such loss shall be paid to the approved mortgagee or beneficiary for application as described below. In the absence of such mortgage and mortgagee requirement, and if required by CITY, the loss proceeds shall be placed in a trust fund, for application as described below. In each case adequate provision reasonably satisfactory to CITY shall have been made in each case for the use of all proceeds for repair and restoration of damaged or destroyed improvements on the Premises.
- b. LESSEE's responsibility to maintain said insurance also includes the following:
 - (1) Additional Insured. All liability insurance policies will name CITY as an additional insured, protect CITY against any legal costs in defending claims, and will not terminate without thirty (30) days prior written notice to CITY. All insurance companies must be satisfactory to CITY and licensed to do business in California. All policies will be in effect on or before the first day

of the Lease, except "course of construction fire insurance" shall be in force on commencement of all authorized construction on the Premises, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. A copy of the insurance policy will remain on file with CITY during the entire term of the Lease. At least thirty (30) days prior to the expiration of each policy, LESSEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the terms of this Lease.

- (2) Modification. CITY, at its discretion, may require the reasonable revision of amounts and coverages at any time during the term to bring insurance amounts and coverages in line with comparable properties in San Diego County giving due consideration and additional risks as reflected by court awards in the community by giving LESSEE sixty (60) days prior written notice. CITY's requirements shall be designed to assure protection from and against the kind and extent of risk existing on the Premises. LESSEE also agrees to obtain any additional insurance reasonably required by CITY for new improvements, in order to meet the requirements of this Lease.
- (3) Accident Reports. LESSEE shall report to CITY any accident causing more than twenty five thousand dollars (\$25,000) worth of property damage or any serious injury to persons on the Premises. This report shall contain the names and addresses of the parties involved, a statement of the circumstances, the date and hour, the names and addresses of any witnesses, and other pertinent information.
- (4) Failure to Comply. If LESSEE fails or refuses to take out and maintain (or cause to be maintained) the required insurance or fails to provide the proof of coverage, CITY has the right to obtain the insurance. LESSEE shall reimburse CITY for the premiums paid with interest at the maximum allowable legal rate then in effect in California. CITY shall give notice of the payment of premiums within thirty (30) days of payment stating the amount paid, names of the insurer(s), and rate of interest. Said reimbursement and interest shall be paid by LESSEE on the first (1st) day of the month following the notice of payment by CITY. Notwithstanding the preceding provisions of this Subsection (4), if LESSEE fails or refuses to take out or maintain insurance as required in this Lease or fails to provide the proof of insurance, CITY has the right to declare this Lease in default without further notice to LESSEE, and CITY shall be entitled to exercise all legal remedies in the event of such default.

- (5) Compliance by Sublessees. Notwithstanding anything to the contrary contained herein, upon approval of the subleases, CITY agrees that any of the insurance required hereunder may be provided by the sublessees (in lieu of LESSEE) pursuant to the approved subleases.

6.3 Waste, Damage, or Destruction.

- a. LESSEE agrees to give notice to CITY of any fire or other damage that may occur on the Leased Premises and which results in damages greater than twenty five thousand dollars (\$25,000) or bodily injury which requires professional treatment within ten (10) days after LESSEE becomes aware of such fire or damage. LESSEE agrees not to commit or suffer to be committed any waste or injury or any public or private nuisance, to keep the Premises clean and clear of refuse and obstructions, and to dispose of all garbage, trash, and rubbish in a manner reasonably satisfactory to CITY.
- b. LESSEE agrees that preliminary steps toward performing repairs, restoration, or replacement of the Premises shall be commenced by LESSEE within sixty (60) days, and the required repairs, restoration, or replacement shall be completed within a reasonable time thereafter except as limited in Section 6.3(c).
- c. Exceptions to Restoration. In the event the improvements on the Premises are damaged or destroyed by a hazard which LESSEE is not required to insure against by the terms of this Lease and if the cost of repairing such damage or destruction is more than fifteen percent (15%) of the full replacement value of the improvements on the Premises at the time of such hazard, LESSEE shall be relieved of the obligation to repair, restore or reconstruct such improvements if it complies with the balance of this Section 6.3(c) but may, at its election, perform such repair, restoration or reconstruction. In those cases where LESSEE has no obligation under this Lease to repair or restore and LESSEE has not elected to restore, LESSEE may terminate this Lease by:
- (1) Giving CITY notice of the damage or destruction promptly but not later than sixty (60) days after the event, detailing facts that qualify the casualty under this provision, and stating LESSEE's intent to terminate;
 - (2) Curing or causing any monetary default to be cured within the applicable grace period;
 - (3) Continuing to make all payments when due as required by the provisions of this Lease up until termination;

- (4) Paying in full any outstanding indebtedness incurred by LESSEE and secured by an encumbrance or encumbrances on the leasehold;
 - (5) Delivering possession of the Premises to CITY and quitclaiming all right, title and interest in the Premises if, and promptly after, ceasing to do business on the Premises;
 - (6) Causing to be discharged all liens and encumbrances resulting from any act or omission of LESSEE;
 - (7) Removing, if CITY so requires, all fixtures and improvements as specified in Section 7.10 relating to LESSEE's duty to remove fixtures and improvements upon termination or expiration of the Lease term; and
 - (8) At CITY's election, removing, at LESSEE's cost, all or a portion of the improvements on the Premises.
- d. Notwithstanding any other provision of this Lease to the contrary, LESSEE may at its option elect to terminate this Lease if the Premises are damaged or destroyed during the final five (5) years of the term hereof, and the cost of the work so required exceeds ten percent (10%) of the then replacement value of damaged or destroyed improvements. If LESSEE desires to terminate this Lease under such circumstances, LESSEE shall (1) notify CITY in writing of such election within sixty (60) days after the occurrence of the damage or destruction and provide evidence that the ten percent (10%) threshold has been satisfied, (2) raze or demolish the improvements so damaged or destroyed, (3) deliver or cause to be delivered to CITY the proceeds of all insurance required to be carried by this Lease less LESSEE's reasonable costs of collection and settlement and cost of demolition and razing, (4) deliver possession of the Premises to CITY and quitclaim all right, title, and interest in and to the terminated portion of the Premises and improvements thereon promptly after ceasing to do business on the Premises, and (5) cause to be discharged all liens and encumbrances on the Premises resulting from any act or omission of LESSEE.

SECTION 7: IMPROVEMENTS/ALTERATIONS/REPAIRS

- 7.1 Acceptance of Premises. By signing this Lease, LESSEE represents and warrants that it has independently inspected the Premises and made all tests, investigations, and observations necessary to satisfy itself of the condition of the Premises. LESSEE agrees it is relying solely on such independent inspection, tests, investigations, and observations in making this Lease. LESSEE further acknowledges that the Premises are in the condition called for by this Lease, that CITY has performed all work with respect to the Premises, and that LESSEE does

not hold CITY responsible for any defects whether apparent or latent, in the Premises, including the presence of any hazardous wastes.

- 7.2 Entry and Inspection. CITY reserves and shall always have the right, but not the obligation, to enter the Premises for the purpose of viewing and ascertaining the condition of the same, or to protect its interests in the Premises, or to inspect the operations conducted thereon. Except in the event of an emergency, entry by CITY into non-public areas shall occur (a) during the normal business hours, (b) upon 24 hours notice, and (c) accompanied by an authorized representative of LESSEE. Such entry shall not unreasonably interfere with the operation of the Premises and shall be conducted in such manner as to cause minimal disruption. In the event that such entry or inspection by CITY discloses that the Premises are not in a decent, safe, healthy, and sanitary condition, CITY shall have the right, after thirty (30) days written notice to LESSEE and LESSEE's failure to cure the same (or, if the subject of the notice reasonably cannot be cured within such period, LESSEE shall have failed to commence cure within such time and to diligently prosecute such cure to completion), to have any necessary maintenance work done at the expense of LESSEE, and LESSEE hereby agrees to pay promptly any and all costs incurred by CITY in having such necessary maintenance work done, in order to keep said Premises in a decent, safe, healthy, and sanitary condition. Further, if at any time after such notice and LESSEE's failure to cure, in addition to the self help remedy, CITY may at its sole option, without additional notice, require LESSEE to file with CITY a faithful performance bond to assure prompt correction of any condition which is not decent, safe, healthy, and sanitary. Said bond shall be in an amount adequate in the opinion of CITY to correct the said unsatisfactory condition. LESSEE shall pay the cost of said bond. The rights reserved in this section shall not create any obligations on CITY or increase obligations elsewhere in this Lease imposed on CITY.
- 7.3 Maintenance. LESSEE agrees to assume full responsibility and cost for the operation and maintenance of the Premises throughout the term. LESSEE will make all repairs and replacements necessary to maintain and preserve the Premises in a decent, safe, healthy, and sanitary condition satisfactory to CITY and in compliance with the Development Plan required in Section 7.12, Development Plan, and with all applicable laws.
- 7.4 Improvements/Alterations.
- a. Alterations. LESSEE agrees that major structural or architectural design alterations to approved improvements, structures, or installations may not be made on the Premises without prior written approval by the City Manager and that such approval shall not be unreasonably withheld. This provision shall not relieve LESSEE of any obligation under this Lease to maintain the Premises in a decent, safe, healthy, and sanitary condition, including structural repair and restoration of damaged or worn

improvements. CITY shall not be obligated by this Lease to make or assume any expense for any improvements or alterations.

- b. Initial Development. Except as otherwise provided herein, LESSEE shall construct or cause to be constructed the initial improvements pursuant to the approved Subleases (for the purpose of this Section 7.4(b) only, collectively, the "Initial Improvements") in accordance with the following terms and conditions of this Lease. Before development or construction of the Initial Improvements is commenced or any major work of construction, alteration, remodel or repair is commenced on the Premises, LESSEE shall prepare final working plans and specifications substantially conforming to the approved and adopted Development Plan and submit said plans to CITY for its approval, not to be unreasonably withheld. Nothing contained herein shall in any way relieve LESSEE from the obligation to obtain all governmental permits and approvals required for the construction of the Improvements pursuant to Section 1.3 Related Council Actions.
- c. Notice. LESSEE shall notify CITY of LESSEE's intention to commence construction of any improvements at least thirty (30) days before commencement of any such work or delivery of any building materials. The notice shall specify the approximate location and nature of the intended improvements. CITY shall have the right to post and maintain on the Premises any notices of non-responsibility provided for under applicable law, and to inspect the Premises in relation to the construction at all reasonable times provided, such inspections do not interfere with the work of improvement and are accompanied by prior notice except in the event of emergency.
- d. General Contractor. In the event LESSEE contracts with a general contractor to construct any improvements, LESSEE shall deliver to CITY a true copy of LESSEE's contract with the general contractor performing the work with evidence of the general contractor's financial condition for CITY's approval.
- e. Insurance. LESSEE shall deliver to CITY certificates of insurance evidencing coverage for "builder's risk," evidence of worker's compensation insurance covering all persons employed in connection with any improvements and with respect to whom death or bodily injury claims could be asserted against CITY or the Premises, and evidence that LESSEE has paid or caused to be paid, all premiums for such coverage sufficient to assure maintenance of such insurance during the anticipated construction period.

7.5 Utilities. LESSEE agrees to order, obtain, and pay for all utilities and service and installation charges in connection with the development and operation of the

Leased Premises. Unless otherwise agreed by the CITY, all utilities will be installed underground.

- 7.6 Construction Bond. Whenever there is any construction to be performed on the Premises, LESSEE shall deposit or cause to be deposited with CITY, prior to commencement of the construction, a faithful performance bond in the amount of one hundred (100%) percent of the estimated construction cost of the work to be performed. The bond may be in cash or may be a corporate surety bond or other security satisfactory to CITY. The bond shall insure that the construction commenced by LESSEE shall be completed in accordance with the plans approved by CITY or, at the option of CITY, that the uncompleted construction will be removed and the Premises restored to a condition satisfactory to CITY. The bond or cash will be held in trust by CITY for the purpose specified above or at CITY'S option it may be placed in an escrow or other trust approved by CITY.

- 7.7 Liens. LESSEE shall at all times save CITY free and harmless and indemnify CITY against all claims for labor or materials in connection with operations, improvements, alterations, or repairs on or to the Premises and the costs of defending against such claims, including reasonable attorney's fees.

If improvements, alterations, or repairs are made to the Premises by LESSEE or by any party other than CITY, and a lien or notice of lien is filed, LESSEE shall within fifteen (15) days of such filing either:

- a. take all actions necessary to record a valid release of lien, or
- b. file with CITY a bond, cash, or other security acceptable to CITY sufficient to pay in full all claims of all persons seeking relief under the lien.

- 7.8 Taxes. Commencing on the Effective Date, LESSEE agrees to pay, before delinquency, all taxes, assessments, and fees assessed or levied upon LESSEE or the Premises, including the land, any buildings, structures, machines, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by LESSEE or levied by reason of the business or other LESSEE activities related to the Leased Premises, including any licenses or permits. LESSEE recognizes and agrees that this Lease may create a possessory interest subject to property taxation, and that LESSEE may be subject to the payment of taxes levied on such interest, and that LESSEE shall pay all such possessory interest taxes. LESSEE further agrees that payment for such taxes, fees and assessments will not reduce any rent due CITY.

- 7.9 Signs. LESSEE agrees not to erect or display (other than within the interior of the improvements on the Premises) any banners, pennants, flags, posters, signs, decorations, marquees, awnings, or similar devices or advertising except in accordance with the Municipal Code. If any such unauthorized item is found on the Premises, LESSEE agrees to remove the item at its expense within twenty-

four (24) hours notice thereof by CITY, or CITY may thereupon remove the item at LESSEE's cost.

7.10 Ownership of Improvements and Personal Property.

- a. Any and all improvements, trade fixtures, structures, and installations or additions to the Premises now existing or constructed on the Premises by LESSEE shall at Lease expiration or termination be deemed to be part of the Premises and shall become, at CITY's option, CITY's property free of all liens and claims, except as otherwise provided in this Lease.
- b. If CITY elects not to assume ownership of all or any improvements, trade fixtures, structures, and installations, ("Improvements") CITY shall so notify LESSEE three hundred sixty five (365) days prior to expiration, and LESSEE shall remove all such Improvements as directed by CITY at LESSEE's sole cost within ninety (90) days after Lease expiration. If LESSEE fails to remove any Improvements as directed, LESSEE agrees to pay CITY the full cost of any removal.
- c. LESSEE owned machines, appliances, equipment (other than trade fixtures), and other items of personal property shall be removed by LESSEE by the date of the expiration or termination of this Lease. Any said items which LESSEE fails to remove will be considered abandoned and become CITY's property free of all claims and liens, or CITY may, at its option, remove said items at LESSEE's expense.
- d. If any removal of such personal property by LESSEE results in damage to the remaining improvements on the Premises, LESSEE agrees to repair all such damage.
- e. Any necessary removal by either CITY or LESSEE which takes place beyond said expiration or termination hereof shall require LESSEE to pay rent to CITY at the rate in effect immediately prior to said expiration or termination.
- f. Notwithstanding any of the foregoing, in the event LESSEE desires to dispose of any of its personal property used in the operation of said Premises upon expiration or termination of this Lease, then CITY shall have the first right to acquire or purchase said personal property.

7.11 Unavoidable Delay. If the performance of any act required of CITY or LESSEE is directly prevented or delayed by reason of strikes, lockouts, labor disputes, unusual governmental delays, acts of God, fire, floods, epidemics, freight embargoes, or other causes beyond the reasonable control of the party required to perform an act, said party shall be excused from performing that act for the period equal to the period of the prevention or delay. Provided, however, this provision shall not apply to obligations to pay rental as required pursuant to this Lease. In

the event LESSEE or CITY claims the existence of such a delay, the party claiming the delay shall notify the other party in writing of such fact within ten (10) days after the beginning of any such claimed delay.

7.12 Development Plan. LESSEE agrees to develop the Leased Premises in accordance with the General Development Plan approved by the City Manager and filed in the Office of the City Clerk as Document No. _____ which plan is hereby incorporated by this reference. The general contents and provisions of the Development Plan are described in Section 12.4 General Development Plan of this Lease. The City Manager or his designee shall have the authority to authorize changes to the plan provided that the basic concept may not be modified without City Council approval and a document evidencing any approved changes shall be filed in the Office of the City Clerk. Failure by LESSEE to comply with the General Development Plan shall constitute a major default and subject this Lease to termination by CITY. The City Manager, in his sole discretion, may approve an extension to the date specified for completion in the Development Plan of up to one (1) year without further City Council approval.

7.13 Hazardous/Toxic Waste.

- a. LESSEE will not allow the installation of underground storage tanks or release of hazardous substances in, on, under, or from the Premises other than those underground storage tanks approved by the Development Plan. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" means those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and by this reference is incorporated herein.
- b. In the event of any release of a Hazardous Substance, LESSEE shall be responsible for all costs of remediation and removal of such Hazardous Substances in accordance with all applicable rules and regulations of governmental authorities.
- c. LESSEE agrees to assume the defense of, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from LESSEE's operations on the Premises, including but not limited to costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

- d. If LESSEE knows or has reasonable cause to believe that any Hazardous Substance has been released on or beneath the Premises, LESSEE shall give written notice to the City Manager within ten (10) days of receipt of such knowledge or cause for belief. Provided, however, if LESSEE knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and safety, LESSEE shall notify the City Manager immediately upon receipt of this knowledge or belief and shall take all actions necessary to alleviate such danger. LESSEE will notify the City Manager immediately of any notice of violation received or initiation of environmental actions or private suits relative to the Premises. In addition, LESSEE and LESSEE's sublessees shall not utilize or sell any Hazardous Substance on the Premises without the prior written consent of CITY.
- e. At any time within the twelve (12) months before the expiration or earlier termination of this Lease, LESSEE, at CITY's sole option, shall cause an environmental assessment of the Premises to be completed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. Said environmental assessment shall be obtained at the sole cost and expense of LESSEE and shall establish what, if any, hazardous substances exist on, in, or under the Premises, and in what quantities. If any hazardous substances exist in quantities greater than that allowed by CITY, county, state, or federal laws, statutes, ordinances, or regulations, then said environmental assessment shall include a discussion of these substances with recommendations for remediation and removal necessary to effect compliance with those laws or statutes and estimates of the cost of such remediation or removal. LESSEE shall cause the remediation and/or removal recommended in the environmental assessment such that compliance with environmental law is achieved and shall be solely responsible for all costs and expenses incurred.

SECTION 8: CITY RIGHT OF FIRST OFFER

- 8.1 In the event LESSEE desires to dispose of its entire interest in this Lease, together with its interest in improvements, trade fixtures, and furnishings owned by LESSEE on the Leased Premises, CITY shall be given the first right to purchase said interest and improvements pursuant to the provisions of this Section 8.
- 8.2 LESSEE agrees that during the Lease Term, LESSEE shall deliver written notice to CITY (the "First Offer Notice") prior to the first time LESSEE intends to submit to a third party a bonafide proposal to purchase LESSEE's interest in of the Premises. The First Offer Notice shall set forth the economic terms upon which LESSEE is willing to sell its interest, without limitation, (i) the purchase price; (ii) terms of payment of the purchase price; and (iii) any other material

terms LESSEE desires to include in the First Offer Notice to CITY (collectively, "the Economic Terms"). CITY's exercise of the Right of First Offer set forth in this Section 8 shall create an agreement between LESSEE and CITY whereby LESSEE agrees to sell the First Offer Property to CITY, and CITY agrees to purchase the First Offer Property from LESSEE, at the purchase price and on the material economic terms provided for below.

- 8.3 On or before the date which is thirty (30) days after CITY's receipt of the First Offer Notice (the "Election Date"), CITY shall deliver written notice to LESSEE ("CITY's Election Notice") pursuant to which CITY shall elect either to (i) purchase LESSEE's interest upon the Economic Terms set forth in the First Offer Notice; (ii) refuse to purchase LESSEE's interest, specifying that such refusal is not based upon the Economic Terms set forth by LESSEE in the First Offer Notice, but upon CITY's lack of desire to acquire LESSEE's interest, in which event LESSEE may sell its interest to any person or entity on any terms LESSEE desires (subject to the limitations set forth in this Lease) and CITY's Right of First Offer specified in LESSEE's First Offer Notice shall thereupon terminate and be of no further force and effect; or (iii) refuse to purchase the First Offer Property, specifying that such refusal is based upon the Economic Terms set forth in the First Offer Notice, in which event CITY shall also specify in CITY's Election Notice revised Economic Terms upon which CITY shall be willing to purchase LESSEE's interest from LESSEE. If CITY does not so respond in writing to LESSEE's First Offer Notice by the Election Date, CITY shall be deemed to have elected the option described in clause 8.3(ii) above and this Lease and all of its terms and conditions shall nevertheless remain in full force and effect and LESSEE and any purchaser or purchasers shall be bound by the terms of this Lease. If CITY timely delivers to LESSEE CITY's Election Notice pursuant to clause (iii) above, LESSEE may elect either to: (A) sell its interest to CITY upon the revised Economic Terms specified by CITY in CITY's Election Notice; or (B) sell its interest to any person or entity within twelve (12) months after the Election Date upon any terms LESSEE desires; provided, however, if the Economic Terms of LESSEE's proposed sale to said third party are materially more favorable than those Economic Terms proposed by CITY in CITY's Election Notice, before entering into such third-party transfer, LESSEE shall notify CITY of such more favorable Economic Terms and CITY shall have the right to acquire LESSEE's interest upon such materially more favorable Economic Terms by delivering written notice thereof to LESSEE within thirty (30) days after CITY's receipt of LESSEE's notice. "Materially more favorable," as used in the preceding sentence, shall mean a purchase price for LESSEE's interest less than ninety five percent (95%) of the purchase price set forth in the First Offer Notice. If CITY does not elect to purchase its interest from LESSEE within said thirty (30) day period, CITY shall be deemed to have elected the option described in clause (ii) above and this Lease and all of its terms and conditions shall nevertheless remain in full force and effect and LESSEE and any purchaser or purchasers of its interest shall be bound by the terms of this Lease. If CITY timely delivers to LESSEE CITY's Election Notice pursuant to clause (iii) above, and LESSEE elects to proceed to sell its interest to a third party pursuant to clause (B), but fails to execute an agreement with such third party buyer for its interest within twelve (12) months

after the Election Date, then, LESSEE shall deliver to CITY a new First Offer Notice setting forth the Economic Terms upon which LESSEE would be willing to sell its interest to CITY, and the foregoing procedures of this Section 9 shall again apply.

- 8.4 In the event that CITY shall so elect to purchase LESSEE's interest, (i) the closing of CITY's purchase of LESSEE'S interest shall occur on or before ninety (90) days following the date of CITY's notice to LESSEE and (ii) the two percent (2%) fee described in Section 4.4 above shall not be applicable.
- 8.5 Notwithstanding anything to the contrary contained herein, CITY acknowledges and agrees that its Right of First Offer to purchase LESSEE's interest in this Lease shall not apply to any sale or transfer of LESSEE's interest in this Lease (i) to an Affiliate of LESSEE or (ii) to a Holder.

SECTION 9: CITY POLICY IMPLEMENTATION PROVISIONS

- 9.1 CITY Approval Standard. The approval or consent of CITY, wherever required in this Lease, shall mean the written approval or consent of the City Manager without need for further resolution by the City Council except as may otherwise be provided for in this Lease. The City Manager's approval shall not be unreasonably withheld and shall be deemed given after sixty (60) days from CITY's receipt of a written request from LESSEE unless CITY sends a written notice of disapproval or an extension of the sixty (60) day period to LESSEE.
- 9.2 Compliance with Law. LESSEE shall at all times in the construction, maintenance, occupancy, and operation of the Premises comply with all applicable laws, statutes, ordinances, and regulations of CITY, county, state, and federal governments at LESSEE's sole cost and expense. In addition, LESSEE shall comply with any and all notices issued by the City Manager or his authorized representative under the authority of any such law, statute, ordinance, or regulation.
- 9.3 CITY Employee Participation Policy. It is the policy of CITY that all CITY contracts, agreements, or leases with consultants, vendors, or LESSEES shall include a condition that the contract, agreement, or lease may, at the sole option of CITY, be unilaterally and immediately terminated by CITY if the contractor or LESSEE employs an individual who, within the twelve months immediately preceding such employment, did in his/her capacity as a CITY officer or employee participate in negotiations with or otherwise have an influence on the recommendation made to the City Council in connection with the selection of the contractor or LESSEE. It is not the intent of this policy that these provisions apply to members of the City Council.
- 9.4 Drug-free Workplace. LESSEE shall be required to abide by the omnibus drug legislation passed by Congress on November 18, 1988, by adopting and enforcing a policy to maintain a drug-free workplace by doing all of the following:

- a. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances are prohibited on the leasehold and specifying the actions that will be taken against employees for violations of the prohibition.
- b. Establishing a drug-free awareness program to inform employees about all of the following:
 - (1) The dangers of drug abuse in the workplace.
 - (2) The LESSEE's policy of maintaining a drug-free workplace.
 - (3) Any available drug counseling, rehabilitation, and employees assistance programs.
 - (4) The penalties that may be imposed upon employees' for drug abuse violations.
- c. LESSEE shall include in each Sublease agreement language which indicates the sublessee's agreement to abide by the provisions of a drug-free workplace. LESSEE and sublessees shall be individually responsible for their own drug-free workplace programs.

9.5 Disabled Access Compliance. LESSEE agrees to comply with Title 24 of the California Code of Regulations (Building Code) as defined in California Health and Safety Code (Title 24), the Americans with Disabilities Act of 1990 (ADA); and any other applicable state and federal laws and regulations hereafter enacted protecting the rights of people with disabilities. LESSEE's compliance shall include but not necessarily be limited to the following:

- a. LESSEE shall not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs, and termination of employment, to the extent required under applicable law.
- b. No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs, or activities of LESSEE, to the extent required under applicable law.
- c. LESSEE shall post a statement addressing the requirements of the ADA in a prominent place at the work site.
- d. Where required by law, LESSEE shall comply with CITY's disabled access requirements by bringing up to code and making accessible any areas of the

Premises which deny access to disabled persons. All such improvements and alterations shall be at the sole cost of LESSEE.

- e. LESSEE shall include language in each sublease agreement which indicates the sublessee's agreement to abide by the foregoing provisions. LESSEE and sublessees shall be individually responsible for their own compliance with ADA.

LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements shall constitute a default under this Lease.

- 9.6 Nondiscrimination. LESSEE agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in LESSEE's use of the Premises, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

- 9.7 Compliance with CITY's Equal Opportunity Contracting Program.

- a. Equal Opportunity Contracting. LESSEE acknowledges and agrees that it is aware of, and will comply with, City Council Ordinance No. 18173 (San Diego Municipal Code Sections 22.2701 through 22.2708, as amended), EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM, a copy of which is on file in the Office of the City Clerk and by this reference is incorporated herein. LESSEE and all of its subcontractors are individually responsible to abide by its contents.

LESSEE will comply with Title VII of the Civil Rights Act of 1964, as amended; Executive Orders 11246, 11375, and 12086; the California Fair Employment Practices Act; and any other applicable federal and state laws and regulations hereafter enacted. LESSEE will not discriminate against any employee or applicant for employment on any basis prohibited by law.

LESSEE submitted and CITY acknowledges receipt of a current Work Force Report or a current Equal Employment Opportunity (EEO) Plan as required by Section 22.2705 of the San Diego Municipal Code, which sets forth the actions that LESSEE will take to achieve the CITY's commitment to equal employment opportunities.

LESSEE agrees to insert the foregoing provisions in all subcontracts for any work covered by this Lease so that such provisions will be binding upon each subcontractor. LESSEE agrees that compliance with EEO provisions flowing from the authority of both parties will be implemented, monitored, and reviewed by the CITY's Equal Opportunity Contracting Program staff.

- b. Local Business and Employment. LESSEE acknowledges that the City of San Diego seeks to promote employment and business opportunities for local residents and firms in all CITY contracts. LESSEE will, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontracts, for work associated with this Lease from local residents and firms as opportunities occur. LESSEE agrees to hire qualified local residents and firms whenever feasible.

LESSEE understands that failure to comply with the above requirements and/or submitting false information in response to these requirements may result in termination of this Lease and debarment from participating in CITY contracts for a period of not less than one (1) year.

SECTION 10: GENERAL PROVISIONS

- 10.1 Time is of Essence; Provisions Binding on Successors. Time is of the essence of all of the terms, covenants, and conditions of this Lease, and, except as otherwise provided herein, all of the terms, covenants, and conditions of this Lease shall apply to, benefit, and bind the successors and assigns of the respective parties, jointly and individually.

10.2 Notices.

- a. Any notice required or permitted to be given hereunder shall be in writing and may be served personally or by United States mail, postage prepaid, addressed to LESSEE at:

Arena Group 2000 LP
3500 Sports Arena Boulevard
San Diego, California 92110
Attention: Ronald E. Hahn
Telephone: (619) 225-9813
Facsimile: (619) 224-3010

and to CITY as follows:

City Manager
Attention: Real Estate Assets Director
City Administration Building
202 "C" Street, M.S. 9B
San Diego, CA 921014155

or to any mortgagee, trustee, or beneficiary, as applicable, at such appropriate address designated in writing by the respective party.

- b. Any party entitled or required to receive notice under this Lease may by like notice designate a different or additional address to which notices shall be sent.
- 10.3 Partial Invalidity. If any term, covenant, condition, or provision of this Lease is found invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions will remain in full force and effect.
- 10.4 Legal Fees. In the event of any litigation regarding this Lease, the prevailing party shall be entitled to an award of reasonable legal costs, including court and attorneys' fees.
- 10.5 Number and Gender. Words of any gender used in this Lease shall include any other gender, and words in the singular number shall include the plural, when the tense requires.
- 10.6 Captions. The lease outline, section headings, and captions for various articles and paragraphs shall not be held to define, limit, augment, or describe the scope, content, or intent of any or all parts of this Lease. The numbers of the paragraphs and pages of this Lease may not be consecutive. Such lack of consecutive numbers is intentional and shall have no effect on the enforceability of this Lease.
- 10.7 Entire Understanding. This Lease contains the entire understanding of the parties with respect to the Premises. LESSEE, by signing this Lease, agrees that there is no other written or oral understanding between the parties with respect to the Leased Premises. Each party has relied on its own examination of the Premises, advice from its own attorneys, and the warranties, representations, and covenants of the Lease itself. Each of the parties in this Lease agrees that no other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this Lease.
- The failure or refusal of any party to read the Lease or other documents, inspect the Premises, and obtain legal or other advice relevant to this transaction constitutes a waiver of any objection, contention, or claim that might have been based on these actions. No modification, amendment, or alteration of this Lease will be valid unless it is in writing and signed by all parties.
- 10.8 Corporate Authority. Each individual executing this Lease on behalf of LESSEE represents and warrants that he/she is duly authorized to execute and deliver this Lease on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of the corporation or in accordance with the bylaws of the corporation, and that this Lease is binding upon the corporation in accordance with its terms, and that LESSEE is a duly qualified corporation and all steps have been taken prior to the date hereof to qualify LESSEE to do business in the state where the Premises are situated.

10.9 Standard of Employees. LESSEE and its employees shall at all times conduct themselves and the operations on the Leased Premises in a professional manner.

10.10 Supersedure. It is mutually agreed that this Lease, upon execution, supersedes and annuls that certain lease between Union Oil Company and San Diego Entertainment, Inc. dated April 1, 1976, with Union Oil Company of California subsequently assigning its rights under that lease to CITY on September 1, 1985 in Document RR-263531, and as amended in Document RR-282484 dated August 9, 1993, which is hereafter void and of no effect as to any rentals and fees which may have accrued or any rights and remedies accrued or granted to CITY under such agreement.

LESSEE and CITY agree that the Leased Premises, shall be deemed to be deleted from the legal description of the Sports Arena Operating Agreement upon full execution of this Lease.

10.11 Survival. All obligations and liabilities of the parties to this Lease that accrue prior to the expiration of termination of this lease shall survive the expiration or termination of this lease.

SECTION 11: SIGNATURES

11.1 Signature Page.

IN WITNESS WHEREOF, this Lease is executed by City, acting by and through its City Manager, and by LESSEE, acting by and through its lawfully authorized partners.

THE CITY OF SAN DIEGO

Date 4/15, 2002

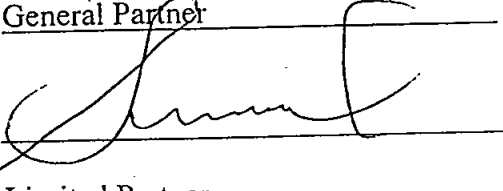
By: 

LESSEE: ARENA GROUP 2000 L.P.,
A California Limited Partnership

By: ARENA FOUNDERS, a California
Ltd. Partnership

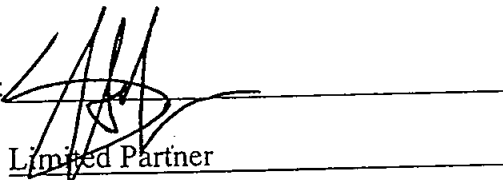
Its: General Partner

Date 3/27, 2002

By: 

Its: Limited Partner

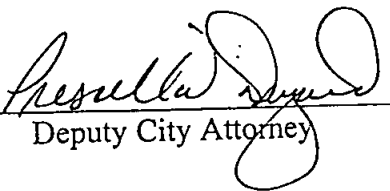
Date March 27, 2002

By: 

Its: Limited Partner

APPROVED as to form and legality this 19th day of April, 2002.

CASEY GWINN, CITY ATTORNEY

By: 

Deputy City Attorney

CEH/jmj

03/19/02

I:\WPO\2002\Hargett\LEASE-ARENA 2000 03-19-02.wpd

SECTION 12: EXHIBITS

12.1 Legal Description.

(See Attached Exhibit "A")

EXHIBIT "A"

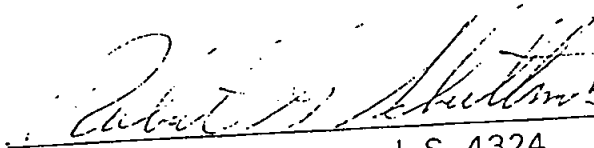
CITY LEASE PARCEL

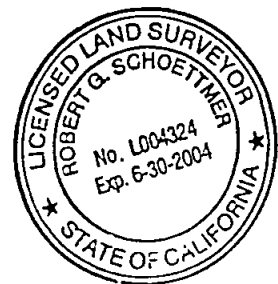
Parcel "A"

All of those portions of Pueblo Lots 311, 312, 313, 241 and 242 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof by James Pascoe in the year 1870, a certified copy of which was filed November 14, 1921 in the Office of the County Recorder of San Diego County, and is known as Miscellaneous Map No. 36, being more particularly described as follows:

Beginning at the centerline intersection of Sports Arena Boulevard and Kemper Street as shown and delineated on Arena Plaza Subdivision Map No. 6629 in the City of San Diego, County of San Diego, State of California, recorded April 20, 1970 in the Office of the Recorder of San Diego County; thence along the centerline of Sports Arena Boulevard North 77°23'37" West (record North 77°52'25" West per said Map No. 6629) 53.74 feet; thence North 12°36'23" East 65.00 feet to a point on the Northerly Right-of-way line of said Sports Arena Boulevard and the TRUE POINT OF BEGINNING; thence North 12°36'23" East 199.03 feet; thence South 77°23'37" East 677.04 feet; thence North 65°44'11" East 51.62 feet; thence South 77°23'37" East 307.67 feet; thence South 12°36'23" West 25.00 feet; thence North 77°23'37" West 224.75 feet; thence South 26°38'35" West 46.38 feet; thence South 12°36'23" West 160.00 feet; thence North 77°23'37" West 60.00 feet; thence North 12°36'23" East 160.00 feet; thence North 03°09'24" East 42.41 feet; thence South 67°37'56" West 48.56 feet; thence North 77°23'37" West 262.25 feet; thence South 12°36'23" West 174.00 feet; thence North 77°23'37" West 20.00 feet; thence North 12°36'23" East 174.00 feet; thence North 77°23'37" West 335.00 feet; thence South 12°36'23" West 174.00 feet; thence North 77°23'37" West 66.00 feet to the TRUE POINT OF BEGINNING.

Containing 1.230 acres more or less.


Robert G. Schoettmer L.S. 4324 5-22-2001



J-13575B

EXHIBIT "A"

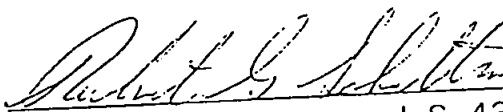
CITY LEASE PARCEL

Parcel "B"

All of those portions of Pueblo Lots 241, 242, 311, and 312 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof by James Pascoe in the year 1870, a certified copy of which was filed November 14, 1921 in the Office of the County Recorder of San Diego County, and is known as Miscellaneous Map No. 36, being more particularly described as follows:

Beginning at the centerline intersection of Sports Arena Boulevard and Kemper Street as shown and delineated on Arena Plaza Subdivision Map No. 6629 in the City of San Diego, County of San Diego, State of California, recorded April 20, 1970 in the Office of the Recorder of San Diego County; thence along the centerline of Sports Arena Boulevard South $77^{\circ}23'37''$ East (record North $77^{\circ}52'25''$ West per said Map No. 6629) 12.26 feet; thence North $12^{\circ}36'23''$ East 65.00 feet to a point on the Northerly Right-of-way line of said Sports Arena Boulevard and the TRUE POINT OF BEGINNING; thence continuing North $12^{\circ}36'23''$ East 174.00 feet; thence South $77^{\circ}23'37''$ East 335.00 feet; thence South $12^{\circ}36'23''$ West 174.00 feet to said Northerly Right-of-way line; thence Westerly along said Northerly Right-of-way line North $77^{\circ}23'37''$ West 335.00 feet to the TRUE POINT OF BEGINNING.

Containing 1.338 acres more or less.

 5-22-2001
Robert G. Schoettmer L.S. 4324



jb/13575.001

J-13575C

EXHIBIT "A"

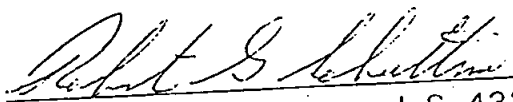
CITY LEASE PARCEL

Parcel "C"

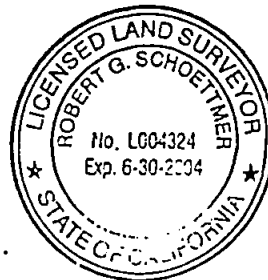
All of that portion of Pueblo Lot 312 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof by James Pascoe in the year 1870, a certified copy of which was filed November 14, 1921 in the Office of the County Recorder of San Diego County, and is known as Miscellaneous Map No. 36, being more particularly described as follows:

Beginning at the centerline intersection of Sports Arena Boulevard and Kemper Street as shown and delineated on Arena Plaza Subdivision Map No. 6629 in the City of San Diego, County of San Diego, State of California, recorded April 20, 1970 in the Office of the Recorder of San Diego County; thence along the centerline of Sports Arena Boulevard South $77^{\circ}23'37''$ East (record North $77^{\circ}52'25''$ West per said Map No. 6629) 367.25 feet; thence North $12^{\circ}36'23''$ East 65.00 feet to a point on the Northerly Right-of-way line of said Sports Arena Boulevard and the TRUE POINT OF BEGINNING; thence leaving said Northerly Right-of-way line North $12^{\circ}36'23''$ East 174.00 feet; thence South $77^{\circ}23'37''$ East 262.25 feet; thence North $67^{\circ}37'56''$ East 48.56 feet; South $03^{\circ}09'24''$ West 42.41 feet; thence South $12^{\circ}36'23''$ West 160.00 feet to said Northerly Right-of-way line; thence Westerly along said Northerly Right-of-way line North $77^{\circ}23'37''$ West 309.00 feet to the TRUE POINT OF BEGINNING.

Containing 1.248 acres more or less.


Robert G. Schoettmer L.S. 4324

jb/13575.002



J-13575D

EXHIBIT "A"

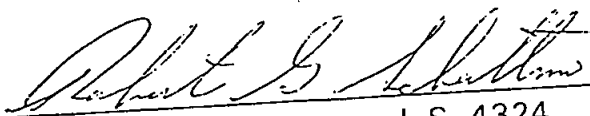
CITY LEASE PARCEL

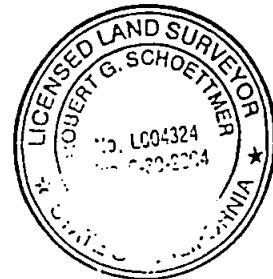
Parcel "D"

That portion of Pueblo Lots 312 and 313 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof by James Pascoe in the year 1870, a certified copy of which was filed November 14, 1921 in the Office of the County Recorder of San Diego County, and is known as Miscellaneous Map No. 36, being more particularly described as follows:

Beginning at the centerline intersection of Sports Arena Boulevard and Kemper Street as shown and delineated on Arena Plaza Subdivision Map No. 6629 in the City of San Diego, County of San Diego, State of California, recorded April 20, 1970 in the Office of the Recorder of San Diego County; thence along the centerline of Sports Arena Boulevard South $77^{\circ}23'37''$ East (record North $77^{\circ}52'25''$ West per said Map No. 6629) 736.25 feet; thence North $12^{\circ}36'23''$ East 65.00 feet to a point on the Northerly Right-of-way line of said Sports Arena Boulevard and the TRUE POINT OF BEGINNING; thence leaving said Northerly Right-of-way North $12^{\circ}36'23''$ East 160.00 feet; thence North $26^{\circ}38'35''$ East 46.38 feet; thence South $77^{\circ}23'37''$ East 224.75 feet; thence South $12^{\circ}36'23''$ West 205.00 feet to said Northerly Right-of-way line; thence Westerly along said Northerly Right-of-way line North $77^{\circ}23'37''$ West 236.00 feet to the TRUE POINT OF BEGINNING.

Containing 1.105 acres more or less.

 5-22-2001
Robert G. Schoettmer L.S. 4324



jb/13575.003

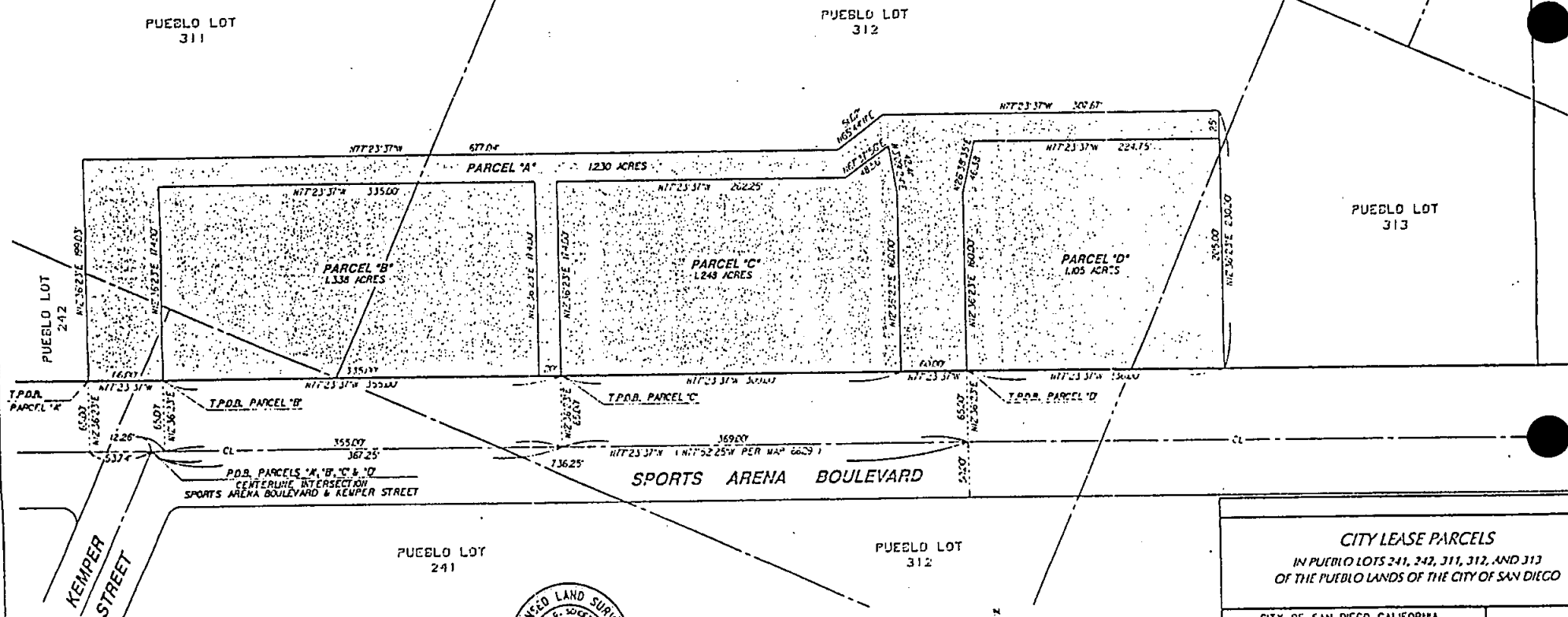
EXHIBIT A

LEGEND

 INDICATES LEASE AREAS
PARCELS 'A', 'B', 'C' & 'D'

T.P.B. INDICATES TRUE POINT OF BEGINNING

P.D.A. INDICATES POINT OF BEGINNING



SURVEYOR OF WORK

ROBERT G. SCHOETTNER, LS 4324 DATE 5-22-2011



RICK ENGINEERING COMPANY

9820 Friars Road,
San Diego,
California 92110-2590

(010) 291-0707 J. 13575
22 May 2011 13575



CITY LEASE PARCELS
IN PUEBLO LOTS 241, 242, 311, 312, AND 313
OF THE PUEBLO LANDS OF THE CITY OF SAN DIEGO

CITY OF SAN DIEGO, CALIFORNIA
DEVELOPMENT REVIEW
SHEET 1 OF 1 SHEETS

192.

Thick (2020)

— 752 —

1. Name of the person	2. Date	3. Time	4. Location	5. Remarks
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MASSACHUSETTS

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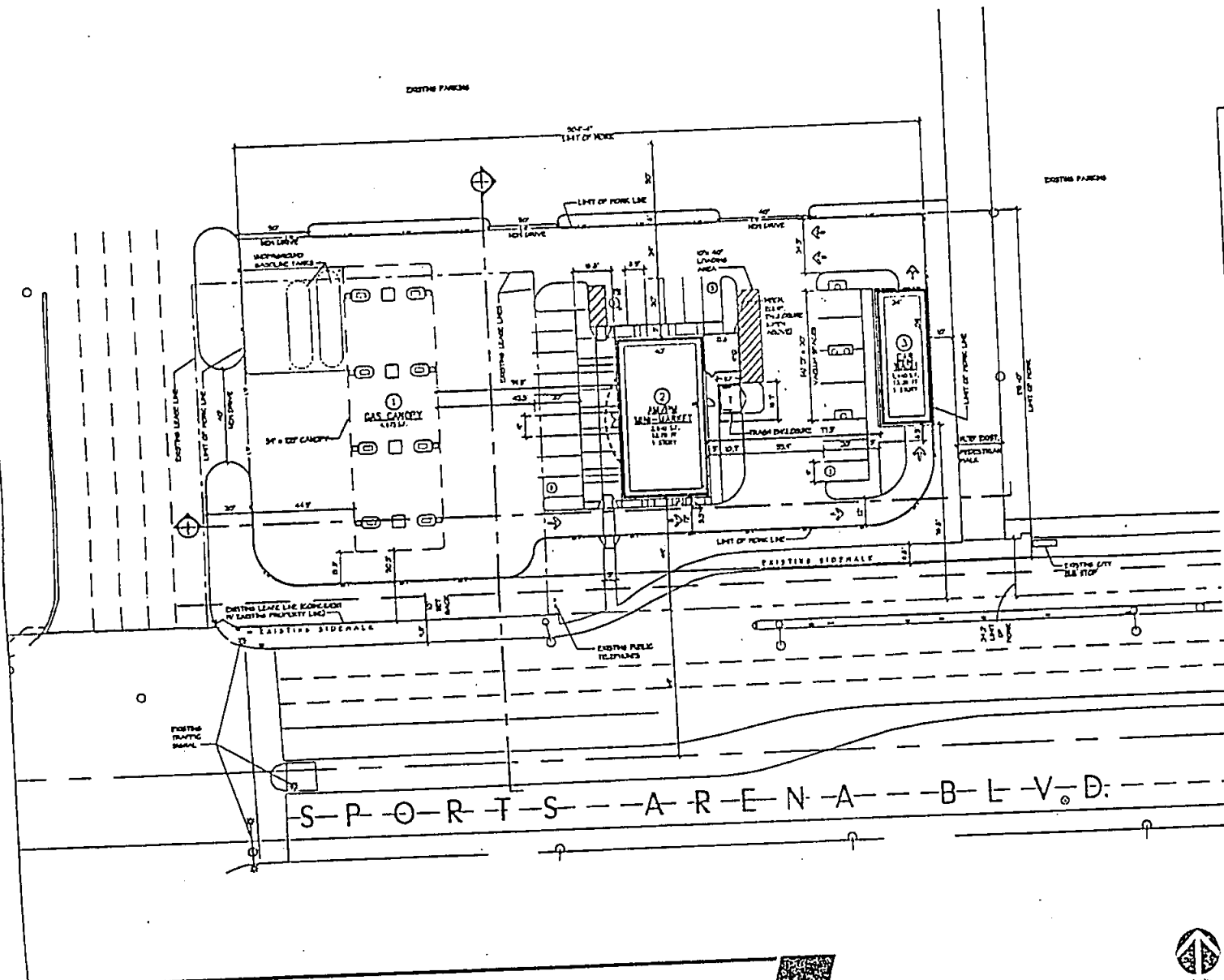
12.2 General Development Plan.

The General Development Plan consists of:

- a. Plot Plan - Copy of the plot plan showing three buildable pad parcels and the access driveway parcel are attached as Exhibit A-1..
- b. Development Schedule - Pad preparation work completed; sublessees to construct their improvements pursuant to each CITY approved sublease.
- c. Approved Hard Construction Costs - Information submitted and attached as Exhibit A-2, per section 3.3 of the Lease the approved hard construction cost to be credited are limited to a maximum of \$950,000.
- d. Financial Plan - Existing pad work was previously performed and paid for by LESSEE. Sublessees to construct their own improvements on each pad pursuant to subleases and plans to be approved separately by CITY in accordance with the Lease.
- e. Schematic Elevations - To be submitted by sublessees for approval by CITY in accordance with the Lease.
- f. Landscape Plan - Additional landscaping will be covered in the sublessee improvement plans.

and shall be filed in the Office of the City Clerk as referenced in this Lease.

Exhibit A-1



NOTE

- NOTES**
1. ALL STANDARD PARKING SPACES TO BE 9' 6" TO 10' ON 9' 6" WIDE, AND ACCESSIBLE PARKING SPACES TO BE 9' WIDE, WITH A 5' WIDE ACCESSIBLE AND WITH AN 8' WIDE ACCESSIBLE AT THE ACCESSIBLE SPACE.

1. SEE OVER CHANGING PLAN SHEET 2 FOR LOCATION OF PROPOSED AND EXISTING LUMBER AND SEE NOTES

LEGAL DECISIONS

LEGAL DESCRIPTION
THOSE PORTIONS OF PUEBLO LOTS 141, 142 AND 143 OF THE PUEBLO LANDS OF SAN DIEGO STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE, A COPY OF WHICH SAID MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY AND KNOWN AS MISCELLANEOUS MAP NO. 14, DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTHEASTLY LINE OF PLATS 1601 312 WITH THE NORTHEASTLY LINE OF SOUTHS MAIN AVE. AND PROCEEDING NORTHEAST ALONG THE SOUTHEASTLY LINE TO A POINT OF INTERSECTION WITH A LINE WHICH IS DIST. 135.0 FEET NORTHEAST, MEASURED AT RIGHT ANGLES FROM THE NORTHEASTLY LINE OF 212.50 FEET TO THE POINT OF BEGINNING. BEING 71° 16' 35.1" ANGLE OF 212.50 FEET TO THE POINT OF BEGINNING. BEING 21° 22' 06" NORTH 12° 36' 14" EAST. A DISTANCE OF 130.00 FEET NORTH 77° 23' 06" WEST, A DISTANCE OF 150.00 FEET; THENCE SOUTH 7° 25' 06" EAST, A DISTANCE OF 130.00 FEET TO THE POINT OF BEGINNING; CONTAINING 312 ACRES MORE OR LESS TO BE, THE, POINT, ADJACENT PARCEL NUMBER 243-000-45 17

16926

1.  INDICATES STANDARD ACCESSIBLE STALL (MIN 4)
INDICATES VAN ACCESSIBLE STALLS
2.  INDICATES TOILET LINE/DRAIN
3.  INDICATES HOT (ART OF) WATER LINE
4.  INDICATES EXISTING SEWER LINE
5.  INDICATES PROPERTY LINE
6.  INDICATES STANDARD CAR PARKING SPACE SUB-TOTAL
7.  INDICATES ACCESSIBLE CAR PARKING SPACE SUB-TOTAL
8.  EXISTING LIGHT FIXTURE

PREPARED BY:

TO: SAC, LOS ANGELES (157-1000)
FROM: SAC, SAN DIEGO (157-1000)
SUBJECT: [REDACTED]
RE: [REDACTED]

MAFCL 8X957

ADDRESSEE
JOHN STEPHEN ARTHUR JR. MR.
SAN DIEGO, CALIFORNIA

ଉତ୍ତର ଉତ୍ତର:

NAME: SPORTS ARENA METAL CENTER PAB

SECRET

DATE: 28 JUL

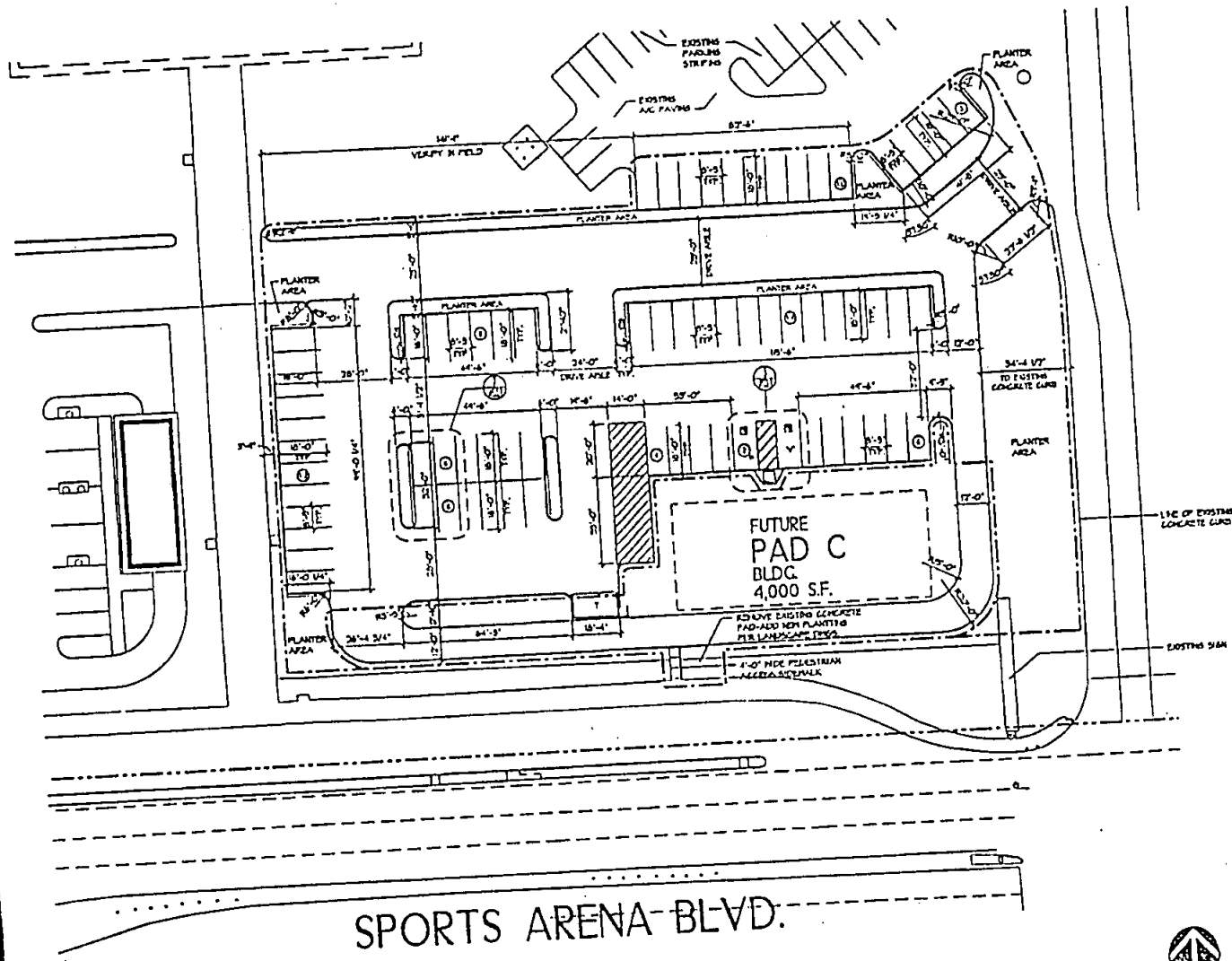
REVISION 11 _____
REVISION 12 _____
REVISION 12 _____
REVISION 11 _____
REVISION 10 _____
REVISION 9 _____
REVISION 8 _____
REVISION 7 _____
REVISION 6 _____
REVISION 5 _____
REVISION 4 _____
REVISION 3 _____
REVISION 2 _____
REVISION 1 _____

DATE: OCTOBER 1, 2000

PAGE 1 OF 1

END

Exhibit A-1



- PROPERTY LINE
- CENTER LINE
- PARCEL LINE
- LIMITED WORK LINE
- STAMPED CONCRETE WITH BROOK
- FRESH CONCRETE SURFACE
- RIGHT OF WAY
- TELEPHONE/ELECTRIC ROOM LOCATION
- ELECTRIC HANDHOLE
- TRANSFORMER PAD
- TELEPHONE PEDestal
- WATER METER
- FIRE HYDRANT, SEE CIVIL SHEETS
- POST INDICATOR VALVE
- FIRE DEPARTMENT CONNECTION
- REDUCED PRESSURE VALVE DEVICE
- FIRE RISER
- SQUARE TREE WELL WITH CURB
- POLE LIGHT, BASE DETAIL SEE ELECTR. SHEETS
- PIPE MANHOLE
- RETAINING OR SCREEN WALL PER CIVIL
- ACCESSIBLE PARKING SPACE
- ACCESSIBLE ACCESS BYWALK
- ACCESSIBLE RAMP
- ACCESSIBLE PARKING SIGN
- ACCESSIBLE ENTRANCE SIGN
- STOP SIGN
- YIELD SIGN
- WHITE PAINTED TRAFFIC DIRECTION ARROWS TYPICAL
- WHITE PAINTED STOP SIGN LIMIT LINE AND TRAFFIC LANE STRIPE
- PARKING COUNT - STANDARD
- PARKING COUNT - COMPACT
- PARKING COUNT - ACCESSIBLE SPACE
- FOR LANDSCAPE LEADS, SEE THIS SHEET
- BUILDING IDENTIFICATION EQUIPMENT
- CONCRETE CURB (BULG)
- PARKING SIGN DASHED IS FUTURE (BULG)
- HATCH LINE
- NUL

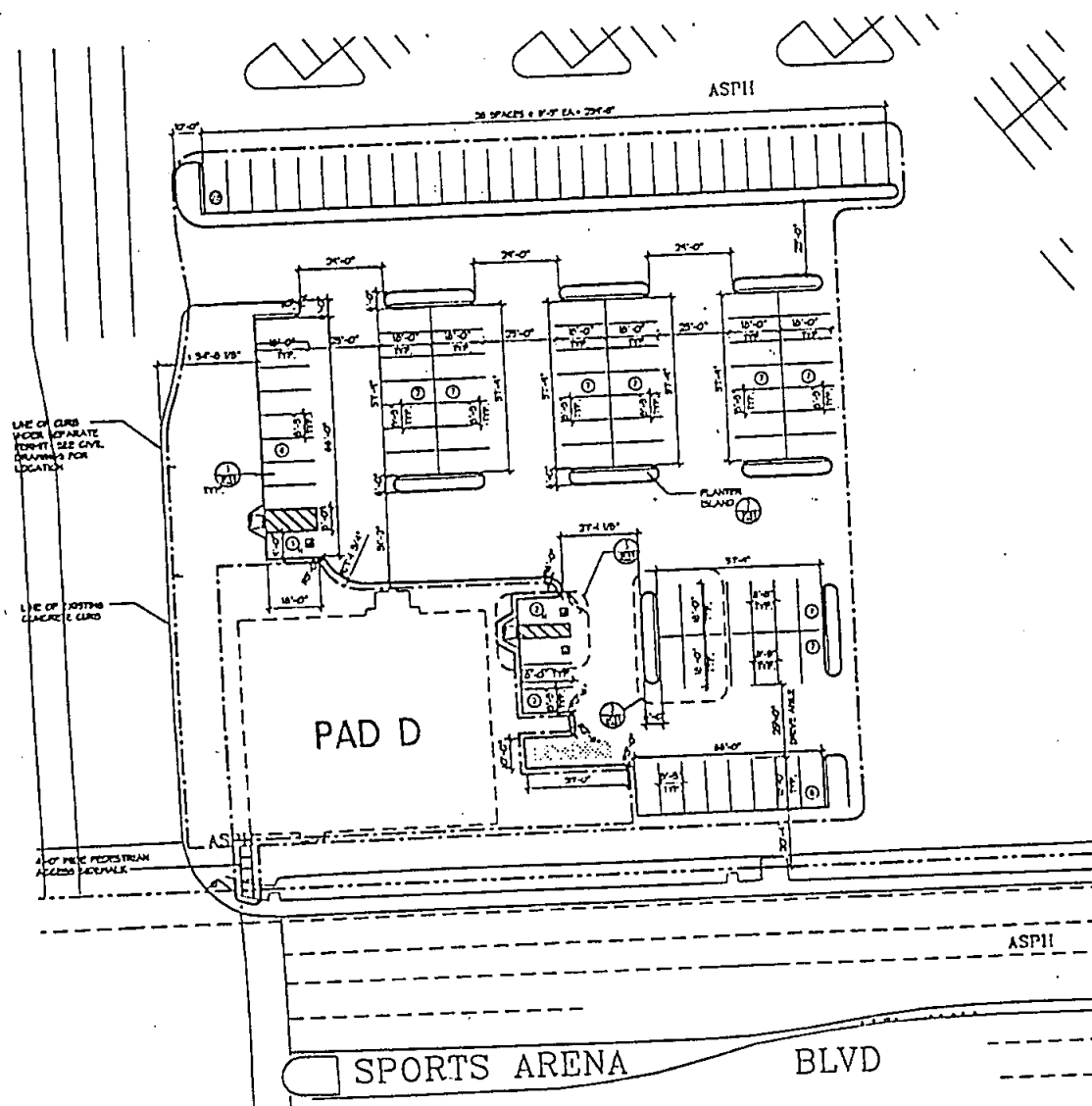


LEGEND/ NOTES

PM AGSD SITE PLAN

AS2

Exhibit A-1



- 1. [Symbol] INDICATES STANDARD ACCESSIBLE STALL WITH V. INDICATES VAN ACCESSIBLE STALL
- 2. [Symbol] INDICATES TRASH ENCLOSURE
- 3. [Symbol] INDICATES NEW LIMIT OF PAVEMENT LINE
- 4. [Symbol] INDICATES PROPERTY LINE
- 5. [Symbol] INDICATES STANDARD CAR PARKING SPACE
- 6. [Symbol] INDICATES ACCESSIBLE CAR PARKING SPACE



PROJECT NO.	2000
PROJECT AND LOCATION	SPORTS ARENA - PAD D
DATE	11/11/00
DESIGNED BY	SCDA
CHECKED BY	SCDA
DATE	11/11/00

SCDA
ARCHITECTURE AND PLANNING
1000 B STREET, SUITE 100
SAN DIEGO, CALIFORNIA 92101
TEL: 619.594.1000
FAX: 619.594.1001
WWW.SCDA.COM

SPORTS ARENA - PAD D
SAN DIEGO, CALIFORNIA
ARENA 2000

1:8

AS2.

Exhibit A-2

January 10, 2001

Onsite Pad "B"	\$178,500
Onsite Pad "C"	\$213,500
Onsite Pad "D"	\$190,000
Site Slurry and Stripe	\$150,000
Off-Site	\$100,000
Leasing Commissions	\$167,000
Project Management	\$110,000
Reports (Soils, Traffic, etc.)	\$75,000
Architectural & Engineering	\$225,000
City Fees / Permits	\$50,000
Legal	\$50,000
Loan Costs	<u>\$15,000</u>
	<u>\$1,524,000</u>

RESOLUTION NUMBER R- 296248

ADOPTED ON APR 02 2002

WHEREAS, the City currently leases to Arena Group 2000, Inc., a California corporation (as successor-in-interest to San Diego Entertainment, Inc.) [Arena Group], property located at 3500 Sports Arena Boulevard in the City of San Diego, more commonly known as the San Diego Sports Arena; and

WHEREAS, City and Arena Group have a bona fide dispute as to the rights and responsibilities of the parties to the Sports Arena Operating Agreement for naming rights for the Sports Arena Premises; and

WHEREAS, Arena Group desires to commercially develop a portion of the Sports Arena Premises and to sublease the developed area as provided in the Lease Agreement approved by City Council and on file in the Office of the City Clerk as Document No. RR 296247 the [Sports Arena Retail Pad Ground Lease]; and

WHEREAS, in consideration of CITY's approval of the Sports Arena Retail Pad Ground Lease for the portion of the Sports Arena Premises identified in the attached Exhibit "A", Arena Group agreed to a Fourth Amendment to the Sports Arena Operating Agreement; NOW
THEREFORE

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager be and he is hereby authorized and empowered to execute, for and on behalf of the City, a Fourth

Amendment to Operating (Sublease) Agreement with Arena Group 2000 deleting the premises included in the Sports Arena Retail Pad Ground Lease and adding naming rights language, under the terms and conditions set forth in the Agreement on file in the office of the City Clerk as

Document No. RR- 296248.

APPROVED: CASEY GWINN, City Attorney

By Prescilla Dugard
Prescilla Dugard
Deputy City Attorney

PD:mm
03/26/02
Or.Dept:READ
R-2002-1311
Form=auagr.frm

Passed and adopted by the Council of the City of San Diego on April 2, 2002 by the following vote:

YEAS: WEAR, ATKINS, STEVENS, MAIENSCHIN, FRYE, MADAFFER, INZUNZA,
MAYOR MURPHY.

NAYS: NONE

NOT PRESENT: PETERS.

AUTHENTICATED BY:

DICK MURPHY
Mayor of The City of San Diego, California

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California

(SEAL)

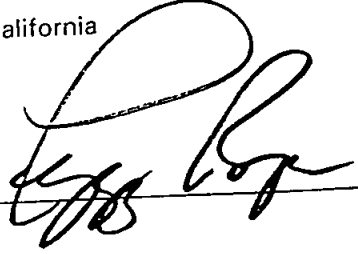
By: PEGGY ROGERS Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
RESOLUTION No. R- 296248 passed and adopted by the Council of The City of San
Diego, California on April 2, 2002.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California

(SEAL)

By:  Deputy

CONTRIBUTION AGREEMENT

This agreement is entered into between Arena Group 2000, L.P., a California limited partnership ("Company") and Katherine ^{May}Crake Huntington ("Huntington"). The date of this agreement, for reference purposes only, is ~~April~~ ^{May} ___, 1999.

1. UNDERLYING FACTS/RECITALS.

1.1 Real Property. Huntington is the lessee of, and the owner of certain improvements on, approximately five acres of land area (the "Real Property") located at 3340-3360 Sports Arena Blvd., in the City of San Diego, State of California, legally described on Exhibit A attached to this agreement, pursuant to a Percentage Lease between the City of San Diego (the "City") and Huntington, on file in the office of the City Clerk as Document No. 00-18261 (the "City Lease").

1.2 Leasehold Interest and Retail Center. The Real Property is improved with approximately 75,000 rentable square feet of retail building space and related improvements, and is currently operated under the trade name "Sports Arena Square". Huntington's interest under the City Lease, together with Huntington's ownership interest in the improvements on the Real Property (including without limitation buildings, fixtures, common area, landscaping, utility installations and similar items ("Improvements")), are collectively referred to as the "Leasehold Interest".

1.3 Purchase and Sale Agreement. Company and Huntington are parties to a Purchase and Sale Agreement and Joint Escrow Instructions dated December 2, 1997 ("Purchase Agreement"). The Purchase Agreement is hereby terminated and is superseded by this agreement.

1.4 Property. Huntington desires to contribute to Company and Company desires to accept Huntington's contribution of the Leasehold Interest and the following (collectively, the "Property"):

1.4.1 All easements, rights of way and other rights appurtenant to the Leasehold Interest (the "Appurtenant Rights").

1.4.2 Huntington's interest in all leases and other rental arrangements for occupancy of the Real Property and Improvements ("Tenant Leases"), including without limitation all rights to collect current, past due or future rents.

1.4.3 Huntington's interest in all service, maintenance, repair, improvement, management and similar contracts for the Real Property ("Service Contracts"), including without limitation (i) all warranty, guaranty and similar rights, and (ii) all rights to refunds, prepayments and deposits (including without limitation deposits with utility companies or others).

1.4.4 All permits, licenses, certificates and other governmental approvals and entitlements related to ownership or operation of the Real Property ("Permits").

1.4.5 All intangible rights of Huntington used in connection with the Real Property ("Intangible Rights"), including without limitation trade names (including without limitation the trade name "Sports Arena Square"), trademarks, logos, telephone numbers and similar items.

RECEIVED
CITY OF SAN DIEGO
99 MAY 24 PM 1:47
REAL ESTATE ASSETS DEPT.

1.4.6 All tangible personal property owned by Huntington and used in connection with the Real Property (the "Personal Property"), including without limitation furniture, furnishings and equipment (including without limitation office furniture, furnishings and equipment, service and maintenance equipment and supplies and similar items); and

1.4.7 all cash on hand or in bank accounts maintained by Huntington in connection with the Real Property ("Cash on Hand").

1.5 First TD Loan. The Property is currently encumbered by a first trust deed loan held by Bank of America, with an outstanding principal balance as of May 1, 1999 of approximately \$887,000 (the "First TD Loan").

1.6 Second TD Loan. The Property is currently encumbered by a second trust deed loan held by Ovies Company, as assigned from First National Bank (formerly Bank of Southern California), with an outstanding principal balance as of May 1, 1999 of approximately \$852,000 (the "Second TD Loan").

1.7 Personal Guaranty. Huntington is the personal guarantor of the First TD Loan and the Second TD Loan.

1.8 Contribution. Huntington desires to contribute the Property to Company, and Company desires to accept such contribution, on the terms and subject to the conditions set forth in this agreement. This agreement is intended to comply with Internal Revenue Code §721(a)

2. CONTRIBUTION, PARTNERSHIP INTEREST, DEPOSITS AND CLOSING DATE

2.1 Agreement. Huntington agrees to contribute to Company, and Company agrees to accept buyer's contribution of the Property, on the terms and subject to the conditions set forth in this agreement. The Effective Date of this agreement shall be the day this agreement is executed by either Company or Huntington, whichever occurs later, and a fully executed copy is delivered to the other party.

2.2 Partnership Interest. In exchange for the contribution of the Property, Huntington shall receive a limited partnership interest in Company equal to a 1% interest in profits, subordinated to return of all capital and preferred return thereon, as provided in the partnership agreement of Company ("Partnership Interest") and shall be admitted to Company as a limited partner and shall receive the AITD Note (as defined below).

2.3 Security for Performance. As security for its performance under this agreement, Company shall deposit \$10,000 into Escrow within five business days after the Effective Date of this agreement.

2.4 AITD Note. At the Close of Escrow, Company shall execute and deliver to Huntington an All-Inclusive Promissory Note (the "AITD Note"), in a principal amount equal to the outstanding principal balance of the First TD Loan and the Second TD Loan, maturing on April 1, 2004, with interest and payments equal to the interest and payment on the First TD Loan and the Second TD Loan, in a form to be agreed upon by the parties. The AITD Note shall include the unpaid principal balances of the First TD Loan and Second TD Loan. The AITD Note shall be secured by an All-Inclusive Deed of Trust encumbering the Property, in a form to be agreed upon

by the parties (the "AITD"). The AITD Note and AITD shall provide that Company shall have no recourse liability thereunder. The AITD Note shall also provide that any prepayments made by Company shall be used to prepay Huntington's obligations under the underlying First TD Loan and Second Loan. Company and Huntington shall negotiate in good faith and use their best efforts to agree upon the form of AITD Note and AITD before the Closing Date. At Close of Escrow, the parties shall also enter into the form of Reimbursement Agreement attached to this agreement as Exhibit C.

2.5 Contribution as Going Concern. The parties intend for Company to acquire the Property as a going concern, and that by Company acquiring Huntington's Cash on Hand, as well as assuming the obligations and expenses described below, the net value of the assets to be contributed and the obligations to be assumed by Company will not be significantly affected by the timing of Close of Escrow (as defined below) or payment of Huntington's accounts payable. Accordingly, Company shall assume Huntington's accounts payable outstanding as of Close of Escrow, provided such accounts payable are (i) less than 30 days old (measured from the invoice date) and (ii) incurred in the ordinary course of operating the Real Property. In addition, the following items shall not be prorated:

2.5.1 Current month's interest under the First TD Loan;

2.5.2 Current month's interest under the New Second TD Loan;

2.5.3 Payments due under the City Lease.

2.5.4 Payments due under the Assigned Service Contracts.

2.5.5 Base rent and additional rent (e.g., estimated operating expense payments and percentage rent) payable under the Tenant Leases.

Real property taxes and assessments shall be prorated and Tenant security deposits shall be credited to Company and charged to Huntington through Escrow.

2.6 Closing Date. Close of Escrow shall occur on or before 60 days after the Effective Date (the "Closing Date"). Company may extend the Closing Date for such additional periods of time as Company deems necessary, not to exceed 28 days in the aggregate, to allow the parties to satisfy the Company's closing conditions set forth below. Such right shall be exercised by giving written notice to Huntington and Escrow Holder prior to the Closing Date or any then current extension of the Closing Date.

2.7 Transfer of Partnership Interest. An amendment to the partnership agreement of Company, evidencing Huntington's Partnership Interest, executed by all other partners of Company (the "Amendment"), shall be deposited with Escrow Holder by Company at least one business day before the Closing Date; provided, Company shall not be obligated to deposit such documents with Escrow Holder until Company has received notice from Escrow Holder that all other conditions precedent to Close of Escrow, including execution and delivery of all necessary documents by Huntington, have been satisfied.

2.8 Assumption of Specified Contracts. Effective as of (and subject to) Close of Escrow, Company shall assume the obligations of Huntington arising after Close of Escrow under (i) the City Lease, (ii) the Tenant Leases, and (iii) all Service Contracts other than those

terminated effective at Close of Escrow at the request of Company (the "Assigned Service Contracts").

2.9 No Assumption of Liability. Except as expressly provided in this agreement, Company is not assuming any debt, liability or obligation of Huntington, and Company shall not be liable for any debts, liabilities or obligations of Huntington of any kind or nature.

3. ESCROW AND TITLE INSURANCE.

3.1 Escrow. The contribution contemplated by this agreement shall be accomplished through an escrow ("Escrow") to be established with Stewart Title Insurance Company ("Escrow Holder"). Within five business days after the Effective Date of this agreement, the parties shall execute any general and/or supplemental escrow instructions required by Escrow Holder for the purpose of implementing and carrying out the terms of this agreement, provided such general and/or supplemental escrow instructions are consistent with the terms of this agreement. Except as expressly provided in such escrow instructions, in the event of any conflict between the terms of this agreement and such escrow instructions, this agreement shall control.

3.2 Closing. The escrow instructions shall provide for Escrow to close ("Close of Escrow") on or before the Closing Date, but only when:

3.2.1 Closing Costs. Escrow Holder holds funds to pay all closing costs.

3.2.2 Huntington's Proceeds. Escrow Holder holds for Huntington (i) the Amendment, and (ii) the AITD Note and AITD.

3.2.3 Closing Documents. Escrow Holder holds for Company the Grant Deed and other Closing Documents (as defined below).

3.2.4 Title Insurance. Stewart Title Insurance Company (the "Title Company") has issued or unconditionally and irrevocably committed to issue to Company, upon recordation of the Grant Deed, an ALTA Extended Coverage Leasehold Owner's Policy of title insurance, with the standard exceptions and creditors' rights exclusion deleted (the "Title Policy"), with liability in the amount of the AITD Note, showing title to the Leasehold Interest vested in Company subject only to the Permitted Exceptions (as defined below). Close of Escrow shall be deemed to have occurred upon recordation of the Grant Deed (as defined below).

3.3 Permitted Exceptions. Permitted Exceptions means the following:

3.3.1 Printed Items. The printed exceptions and exclusions contained in the policy form.

3.3.2 Property Taxes. Unpaid property taxes and assessments not in default.

3.3.3 Supplemental Taxes. Any supplemental taxes and assessments not in default.

3.3.4 Additional Schedule B Exceptions. Such covenants, conditions, restrictions, reservations, easements, rights, rights of way and other matters as may be approved by Company (as provided below).

3.3.5 First TD Loan. The deed of trust and other documents comprising the First TD Loan.

3.3.6 Second TD Loan. The deed of trust and other documents comprising the Second TD Loan.

3.4 Documents at Closing. Huntington shall execute and deliver to Escrow Holder before the Closing Date, and except as otherwise provided below Escrow Holder shall deliver to Company immediately following Close of Escrow, the following documents (the "Closing Documents") all in form and substance acceptable to Company:

3.4.1 Grant Deed. A grant deed in recordable form conveying fee title to the Leasehold Interest and the Appurtenant Rights to Company (the "Grant Deed"), with documentary transfer tax, if any, to be shown by a separate, unrecorded affidavit.

3.4.2 Assignment of Tenant Leases. An assignment of Huntington's interest in the Tenant Leases.

3.4.3 Assignment of Service Contracts. An assignment of Huntington's interest in the Assigned Service Contracts.

3.4.4 Assignment of Permits and Intangibles. An assignment of the Permits and Intangible Rights.

3.4.5 Bill of Sale. A bill of sale for the Personal Property.

3.4.6 Notice to Tenants. A letter or other form of notice to tenants directing them to make future rent payments as directed by Company.

3.4.7 Updated Rent Roll. An updated and/or amended Rent Roll (as defined below), containing any new, changed, or other additional information not provided by any Rent Roll previously delivered by Huntington to Company.

3.4.8 FIRPTA Certificate. A non-foreign person affidavit stating that Huntington is not a foreign person as defined in Section 1445(b)(2) of the Internal Revenue Code (the "FIRPTA Certificate").

3.4.9 California Affidavit. An affidavit stating that Huntington is a "Resident" of California within the meaning of Sections 18805, 18815 and 26131 of the California Revenue and Taxation Code (the "California Affidavit").

3.4.10 Amendment. A counterpart original of the Amendment.

3.4.11 Other Documents. All other documents reasonably necessary to effectuate the transactions contemplated by this agreement.

3.5 Actions of Escrow Holder. On the Closing Date, Escrow Holder shall do the following:

3.5.1 Recordation. Escrow Holder shall cause the Grant Deed, and any other documents directed by the parties, to be recorded in the Official Records of the County Recorder's Office, and obtain conformed copies thereof for distribution to Company and Huntington.

3.5.2 Disbursement of Funds. Escrow Holder shall disburse all funds deposited with Escrow Holder as follows (and in the following order): (i) pay all closing costs to be paid through Escrow (including without limitation brokerage commissions, documentary transfer taxes, premium for the Title Policy, escrow fees and recording charges); (ii) disburse to Huntington the prorations as paid by Company in accordance with separate wiring or other payment instructions delivered to Escrow Holder by Huntington.; and (iii) disburse any remaining funds to Company in accordance with separate wiring or other payment instructions delivered to Escrow Holder by Company.

3.5.3 Delivery of Documents. Escrow Holder shall (i) direct the Title Company to issue the Title Policy to Company; (ii) deliver to Company a conformed copy of the Grant Deed, originals of the other Closing Documents and Company's closing statement; and (iii) deliver to Huntington a conformed copy of the Grant Deed and AITD, the original AITD Note, a duplicate original of the Amendment and Huntington's closing statement.

3.6 Turnover at Closing.

3.6.1 Upon recordation of the Grant Deed, Huntington shall immediately deliver to Company (i) possession of the Property, (ii) all keys to all locks on the Real Property, except keys in the possession of others, which shall be specifically identified, and (iii) originals of the Tenant Leases, Permits and Assigned Service Contracts, (iv) originals or copies of all files, books and other records in the possession of Huntington regarding the Tenant Leases, Permits and Assigned Service Contracts, and (v) the Cash on Hand.

3.6.2 The parties shall cause all utility meters for the Property to be read, and for billing arrangements to be transferred to Company, as of Close of Escrow.

4. CONDITIONS PRECEDENT.

4.1 Company's Pre-Closing Conditions. Company's obligation to purchase the Property is subject to satisfaction, or waiver by Company, of the conditions set forth below, on or before the dates set forth below. Company may waive any or all of such conditions, without prejudicing or affecting any other rights Company may have. If any condition is not satisfied or waived by the applicable date, Company shall have the right to cancel Escrow and terminate this agreement without liability.

4.1.1 Title Exceptions. Within five business days after the Effective Date, Huntington shall cause the Title Company to deliver to Company a preliminary title report issued by the Title Company, with copies of all documents referenced in exceptions identified on Schedule B to the preliminary title report and all easements, rights of way and similar matters plotted (collectively, the "Title Report").

(i) Company shall have until ten business days after Company's receipt of the Title Report (the "Title Review Date"), to give written notice to Huntington ("Company's Title Notice") identifying any title exceptions identified on Schedule B to the preliminary title report disapproved by Company (the "Disapproved Title Exceptions"); if Company fails to give such notice, Company shall be deemed to have approved all title exceptions other than mortgages, deeds of trust, mechanic's liens and similar items constituting monetary liens (except the First TD Loan and Second TD Loan), all of which shall be satisfied and removed at Close of Escrow.

(ii) If Huntington is unable to remove, at or before Close of Escrow, any of the Disapproved Title Exceptions, then within five business days after receipt of Company's Title Notice, Huntington shall give written notice to Company ("Huntington's Title Notice") identifying the Disapproved Title Exceptions that Huntington is unable to remove (the "Disputed Title Exceptions"); if Huntington fails to give such notice, Huntington shall be deemed to have agreed to remove the Disapproved Title Exceptions.

(iii) Company shall have five business days after receipt of Huntington's Title Notice to either (a) approve the Disputed Title Exceptions, or (b) terminate this agreement and cancel Escrow, by giving written notice of such termination and cancellation to Huntington and Escrow Holder within such five business days; if Company fails to give such notice, Company shall be deemed to have approved the Disputed Title Exceptions.

(iv) If additional exceptions are identified after Company's receipt of the Title Report, Company shall have until the later of (a) the Title Review Date or (b) five business days after receipt of an amendment or supplement to the Title Report (including copies of any documents comprising such exceptions), to give written notice to Huntington ("Company's Supplemental Title Notice") identifying any such additional title exceptions disapproved by Company (the "Disapproved Supplemental Title Exceptions"); if Company fails to give such notice, Company shall be deemed to have approved such additional title exceptions, other than mortgages, deeds of trust, mechanic's liens and similar items constituting monetary liens (except the First TD Loan and Second TD Loan), all of which shall be satisfied and removed at Close of Escrow. If Huntington is unable to remove, at or before Close of Escrow, any of the Disapproved Supplemental Title Exceptions, then within three business days after receipt of Company's Title Notice, Huntington shall give written notice to Company ("Huntington's Supplemental Title Notice") identifying the disapproved title exceptions that Huntington is unable to remove (the "Disputed Supplemental Title Exceptions"); if Huntington fails to give such notice, Huntington shall be deemed to have agreed to remove the Disapproved Supplemental Title Exceptions. Company shall have three business days after receipt of Huntington's Supplemental Title Notice to either (i) approve the Disputed Supplemental Title Exceptions, or (ii) terminate this agreement and cancel Escrow, by giving written notice of such termination and cancellation to Huntington and Escrow Holder within such three business days; if Company fails to give such notice, Company shall be deemed to have approved the Disputed Supplemental Title Exceptions. The Closing Date shall be extended if and to the extent necessary to accommodate the time periods provided in this paragraph.

4.2 Company's Closing Conditions. Company's obligation to purchase the Property is subject to satisfaction, or waiver by Company, of the conditions set forth below at Close of Escrow. Company may waive any or all of such conditions, without prejudicing or affecting any other rights Company may have. If any conditions are not satisfied or waived on the Closing Date, Company shall have the right to cancel Escrow and terminate this agreement without liability.

4.2.1 City Consent. The City shall have given its written consent to assignment of the Leasehold Interest to Company.

4.2.2 Title Policy. The Title Company shall have issued, or irrevocably and unconditionally committed to issue, the Title Policy upon recordation of the Grant Deed.

4.2.3 UCC Search. Company shall have received the results of a UCC-3 search, dated no earlier than ten days before the Closing Date, reflecting no liens, security interests, leases, assignments or other encumbrances affecting the Property that will not be fully satisfied and terminated at Close of Escrow.

4.2.4 Estoppel Certificates and Subordination Agreements. Company shall have received, with respect to each of the Tenant Leases, an estoppel certificate executed by Huntington and the tenant under the Tenant Lease, confirming (a) the terms of the Tenant Lease, (b) that it is in full force and effect, (c) that Huntington is not in default thereunder and (d) such other matters as may be reasonably required by Company (the "Estoppel Certificates").

4.2.5 No Material Adverse Change. There shall have been no material adverse change to the Property since the Effective Date of this agreement.

4.2.6 Performance by Huntington. Huntington shall have performed all of the obligations to be performed by Huntington under this agreement at or prior to Close of Escrow, including without limitation execution and delivery of the Closing Documents to Escrow Holder.

4.2.7 Accuracy of Representations and Warranties. Huntington's representations and warranties shall be accurate as of Close of Escrow.

4.2.8 No Litigation. No lawsuit, arbitration or other legal proceeding shall be pending or threatened (i) which seeks to restrain or prevent the sale of the Property to Company or (ii) the outcome of which would have an adverse affect on Company's ownership of the Property.

4.3 Huntington's Closing Conditions. Huntington's obligation to contribute the Property is subject to satisfaction, or waiver by Huntington, of the conditions set forth below at Close of Escrow. Huntington may waive any or all of such conditions, without prejudicing or affecting any other rights Huntington may have. If any conditions are not satisfied or waived on the Closing Date, Huntington shall have the right to cancel Escrow and terminate this agreement without liability.

4.3.1 Performance by Company. Company shall have performed all of the obligations to be performed by Company under this agreement at or prior to Close of Escrow, including without limitation delivery of the Amendment and Loan Guaranty to Escrow Holder.

4.3.2 Accuracy of Representations and Warranties. Company's representations and warranties shall be accurate as of Close of Escrow.

4.3.3 No Litigation. No lawsuit, arbitration or other legal proceeding shall be pending or threatened which seeks to restrain or prevent the sale of the Property to Company.

4.4 Cooperation of the Parties. Company and Huntington shall cooperate with each other as may reasonably be necessary for performance of the obligations and satisfaction of

the conditions contained in this agreement, and each party agrees to execute such instruments, applications or other documents as may be required for such purposes.

5. DELIVERIES AND ACCESS.

5.1 Due Diligence Documents. Within five business days after the Effective Date of this agreement, Huntington shall deliver to Company the documents and information listed on attached Exhibit B (collectively, the "Due Diligence Documents"), to the extent not previously delivered.

5.2 Access to Property. Company and its agents, representatives and consultants may enter the Real Property and Improvements as reasonably necessary to make inspections and conduct studies related to the Property; provided, Company shall give Huntington at least one business day's advance notice of any inspection requiring access to non-public portions of the Real Property. Company shall indemnify, protect, defend and hold Huntington harmless from all claims, damages, losses, liabilities, costs and expenses, including attorneys' fees, arising out of acts or activities of Company or its agents, representatives and consultants on or about the Property pursuant to this agreement. This obligation shall survive Close of Escrow or any termination of this agreement.

5.3 Access to Books and Records. Company and its agents, representatives and consultants shall have the right to inspect and review Huntington's books and records related to the Property, during regular business hours; provided, Company shall give Huntington at least one business day's advance notice of any intended inspection of Huntington's books and records.

6. OTHER PRE-CLOSING OBLIGATIONS.

6.1 Transfers. Huntington shall not encumber, sell or otherwise transfer all or any portion of the Property, and shall not grant any easements or rights-of-way affecting the Real Property.

6.2 Tenant Leases. Huntington shall continue to perform all of its obligations as landlord under the Tenant Leases. Huntington shall not enter into any new Tenant Leases without the prior written approval of Company, which shall not be unreasonably withheld; Company shall notify Huntington of its approval or disapproval of any proposed Tenant Lease within five business days after receipt of a copy thereof, and Company's failure to give written notice of approval shall constitute its disapproval of such proposed Tenant Lease. As to any new Tenant Lease approved by Company, Company shall assume or reimburse Huntington for a prorata share (determined based on the lease term occurring before and after Close of Escrow of the actual tenant improvement costs and leasing commissions incurred by Huntington in connection with the execution of such Tenant Lease.

6.3 Property Management. Subject to the limitations set forth below, Huntington shall operate and manage the Property until Close of Escrow in substantially the same manner that Huntington operated the Property before the Effective Date of this agreement. Huntington shall provide monthly operating statements and updated rent rolls to Company on or before the 15th day of each calendar month (showing the operating results for the preceding calendar month) until Close of Escrow.

6.4 Service Contracts. Huntington shall not, without Company's prior written consent, enter into any new Service Contracts relating to the Property, or amend or modify any such contracts in any manner that would preclude Company from terminating such contracts, without cost or liability, on not more than thirty (30) days' written notice, given at any time after Close of Escrow. Huntington shall take all action necessary to terminate, effective on the later of 30 days after written notice from Huntington or at Close of Escrow, any Service Contracts designated from time to time by Company and which may be terminated without cost or liability to Huntington.

6.5 No Defaults. Huntington shall not commit any event of default under any contract, agreement or obligation with respect to the Property and shall promptly furnish Company with copies of any and all notices or communications which it receives from any tenants, lenders or governmental entities regarding the use, occupancy or physical condition of the Property.

6.6 Maintenance of Property. Huntington shall maintain the Property in the ordinary course of business until Close of Escrow, including routine repairs and replacements, and take any other action required so the Property is delivered to Company in the same or better condition as the Property is in at the Effective Date.

6.7 Insurance. Huntington shall maintain in full force and effect, and pay all premiums for, all casualty and liability insurance policies currently covering the Property.

6.8 Compliance with Laws. Huntington shall comply with all Applicable Laws (as defined below), and shall promptly furnish Company with copies of any and all notices or communications which it receives from any governmental or quasi-governmental entities regarding any violation of any Applicable Laws or otherwise affecting the use, occupancy or physical condition of the Property. "Applicable Laws" means all federal, state, local and other laws, ordinances, rules, regulations and orders affecting or governing the use, occupancy, ownership or maintenance of the Property.

6.9 Lease Revenue.

6.9.1 Following the execution of this agreement, Huntington shall use its best efforts to enter into a Termination Agreement with Cinamerica Theatres, L.P., on the terms previously agreed upon by the parties, concerning termination of that certain lease described therein (the "Cinamerica Lease"). If such agreement is executed before close of escrow, then Huntington shall, upon receipt of written request from Company before close of escrow, exercise its right to terminate the Cinamerica Lease.

6.9.2 The parties acknowledge that, following close of escrow, (1) the Cinamerica Lease may be terminated, either pursuant to the termination agreement described above or by another agreement negotiated by Company, and (2) Company may also negotiate terminations of other Leases for reasons other than the default of the tenant thereunder. The parties also acknowledge that such terminations may adversely affect the value of the Property (and therefore the value of the collateral under the AITD). Accordingly, Company shall, both before close of escrow (and continuing until either close of escrow or termination of this agreement) and following any default and foreclosure under the AITD, pay Huntington the lesser of (a) an amount equal to the difference between the net operating income of the Property and the monthly debt service payments owed under the First TD Note and Second TD Note, or (b) the amount of monthly rent Huntington otherwise would have received under the Cinamerica Lease (if terminated by or

at the request of Company) and any other lease on the Property which is terminated early by Company (other than based on tenant default), during the remaining term of each such lease (determined as if the applicable leases had not been terminated by Company). The purpose of this provision is to assure Huntington that the monthly income lost (or at least enough to generate net operating income sufficient to pay the debt service payments) as a result of leases terminated by Company will be replaced by ~~AG2000~~ ^{Company} for the balance of the terms of those leases, during any period that Huntington owns the property (i.e., before close of escrow or after any default and foreclosure under the AITD). This obligation shall survive any termination of this agreement.

7. CONDITION OF PROPERTY.

7.1 "AS IS" Purchase. Except as expressly provided in this agreement, Company is purchasing the Property "AS IS", "WHERE IS" and "WITH ALL FAULTS", without any representations, warranties or guaranties of any nature, express or implied, oral or written, past, present or future, regarding the Property, including without limitation as to the matters described in Company's due diligence contingency.

7.2 Damage to Property.

7.2.1 Damage Limit. Company shall purchase the Property on the terms and subject to the conditions set forth in this agreement, without regard to damage to the Real Property, Improvements or Personal Property after the Effective Date of this agreement, provided the cost to repair the damage does not exceed \$10,000 (the "Damage Limit"). If the cost exceeds that amount, Company may terminate this agreement without liability.

7.2.2 Insurance Proceeds and Credit to Company. If (i) the cost to repair the damage does not exceed the Damage Limit, or (ii) the cost to repair the damage exceeds the Damage Limit and Company does not elect to terminate this agreement, and (in either event) Huntington does not repair such damage, then Company shall receive all insurance proceeds collected as a result of any damage, payable to Company at and subject to Close of Escrow. In addition, Company shall receive a credit equal to the estimated cost to repair any damage in excess of any insurance proceeds paid to Company (including without limitation any excess attributable to deductibles, co-insurance payments and/or uninsured losses). The Closing Date may be extended as reasonably required to obtain repair estimates and determine insurance proceeds.

7.3 Condemnation. If a condemnation or a sale in lieu thereof effects a taking of all the Property or of such a material part thereof as to substantially interfere with using the Property as a retail shopping center, Company may terminate this agreement without liability. If Company does not elect to terminate this agreement, then Huntington shall transfer and assign to Company all of the condemnation proceeds or award.

8. REPRESENTATIONS AND WARRANTIES.

8.1 Mutual Representations and Warranties. Each of the parties represent and warrant to the other as follows:

8.1.1 Authority. Such party has the legal right, power and authority to enter into and perform its obligations under, and to consummate the transactions contemplated by, this agreement.

8.1.2 Binding Agreement. This agreement is, and all documents to be executed by such party pursuant to this agreement will be, binding on such party and enforceable against such party in accordance with their respective terms (subject to bankruptcy, insolvency and other laws affecting the enforcement of creditor's rights generally and to principles of public policy).

8.1.3 Bankruptcy. There are no bankruptcy, insolvency or similar actions or proceedings pending or threatened by or against such party.

8.1.4 Assignment for Benefit of Creditors; Receivership. Such party has not made a general assignment for the benefit of creditors, suffered the appointment of a receiver to take possession of all or substantially of such party's assets, or suffered the attachment of all or substantially all of such party's assets.

8.1.5 No Litigation. There is no lawsuit, arbitration or other action, proceeding or claim pending or threatened against such party that would impair or materially affect such party's ability to enter into or perform its obligations under this agreement.

8.2 Huntington's Representations and Warranties. Huntington hereby represents and warrants to Company as follows:

8.2.1 Liens. Huntington has or will have at Close of Escrow good and marketable title to the Property. At Close of Escrow, Huntington will convey to Company good and marketable title to the Property, free and clear of all liens, claims, security interests, encumbrances and adverse interests, other than (as to the Leasehold Interest) the Permitted Exceptions. There are no lawsuits or other actions, proceedings or claims pending or threatened with respect to or which threaten title or ownership of the Property.

8.2.2 Personal Property. The list of Personal Property delivered to Company is accurate and complete, and includes all tangible personal property used in or necessary for the operation of the Property. Except as disclosed in writing to Company, no Personal Property is subject to a security interest or lien, or is leased or held under a title retention contract or similar arrangement; all such arrangements will be satisfied in full at Close of Escrow.

8.2.3 Tenant Leases. With respect to each of the Tenant Leases, and except as otherwise disclosed in writing to Company, (i) Huntington has delivered to Company an accurate copy of the Tenant Lease and all amendments to such Tenant Lease, (ii) the Tenant Lease is in full force and effect and has not been modified, amended or altered, in writing or otherwise, other than as disclosed in writing; (iii) the tenant is required to pay all sums and perform all obligations set forth in the Tenant Lease, without offsets, defenses or other basis for relief or adjustment; (iv) all obligations of the landlord under the Tenant Lease accruing prior to Close of Escrow will have been performed by Huntington; and (v) the tenant is not in default under the Tenant Lease, except as disclosed in the Rent Roll.

8.2.4 Rent Roll. All information set forth in the Rent Roll is accurate. No rent has been paid in advance by any tenant except as shown in the Rent Roll and Tenant Leases. No tenant has, or has asserted, any claim against Huntington for any security deposit or other deposits except as shown in the Rent Roll and Tenant Leases. No tenant has asserted any defense or off-set to (i) rent accruing after the Closing Date or (ii) any other obligations under such tenant's Tenant Lease, except as disclosed by Huntington in writing.

8.2.5 No Other Leases. Other than the Tenant Leases to be delivered to Company as part of the Due Diligence Documents, or as reflected on the Rent Roll, there are no oral or written leases, subleases or tenancies which will affect Company or the Property after Close of Escrow.

8.2.6 Service Contracts. Accurate and complete copies of the Service Contracts have been delivered to Company. Huntington is not in default under the terms of any of the Service Contracts, nor has any event occurred that would constitute a default by Huntington under such agreements with the passage of time, nor has Huntington received any notice of any default under any of the Service Contracts. Other than the Service Contracts delivered to Company, there are no management, service, supply, repair, maintenance or similar arrangements which will affect the Property after Close of Escrow.

8.2.7 Operating Statements. The Operating Statements are accurate and complete and set forth fairly the results of operation of the Property for the periods indicated, and are prepared in accordance with generally accepted accounting principles consistently applied.

8.2.8 Improvements. To the best of Huntington's knowledge, (i) all required permits and approvals, including building and use permits, were obtained for the construction of the Improvements, use and occupancy of the Real Property and Improvements and operation of the Property, and (ii) the Improvements were constructed in a good and workmanlike manner, in accordance with the applicable plans and specifications and in accordance with all Applicable Laws.

8.2.9 No Known Defects. To the best of Huntington's knowledge, there are no material latent or patent defects in the Property (including any defective soils conditions in the underlying land) and there are no material adverse facts or conditions relating to the Property which have not been disclosed in writing to Company.

8.2.10 No Notice of Work Required. Huntington has not received, and has no knowledge of, any notification from any city, county, state or federal authority or any utility providing service to the Property requiring any work to be done to, or affecting the use of, the Property.

8.2.11 No Violation. To the best of Huntington's knowledge, neither the Real Property, the Improvements nor the use thereof are in violation of any Applicable Laws or any applicable covenants, conditions or restrictions.

8.2.12 No Litigation. Except as disclosed in writing to Company, there is no lawsuit, arbitration or other legal proceeding (including any action for foreclosure or condemnation) or governmental investigation pending, or to Huntington's actual knowledge threatened, against or affecting the Property, nor is Huntington aware of any basis for such lawsuit, arbitration or other legal proceeding or governmental investigation.

8.2.13 Hazardous Materials. To Huntington's actual knowledge, (a) no Hazardous Materials (as defined below) (i) are located on or under the Real Property or Improvements, (ii) have been released, stored, treated, generated or disposed of on, under or from the Real Property or Improvements, or (iii) have been transported from the Real Property or Improvements, and (b) there is no environmental condition on or under the Real Property or Improvements constituting a violation of, or requiring investigation or remediation under, any

Hazardous Materials Laws. During Huntington's ownership of the Leasehold Interest, there has been no lawsuit, arbitration or other legal proceeding or governmental investigation brought against Huntington or the Real Property, nor any settlement reached with any person, entity or governmental authority, alleging the presence, release or threatened release of any Hazardous Materials on, under or from the Real Property or Improvements. "Hazardous Materials" shall mean (i) any hazardous substance, hazardous waste, or toxic substance as defined in any federal, state or local statute, ordinance, rule, regulation or order applicable to the Property ("Hazardous Materials Laws"), including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, the Resource Conservation and Recovery Act, the Hazardous Materials Transportation Act, the Federal Water Pollution Control Act, the Clean Air Act, the Toxic Substances Control Act, the Refuse Act, the Carpenter-Presley-Tanner Hazardous Substance Account Act, the Hazardous Waste Control Law, or in regulations adopted and publications promulgated pursuant to such laws, (ii) any substance defined as a "hazardous waste" in Section 25117 of the California Health & Safety Code or as a "hazardous substance" in Section 25281 of the California Health & Safety Code or as "waste" in Section 13050 of the California Water Code, or in regulations adopted and publications promulgated pursuant to such laws, and (iii) asbestos or asbestos-containing materials, radon gas, petroleum and petroleum fractions or derivatives, whether or not defined as a hazardous waste or substance in any Hazardous Materials Laws.

8.2.14 Full Disclosure. No representation, warranty or statement of Huntington in this agreement or in any document furnished or to be furnished to Company contains or will contain any untrue statement of a material fact, or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

8.3 Effectiveness of Representations and Warranties. All representations shall be accurate on the Effective Date and as of Close of Escrow. Notwithstanding the above, if either party receives notice, before Close of Escrow, of a breach of any representation or warranty made by the other party, and proceeds to Close of Escrow, such breach shall have been waived.

8.4 Survival and Time Limitations. The representations set forth above shall survive Close of Escrow.

9. INDEMNIFICATIONS.

9.1 Company's Indemnity Obligation. Effective upon Close of Escrow, Company shall indemnify, defend and hold Huntington harmless from and against (i) all obligations arising after Close of Escrow under the City Lease, Tenant Leases or Assigned Service Contracts, and (ii) all claims, damages, losses, liabilities, costs and expenses, including without limitation attorneys' fees (collectively, "Claims"), arising out of (a) any inaccuracy or breach of any of Company's representations and warranties in this agreement, or (b) ownership or possession of the Property by Company after Close of Escrow; provided, as to any Claims relating to Hazardous Materials such indemnity and hold harmless shall be limited to occurrences during Company's ownership of the Property.

9.2 Huntington's Indemnity Obligation. Huntington shall indemnify, defend and hold Company harmless from and against any and all obligations, claims, losses, liabilities, costs and expenses, including attorneys' fees, (i) arising before Close of Escrow under the City Lease, Tenant Leases or Assigned Service Contracts, and (ii) all claims, damages, losses, liabilities, costs and expenses, including without limitation attorneys' fees (collectively, "Claims"), arising out of (a) any inaccuracy or breach of any of Huntington's representations and warranties in this agreement,

(b) ownership or possession of the Property by Huntington before Close of Escrow; provided, (i) as to any Claims relating to Hazardous Materials, such indemnity and hold harmless shall be limited to occurrences during Huntington's ownership of the Property, and (ii) such indemnity and hold harmless not include liabilities expressly assumed by Company under this agreement.

9.3 Limitation of Indemnity. Company and Huntington agree that their respective indemnification obligations under this agreement shall not apply (i) to the extent the other party is indemnified or reimbursed, or has the right to be indemnified or reimbursed, by an insurer for any such claim, damage, loss, liability, cost or expense and/or (ii) to any claim, damage, loss, liability, cost or expense which may not be legally assumed or indemnified against.

9.4 Indemnification. Each party represents to the other that it has not had any contact or dealings regarding the Property, or any communications in connection with this transaction, through any other real estate broker or other person who can claim a right to a commission or finder's fee. If any other broker or finder makes a claim for a commission or finder's fee based upon a contact, dealings or communications with a party, then such party shall indemnify, protect, defend and hold the other party harmless from and against all claims, damages, losses, liabilities, costs and expenses, including attorneys' fees, arising out of the broker's or finder's claim.

10. COSTS AND PRORATIONS.

10.1 Taxes and Assessments. Real property taxes and assessments shall be prorated as of Close of Escrow, based on twelve 30 day months. Any pending supplemental taxes and assessments determined after Close of Escrow shall be apportioned between and paid by Company and Huntington outside of Escrow on the same basis.

10.2 Transfer Taxes. Company shall pay all County documentary transfer taxes resulting from contribution of the Real Property to Company and all sales and use taxes resulting from the contribution of the Personal Property.

10.3 Title Insurance. Company shall pay the cost of the Title Policy, and shall pay any additional title insurance premiums for any extended coverages and endorsements requested by Company.

10.4 Escrow Fee. Company shall pay the escrow fees.

10.5 Other. All other closing costs and prorations (except as otherwise provided in this agreement) shall be allocated in accordance with the custom and practice in the County.

11. TERMINATION; LIQUIDATED DAMAGES.

11.1 Termination. This agreement may be terminated and neither party shall be obligated to proceed with the transactions contemplated by this agreement:

11.1.1 Breach. At the option of the non-breaching party and upon written notice to the breaching party, in the event of a material breach of this agreement which is not cured on or before the earlier of (i) five business days after written notice to the breaching party specifying the material breach or (ii) the Closing Date.

11.1.2 Company's Conditions. At the option of Company, and upon written notice to Huntington, if a condition precedent to Company's obligation to accept the contribution of the Property is not satisfied.

11.1.3 Huntington's Conditions. At the option of Huntington, and upon written notice to Company, if a condition precedent to Huntington's obligation to contribute the Property is not satisfied.

11.1.4 Express Right To Terminate. At the option of a party, and upon written notice to the other party, if the terminating party has an express right to terminate under the terms of this agreement.

Except as provided below, termination of this agreement shall not limit or impair any rights either party may have against the other for breach of this agreement.

11.2 Company's Default; Liquidated Damages. If Company breaches its obligation to accept contribution the Property in accordance with the terms of this agreement and Close of Escrow fails to occur by reason of such breach, then Huntington's sole remedy for such breach shall be to receive and retain the Deposit. Huntington waives all other remedies for such breach.

THE DEPOSIT SHALL CONSTITUTE LIQUIDATED DAMAGES. THE PARTIES ACKNOWLEDGE AND AGREE THAT IT WOULD BE IMPRACTICABLE OR EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGES THAT HUNTINGTON WOULD INCUR AS A RESULT OF THE BREACH BY COMPANY OF ITS OBLIGATION TO ACCEPT CONTRIBUTION OF THE PROPERTY AND ISSUE HUNTINGTON A 1% LIMITED PARTNERSHIP INTEREST IN COMPANY. THE PARTIES AGREE THAT THE DEPOSIT IS A REASONABLE ESTIMATE OF HUNTINGTON'S DAMAGES, AND SHALL CONSTITUTE LIQUIDATED DAMAGES IN ACCORDANCE CALIFORNIA CIVIL CODE SECTION 1671. HUNTINGTON WAIVES ALL OTHER REMEDIES FOR COMPANY'S BREACH OF ITS OBLIGATION TO ACCEPT CONTRIBUTION OF THE PROPERTY AND ISSUE HUNTINGTON A 1% LIMITED PARTNERSHIP INTEREST IN COMPANY IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT.


(Company's Initials)


(Huntington's Initials)

The Deposit shall only constitute liquidated damages for Company's breach of its obligation to accept contribution of the Property pursuant to this agreement and shall not limit or impair (i) Company's obligations which, by the terms of this agreement, expressly survive termination of this agreement, or (ii) Huntington's right to recover attorney's fees and costs if necessary to enforce such obligations or to obtain or retain the Deposit. If this agreement is terminated or Escrow fails to close for any other reason, the Deposit shall be returned to Company.

11.3 Huntington's Default. If Huntington breaches its obligation to contribute the Property to Company in accordance with the terms of this agreement and Escrow fails to close by reason of such breach, then Company may (i) treat this agreement as being in full force and effect and seek specific performance and other appropriate relief; or (ii) treat this agreement as terminated, in which case the Deposit and all accrued interest thereon shall be returned to

Company. Company waives all other remedies, including any claims for damages, resulting from Huntington's breach of its obligation to contribute the Property to Company in accordance with the terms of this agreement. This shall not limit or impair (i) Huntington's obligations which, by the terms of this agreement, expressly survive termination of this agreement, or (ii) Company's right to recover attorney's fees and costs if necessary to enforce such obligations or to recover the Deposit.

12. GENERAL PROVISIONS.

12.1 Attorneys' Fees. If a party commences or is made a party to a lawsuit, arbitration or other legal proceeding to enforce or interpret this agreement, or to obtain a declaration of rights under this agreement, the prevailing party in such lawsuit, arbitration or other legal proceeding shall be entitled to recover from the other party all attorneys' fees, costs and expenses (whether otherwise taxable or recoverable) incurred in connection with such lawsuit, arbitration or other legal proceeding, including without limitation any appeal or enforcement of any judgement or order rendered in such lawsuit, arbitration or other legal proceeding.

12.2 Notices. All notices, requests, demands and other communications under this agreement shall be in writing and shall be deemed duly given (i) on the date of delivery if personally delivered, (ii) one business day after delivery by overnight courier, facsimile or telegram, or (iii) three business days after mailing if mailed by first-class mail, postage prepaid, to the parties at their addresses set forth below, or such other address designated from time to time in writing by such party to all other parties.

12.3 Governing Law and Severability. This agreement shall be governed by and construed under the laws of the State of California, without regard to its conflicts of law principles. If any provision of this agreement is invalid or unenforceable, such provision shall (i) be modified to the minimum extent necessary to render it valid and enforceable, or (ii) if it cannot be so modified, be deemed not to be a part of this agreement and shall not affect the validity or enforceability of the remaining provisions.

12.4 Construction. This agreement has been negotiated at arm's length and each party has been, or has had the opportunity to be, represented by legal counsel. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this agreement against the party drafting it is not applicable and is waived. The provisions of this agreement shall be interpreted in a reasonable manner to effect the purpose of the parties and this agreement.

12.5 Amendment and Waiver. This agreement may be amended only by a written agreement signed by all parties to this agreement. Waiver of any provision of this agreement shall not be deemed or constitute a waiver of any other provisions, nor shall such waiver constitute a continuing waiver.

12.6 Entire Agreement. This agreement constitutes the entire agreement between the parties with respect to the subject matter set forth above, and supersedes all previous oral and written agreements, communications, representations or commitments.

12.7 Further Instruments. The parties covenant and agree that they will execute such other and further instruments and documents that are or may become necessary or convenient to carry out and consummate the transactions contemplated by this agreement.

12.8 Counterparts. This agreement may be executed in any number of counterparts, all of which together shall constitute a binding agreement, and each such counterpart shall be deemed to be an original instrument.

12.9 Successors and Assigns. This agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, beneficiaries, legal representatives, successors and assigns.

12.10 Time. Time is of the essence under this agreement.

Huntington:

Date Signed: May 7, 1999


Katherine Crake Huntington

Address: _____

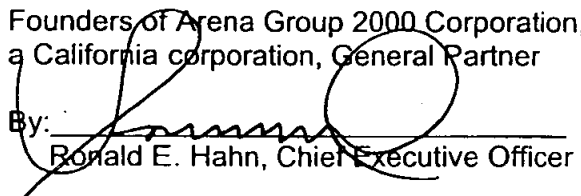
Company:

ARENA GROUP 2000, L.P.,
a California limited partnership

By: Arena Founders, L.P., a California limited partnership,
General Partner

By: Founders of Arena Group 2000 Corporation,
a California corporation, General Partner

Date Signed: 5-11-99


By: _____
Ronald E. Hahn, Chief Executive Officer

Address: 3500 Sports Arena Boulevard
San Diego, CA 92110

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

EXHIBIT B

DUE DILIGENCE DOCUMENTS

- A current tenant roster and rent roll ("Rent Roll"), showing tenant names, rental rates, period of rental, date of last rental increase, security deposits, rents paid, and delinquent rents
- Copies of all Tenant Leases
- Operating statements for the last two calendar years and the current year through the last day of the preceding calendar month
- Copies of all Service Contracts
- A complete list of the Personal Property
- Copies of the Permits
- A list of all employees of the Property, including employee name, position, date of hire, compensation and date and amount of last raise
- The most recent real and personal property tax statements for the Real Property
- Improvements and the Personal Property
- Copies of all documents comprising the First TD Loan and Second TD Loan
- Copies of all casualty and liability insurance policies insuring the Property, with a schedule of the premiums for such policies
- If and to the extent such items are in the possession or control of Huntington, copies of:
 - Geological and soils engineering reports
 - Environmental site assessments or other environmental reports
 - Original and "as built" construction plans and specifications
 - All building permits, conditional use permits, variances and related governmental authorizations obtained in connection with construction of the Improvements
 - ALTA surveys
 - Appraisals of the Property
 - Such other documents as Company may request