

July 2013

Property Description

Address: Grand Crossing, # 41 on Property List

Size: 425 acres

Date Purchased: 6 purchases 1990, 1981 and 1982

IUDA Purchase Price: \$11,210,631 (approximately 447 acres)

Estimated Current Value: NA

Reason Acquired: To facilitate new development

Plan and Zoning: Industrial and Commercial, parcel data and Assessor information included in binders

Lease Revenue: \$4.7 million in 2011, \$4.23 million in 2012

Environmental: Phase I

Potential for Transit-Oriented Development: None

History of Development Proposals: The IUDA entered into a 65 year lease with Majestic realty in 1999. As required by the lease the IUDA is responsible for developing the infrastructure for the project. The project has been built out with 4 million square feet of industrial and commercial space.

Staff Recommendation: Staff recommends the property be retained by the Successor Agency to fulfill enforceable obligations until an optimum time to sell is determined.



41a Address : 21590 E. Valley blvd
 City : City of Industry
 APN : 8709-008-021 & 8709-008-022
 Acre : 0.65 Ac.

41b Address : 21580 E. Valley blvd
 City : City of Industry
 APN : 8709-008-023 & 8709-008-024
 Acre : 0.65 Ac.

41c Address : 21560 E. Valley blvd
 City : City of Industry
 APN : 8709-008-025 & 8709-008-026
 Acre : 0.71 Ac.

41d Address : 21530 E. Valley blvd
 City : City of Industry
 APN : 8709-008-027
 Acre : 1.23 Ac.

41e Address : 21550 E. Valley blvd
 City : City of Industry
 APN : 8709-008-028
 Acre : 0.32 Ac.

41f Address : Common area for parcels 41a-41e
 City : City of Industry
 APN : 8709-008-029 & 8709-008-030
 Acre : 5.25 Ac.

Prepared by
CNC
 ENGINEERING
 Consulting Civil Engineers • Surveyors

255 N. Woodside Blvd., Ste. 222
 City of Industry, Ca. 91744
 Phone (626) 333-0338
 Fax (626) 333-7076

DESIGN BY: V.S. DRAWN BY: V.S.

CITY OF INDUSTRY
 SUCCESSOR AGENCY OF THE INDUSTRY
 URBAN-DEVELOPMENT AGENCY

PROPERTY LIST ITEMS# 41(a, b, c, d, e & f)

CHECKED BY: D.T.M.
 DATE: OCTOBER 2012

JOB No. MP 12-03#3 SHT. 1 OF 6



41g Address : 21610 E. Valley blvd
 City : City of Industry
 APN : 8709-106-004 & 8709-106-005
 Acre : 0.48 Ac.

41h Address : 21620 E. Valley blvd
 City : City of Industry
 APN : 8709-106-006
 Acre : 0.71 Ac.

41i Address : 21630 E. Valley blvd
 City : City of Industry
 APN : 8709-106-003
 Acre : 2.26 Ac.

41j Address : 21710 E. Valley blvd
 City : City of Industry
 APN : 8709-106-007
 Acre : 0.39 Ac.

41k Address : 21750 E. Valley blvd
 City : City of Industry
 APN : 8709-106-008
 Acre : 10.32 Ac.

41n Address : Common area for parcels 41g-41m
 City : City of Industry
 APN : 8709-106-010 & 8709-106-012
 Acre : 10.91 Ac.

Prepared by
CNC
 ENGINEERING
 Consulting Civil Engineers & Surveyors
 255 N. Woodside Blvd., Ste. 222
 City of Industry, Ca. 91744
 Phone (626) 333-0338
 Fax (626) 336-7076

CITY OF INDUSTRY
SUCCESSOR AGENCY OF THE INDUSTRY
URBAN-DEVELOPMENT AGENCY
 PROPERTY LIST ITEMS# 41(g, h, i, j, k & n)

| | | |
|--------------------|--------------------|-------------|
| CHECKED BY: D.T.M. | JOB No. MP 12-03#3 | SHT. 2 OF 6 |
| DATE: OCTOBER 2012 | | |

DESIGN BY: V.S. DRAWN BY: V.S.



SCALE: 1" = 250'

41l Address : 21848 E. Valley blvd
 City : City of Industry
 APN : 8709-106-001
 Acre : 1.12 Ac.

41m Address : 21858 E. Valley blvd
 City : City of Industry
 APN : 8709-106-002
 Acre : 2.46 Ac.

41n Address : Common area for parcels 41g-41m
 City : City of Industry
 APN : 8709-106-010 & 8709-106-012
 Acre : 10.91 Ac.

41p Address : 21760 - 21912 Garcia Ln
 City : City of Industry
 APN : 8709-027-034
 Acre : 12.77 Ac.

41q Address : 21908 E. Valley blvd
 City : City of Industry
 APN : 8709-027-032
 Acre : 6.56 Ac.

Prepared by:
CNC
 ENGINEERING
 Consulting Civil Engineers • Surveyors

255 N. Woodside Blvd., Ste. 222
 City of Industry, Ca. 91744
 Phone (626) 333-0338
 Fax (626) 336-7076

DESIGN BY: V.S. DRAWN BY: V.S.

CITY OF INDUSTRY
 SUCCESSOR AGENCY OF THE INDUSTRY
 URBAN-DEVELOPMENT AGENCY

PROPERTY LIST ITEMS# 41(l, m, n, p & q)

CHECKED BY: D.T.M.
 DATE: OCTOBER 2012

JOB No. MP 12-03#3 SHT. 3 OF 6



410 Address : 179 S Grand Ave
 City : City of Industry
 APN : 8709-027-037 & 8709-028-014
 Acre : 19.04 Ac.

Prepared by
CNC
 ENGINEERING
 Consulting Civil Engineers • Surveyors

255 N. Woodside Blvd., Ste. 222
 City of Industry, Ca. 91744
 Phone (626) 333-0336
 Fax (626) 336-7076

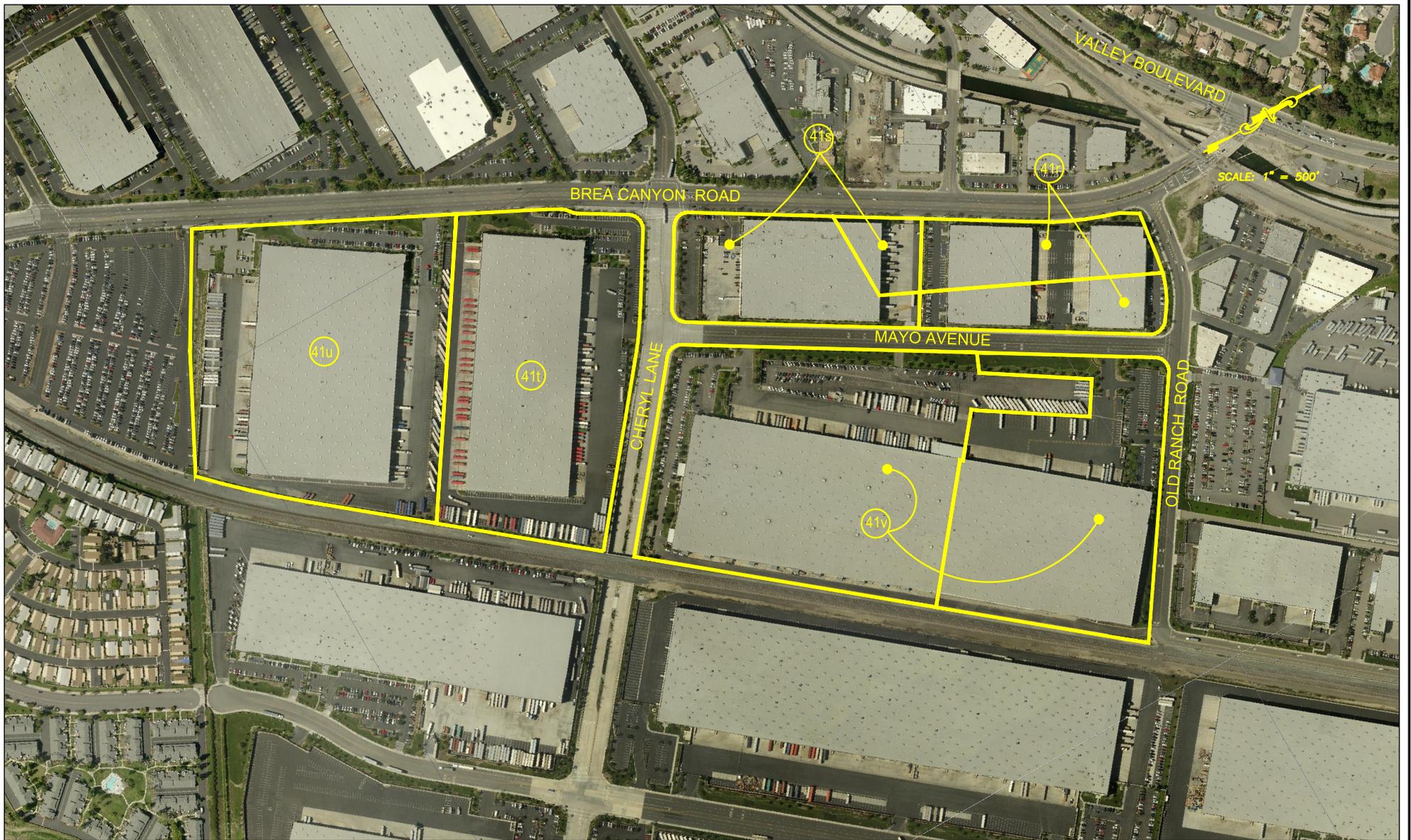
CITY OF INDUSTRY
SUCCESSOR AGENCY OF THE INDUSTRY
URBAN-DEVELOPMENT AGENCY
 PROPERTY LIST ITEM # 410

CHECKED BY: V.S.
 DRAWN BY: V.S.

CHECKED BY: D.T.M.
 DATE: OCTOBER 2012

JOB No. MP 12-03#3

SHT. 4 OF 6



41r Address : 108 Brea Canyon rd
 City : City of Industry
 APN : 8719-006-016 & 8719-006-017
 Acre : 7.78 Ac.

41s Address : 288 Brea Canyon rd
 City : City of Industry
 APN : 8719-006-014 & 8719-006-015
 Acre : 7.78 Ac.

41t Address : 318 Brea Canyon rd
 City : City of Industry
 APN : 8719-006-013
 Acre : 18.35 Ac.

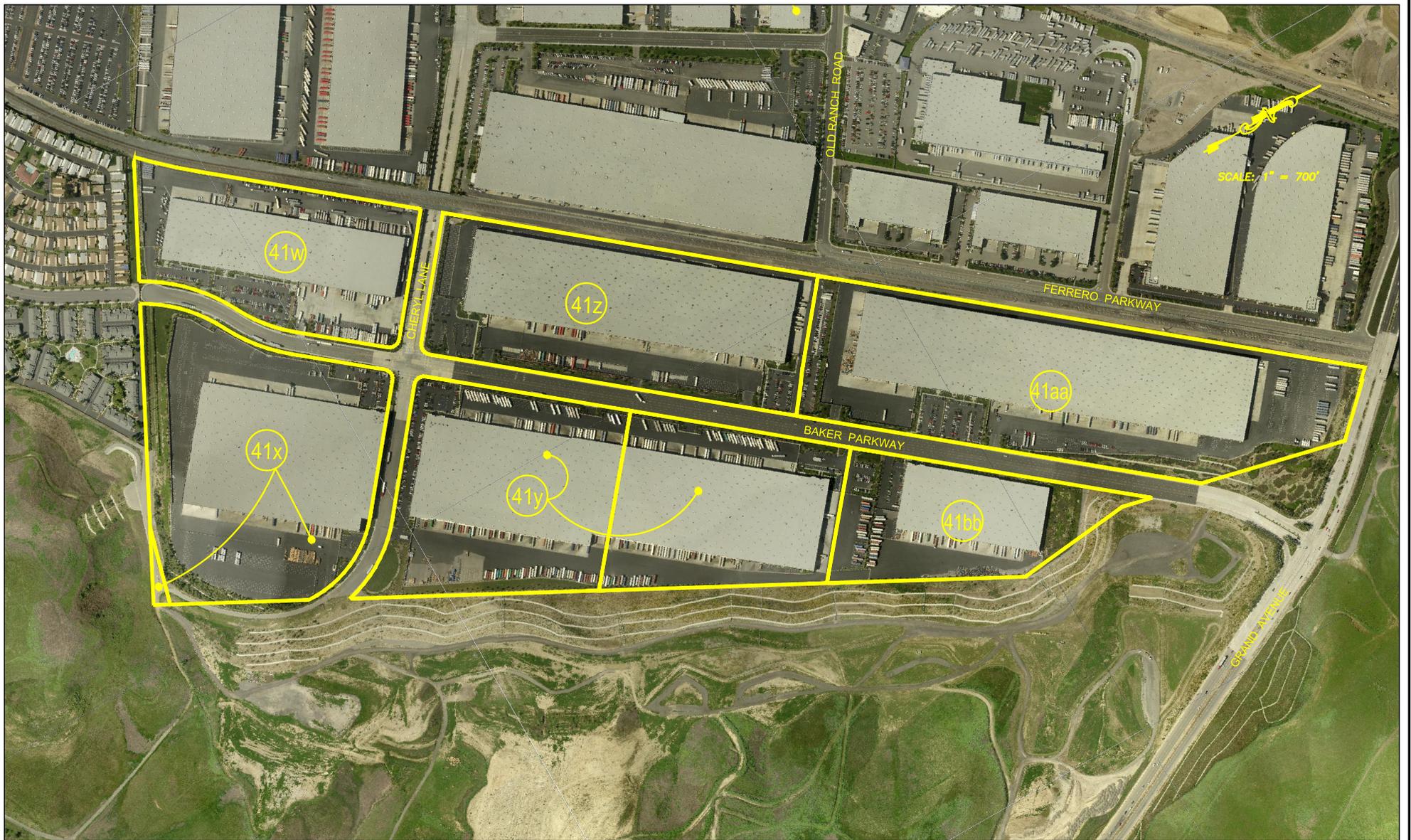
41u Address : 418 Brea Canyon rd
 City : City of Industry
 APN : 8719-006-012
 Acre : 19.09 Ac.

41v Address : 108 & 288 Mayo Ave
 City : City of Industry
 APN : 8719-006-019 & 8719-006-020
 Acre : 35.50 Ac.

Prepared by:
CNC
 ENGINEERING
 Consulting Civil Engineers & Surveyors
 255 N. Woodside Blvd., Ste. 222
 City of Industry, Ca. 91744
 Phone (626) 333-0338
 Fax (626) 336-7078

CITY OF INDUSTRY
SUCCESSOR AGENCY OF THE INDUSTRY
URBAN-DEVELOPMENT AGENCY
 PROPERTY LIST ITEM # 41(r, s, t, u & v)

| | | |
|--------------------|--------------------|-------------|
| CHECKED BY: D.T.M. | JOB No. MP 12-03#3 | SHT. 5 OF 6 |
| DATE: OCTOBER 2012 | | |



(41w) Address : 21415 Baker Pkwy
 City : City of Industry
 APN : 8719-007-033
 Acre : 20.61 Ac.

(41x) Address : 21438 Baker Pkwy
 City : City of Industry
 APN : 8719-007-040 & 8719-007-047
 Acre : 33.26 Ac.

(41y) Address : 21508 Baker Pkwy
 City : City of Industry
 APN : 8719-007-038 & 8719-007-048
 Acre : 44.22 Ac.

(41z) Address : 21535 Baker Pkwy
 City : City of Industry
 APN : 8719-007-042
 Acre : 31.51 Ac.

(41aa) Address : 21749 Baker Pkwy
 City : City of Industry
 APN : 8719-007-043
 Acre : 38.97 Ac.

(41bb) Address : 21700 Baker Pkwy
 City : City of Industry
 APN : 8719-007-039
 Acre : 11.77 Ac.

Prepared by:
CNC
 ENGINEERING
 Consulting Civil Engineers • Surveyors

255 N. Hacienda Blvd., Ste. 222
 City of Industry, CA 91744
 Phone (626) 333-0336
 Fax (626) 336-7076

DESIGN BY: V.S. DRAWN BY: R.B.

CITY OF INDUSTRY

**SUCCESSOR AGENCY OF THE INDUSTRY
URBAN-DEVELOPMENT AGENCY**

PROPERTY LIST ITEMS # 41 (w, x, y, z, aa & bb)

| | | |
|--------------------|--------------------|-------------|
| CHECKED BY: D.T.M. | JOB No. MP 12-03#3 | SHT. 6 OF 6 |
| DATE: OCTOBER 2012 | | |



February 20, 2013

Mr. Kevin Radecki, Executive Director
Administration Offices
City of Industry
15625 East Stafford Street
City of Industry, CA 91744

Dear Mr. Radecki:

Subject: Lease Agreements between Industry Urban Development Agency and Industry East Land, LLC

This letter provides guidance to the City of Industry Successor Agency (Agency) regarding two Lease agreements between the Industry-Urban Development Agency and Industry East Land, LLC. Specifically, this letter addresses the 1999 Lease Agreement and the 2005 Lease Agreement, which Finance has continued to examine.

1999 Lease Agreement

The 1999 Lease Agreement becomes binding on the former RDA when an environmental impact report (EIR) is certified by the RDA and the RDA files a notice of determination (NOD) for the project. The 1999 Lease Agreement leases a large plot of land (Premises) to the developer to develop. Finance has been provided multiple EIRs to review and multiple NODs have been filed. However, the Lease Agreement provides that the terms of the agreement are not binding unless the RDA: (1) completes and certifies an EIR; and (2) files a NOD reflecting the RDA's approval of the project.

Unfortunately, at this time we still have outstanding questions that we need answered before any final conclusions can be drawn. Therefore, we would recommend that the Agency list the specific lease agreement on their upcoming Recognized Obligation Payment Schedule (ROPS) and continue to work with us by answering the following questions:

1. Why were multiple EIRs submitted to us and multiple NODs filed?
 - a. Explain what the Agency believes to be the terms and requirements of the Lease Agreement.
2. If the Lease Agreement envisions one project, provide us with:
 - a. The certified EIR, including the date that it was certified.
 - b. Evidence of the filed NOD, including the date that it was filed.

- c. The CEQA mitigation requirements for that project that are the source of the alleged EOs listed.
3. If the Lease Agreement envisions multiple projects, provide us with:
 - a. 2(a)-(c) for each project.

Answering these questions during the upcoming ROPS review period will assist us with our review of the Agency's obligations under the lease.

2005 Lease Agreement

As it relates to the 2005 Lease Agreement, Finance believes the agreement is an enforceable obligation of the former RDA. Again, this is an obligation to Industry East Land, LLC to lease land to the developer, which the developer would then develop and rent out. Fifty percent of the rent would then go to the RDA, now the Agency. Of course this assumes the developer has not defaulted, and thus authorized the former RDA or current Agency to terminate the contract. As part of the agreement the RDA agreed to be responsible for specific public improvements listed in "Exhibit B" of the 2005 Lease Agreement. Assuming that we have been provided with a true and correct copy of "Exhibit B," items 205 and 217 as listed on ROPS III could be considered obligations emanating from the 2005 Lease Agreement. However, as we have previously stated the Agency would need to enter into the contracts prior to the obligations being eligible for payment in any given ROPS period. It was our understanding that as of ROPS III no contracts had been executed and therefore it was unlikely that funding was needed for the upcoming six month period and as such, line items were denied. Once contracts have been executed the Agency should list them on the ROPS form for payment.

We hope this letter provides some clarification related to the two lease agreements. We look forward to continuing to work with the Agency during the review of your ROPS forms.

Sincerely,



Steve Szalay
Local Government Consultant

cc: Ms. Linda Pollock, Contracted Finance Manager for City of Industry
Ms. Chris Brown, Administrative Assistant, City of Industry
Kristina Burns, Manager, Los Angeles County Department of Auditor-Controller
California State Controller's Office

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as "Agreement") entered into this 24th day of June, 1999 by and between the INDUSTRY URBAN-DEVELOPMENT AGENCY, a body corporate and politic (hereinafter referred to as "Lessor") and INDUSTRY EAST LAND, LLC, a limited liability company authorized to do business in the State of California (hereinafter referred to as "Company"):

WITNESSETH:

WHEREAS, Lessor is the owner of certain real property located in the State of California described on Exhibit "A" attached hereto (hereinafter referred to as "Premises"); and

WHEREAS, Company proposes to lease the Premises from Lessor and to develop thereon and operate and manage certain buildings and other improvements as permitted by this Agreement; and

WHEREAS, Company is engaged in the business of planning, constructing, maintaining, leasing financing and operating such projects; and

WHEREAS, on and subject to the terms and conditions contained in this Agreement, Lessor is willing to lease the Premises to Company for such purposes;

NOW, THEREFORE, for and in consideration of the agreements, covenants and conditions herein, Lessor and Company agree as follows:

ARTICLE I

1.1 DEFINITIONS

In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

- 1.1.1 The term "Approved Budget," whenever used herein, means any written budget prepared by Company and approved by the Lessor's Designated Representative pursuant to the procedure set forth in Section 1.6 entitled BUDGET APPROVAL.
- 1.1.2 The term "Assignee," whenever used herein, means the purchaser or any heir, successor, or assign of a lender subsequent to a sale or assignment as defined in Section 2.18 entitled FINANCING.
- 1.1.3 The term "Capital Improvement Expenditures," whenever used herein, means any expenses associated with the Facilities (other than the costs and expenses of their initial construction) which are treated as capital expenditures under generally accepted accounting principles, consistently applied.
- 1.1.4 The term "Lessor's Designated Representative (hereinafter referred to as 'LDR')," whenever used herein, means the Executive Director of Lessor, or a successor designee acting on behalf of the Lessor.

- 1.1.5 The term "Commence Construction," whenever used herein, means commencing construction of the Commercial Facilities on the Premises by Company causing its construction contractor to obtain occupancy and control of the area and to begin actual site development and construction thereon.
- 1.1.6 The term "Facilities," whenever used herein, means all the buildings, utilities, rail improvements, site development work, parking lots, roadways, landscaping and other improvements constructed by Company on the Premises in accordance with the terms and conditions of this Agreement.
- 1.1.7 The term "Company," whenever used herein, means Industry East Land, LLC, a limited liability company authorized to do business in the State of California, which is entering into this Agreement as the developer and operator of the Facilities on the Premises as described herein.
- 1.1.8 The term "Lessor," whenever used herein, means the Industry Urban-Development Agency, a body corporate and politic, and where this Agreement speaks of "Approval by Lessor," or "Approved by Lessor," such phrases mean approving action by the Industry Urban-Development Agency.
- 1.1.9 The term "CC&Rs," whenever used herein, means any Covenants, Conditions and Restrictions developed by the Company and approved by the LDR for Sublessees and Tenants which will include, but not be limited to, specific guidelines for uses of the Premises.
- 1.1.10 The term "Debt Service," whenever used herein, means the Company's payment of principal, interest and any other sum due and owing (monthly or otherwise) pursuant to the terms and conditions of any Leasehold Mortgage for construction, interim and/or permanent financing of the Facilities, but excluding any penalties, late charges, default interest and other amounts (except principal and interest) payable solely as a result of a breach or default under such Leasehold Mortgage, unless such breach or default is caused in part by the acts or omissions of Lessor, including the failure of Lessor to make Capital Contributions as called for in this Agreement .
- 1.1.11 The term, "Effective Date," whenever used herein, means the date that this Agreement becomes effective and legally binding under the terms of Section 1.2 below.
- 1.1.12 The term "Environmental Laws," whenever used herein, means any one or all of the laws and/or regulations of the Environmental Protection Agency or any other federal, state or local agencies regulating Hazardous Material, including, but not limited to the following as the same are amended from time to time:

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION
AND LIABILITY ACT (42 U.S.C. Section 9601 et seq.)

RESOURCE CONSERVATION AND RECOVERY ACT (42 U.S.C. Section
6901 et seq.)

TOXIC SUBSTANCES CONTROL ACT, as amended (15 U.S.C. Section 2601 et seq.)

SAFE DRINKING WATER ACT (42 U.S.C. Section 300h et seq.)

CLEAN WATER ACT (33 U.S.C. Section 1251 et seq.)

CLEAN AIR ACT (42 U.S.C. Section 7401 et seq.)

and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the Federal, State or local government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment (including, but not limited to, the ambient air procedures and records detailing chlorofluorocarbons [CFC]), ambient air, ground water, surface water and land use, including sub-strata land.

- 1.1.13 The term "Hazardous Material," whenever used herein, means the definitions of hazardous substance, hazardous material, toxic substance, regulated substance or solid waste as defined within the following:

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (42 U.S.C. Section 9601 et seq.)

RESOURCE CONSERVATION AND RECOVERY ACT (42 U.S.C. Section 6901 et seq.)

HAZARDOUS MATERIALS TRANSPORTATION ACT (49 U.S.C. Section 1801 et seq.) and all present or future regulations promulgated thereto.

DEPARTMENT OF TRANSPORTATION TABLE (49 C.F.R. Section 172.101) and amendments thereto

ENVIRONMENTAL PROTECTION AGENCY (40 C.F.R. Part 302 and amendments thereto)

All substances, materials and wastes that are, or that become, regulated under, or that are classified as hazardous or toxic under any environmental law, whether such laws are Federal, State or local.

- 1.1.14 The term "Leasehold Mortgagee", wherever used herein, means any lender of Company holding the beneficial interest in any Leasehold Mortgage and which Leasehold Mortgagee is a bank, savings and loan, insurance company, pension trust, real estate investment trust, mortgage company, or other institutional lender unaffiliated with the Company.

- 1.1.15 The term "Leasehold Mortgage", wherever used herein means any mortgage or deed of trust which is in favor of a Leasehold Mortgagee encumbering the Company's interest

in this Agreement, the leasehold estate created hereunder and/or the Facilities from time to time located on the Premises and which has been incurred for, and the proceeds of which are used for, the purpose of financing the construction of the Facilities and the payment of other Project Costs or refinancing an existing Leasehold Mortgage. The proceeds of any refinancing, to the extent not used to pay off the Leasehold Mortgage being refinanced, shall be used for the purpose of: (i) repairing, constructing or reconstructing the Facilities; (ii) held in reserve for such purposes; (iii) the payment of other Project Costs; (iv) used for the repayment of Equity Contributions and interest thereon or (v) used for such other purposes as Lessor and Company may, in writing, agree. No Leasehold Mortgage shall encumber any interest in any real property other than Company's leasehold interest under this Agreement and the Facilities.

- 1.1.16 The term "Management Fee," whenever used herein, means the payment, as a Project Cost, to Company or any property manager it selects for the administration and management of the Premises and the Facilities. Such fee shall be three percent (3%) of Total Revenue received by Company from Tenants and Sublessees each month during the term of this Agreement. The Management Fee shall be paid to Company or its property manager on a monthly or other basis selected by Company, as funds are available from Total Revenue to pay the Management Fee, before any payments of Rent or repayment of Equity Contributions.
- 1.1.17 The term "Maintenance and Operations expense," whenever used herein, means the expense for maintenance, operation, administration and repair of the Premises and the Facilities, including, but not limited to, repair, maintenance or replacement of the plumbing, heating, ventilating and air conditioning systems, electrical systems, lighting facilities, fire protection systems, utility installations, fixtures, walls, foundations, roof, ceilings, floors, structural systems, doors, glass, skylights, landscaping and irrigating systems, driveways, parking lots, fences, retaining walls, signs, sidewalks, and the cost of all janitorial service, trash disposal, water, gas, electricity, and other utilities, together with any taxes thereon.
- 1.1.18 The term "Net Revenue," whenever used herein, means the amount of cash available after deducting from Total Revenue in the following order of priority: (a) Debt Service; (b) all Project Costs incurred during such calendar year of the term of this Agreement; (c) reasonable reserves for future Maintenance and Operations expense, future Capital Improvement expense or any reserve required by any Leasehold Mortgagee and (d) the repayment of Equity Contributions and interest thereon.
- 1.1.19 The term "Participating Parties" or "Parties," whenever used herein, means Company as lessee and Industry Urban-Development Agency as Lessor (hereinafter jointly referred to as "Parties"), their successors and assigns.
- 1.1.20 The term "Premises," whenever used herein, means that area described on Exhibit "A". Final legal descriptions of the Premises will be attached to the Memorandum of Lease described in Section 1.2.4.
- 1.1.21 Except as otherwise provided in this Agreement, the term "Project Cost," whenever used herein, means all necessary costs incurred by Company (excluding Rent) prior to

or after the date hereof in connection with the subdividing, designing, constructing, owning, leasing, financing or managing the Premises or the Facilities and other improvements constructed on the Premises by Company, or its successors and assigns.

Except as otherwise provided in this Agreement, Project Cost shall include (without duplication), but not be limited to, the following: (a) all architectural and engineering expense, (b) all plan check fees, building permit fees, school fees, drainage fees and all other governmental, railroad and utility fees, licenses and permit cost, (c) all costs of environmental impact reports, traffic studies, biological studies and all other reports and studies required by governmental agencies, railroads or utility companies, (d) all costs to subdivide and re-subdivide the Premises, (e) all costs incurred by Company in constructing the Facilities or other permitted improvements on the Premises, (f) all Capital Improvement Expense, (g) all Maintenance and Operations expense, (h) all Management Fees, (i) except as provided in Section 2.12.2.10, all costs incurred for uninsured losses, earthquake, flood or other casualty, or repairs or replacements to the Premises and the Facilities or other improvements and the unreimbursed portion of any insured losses, (j) except as provided in Article III, all costs of complying with Environmental Laws, (k) all insurance premiums for insurance required hereunder and property taxes, (l) all leasing commissions and all other marketing and advertising expense, (m) all legal and accounting fees, (n) all loan fees, points, appraisal fees and other costs associated with the obtaining of Leasehold Mortgages, (o) all interest on Leasehold Mortgages and (p) all other expenses related to the use, maintenance, leasing, financing and operation of the Premises and the Facilities. Project Costs shall only include costs, expenses and other amounts to the extent the same are reasonable and competitive in amount. Without limiting the preceding sentence, any costs, expenses or other amounts specified in an Approved Budget or otherwise approved in writing by LDR shall be deemed a reasonable and competitive amount. Further, Project Cost shall not include any cost, expense or other amount which is included within any other cost, expense or amount which is permitted by this Agreement to be deducted from Total Revenue in calculating Net Revenue, the intention of the Parties being that no cost, expense or other amount which is so permitted to be deducted from Total Revenue be deducted therefrom more than once.

- 1.1.22 The term "Sublease," whenever used herein, means the documents signed by a Sublessee or Tenant of Company for the leasing of a portion of the Premises or space in the Facilities.
- 1.1.23 The term "Sublessee" or "Tenant," whenever used herein, means any individual, corporation, limited liability company, trust, business, firm or other entity that leases or otherwise occupies or uses all or any portion of the Premises or the Facilities under a lease, rental agreement or other arrangement with Company.
- 1.1.24 The term "Release," whenever used herein, means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping of any Hazardous Material in violation of Environmental Laws.
- 1.1.25 The term "Total Revenue," whenever used herein, means the total amount of all rents, charges, fees and/or other income derived or received, directly or indirectly, by Company from the use, operation and/or leasing of all or part of the Premises or the

Facilities, including, without limitation, all rents, charges, fees and/or other income and amounts received from Sublessees or Tenants of all or any part of the Premises or the Facilities during each full or partial calendar year of the term of this Agreement and the net proceeds received by Company as a result of a Total Taking, Partial Taking or Temporary Taking from an eminent domain proceeding referred to in Section 2.19. Insurance proceeds are excluded from Total Revenue as they are covered by other provisions of this Agreement.

1.1.26 The term "Equity Contribution" whenever used herein, means any funds provided by Company, Lessor or any Leasehold Mortgagee in accordance with the provisions of Section 1.7.1.1 or Section 1.7.1.2 hereof.

1.1.26 The term "Rent" whenever used herein, means fifty percent (50%) of Net Revenue during each calendar year of the term of this Agreement.

1.2 TERM AND CONDITIONS PRECEDENT

1.2.1 The term of this Agreement shall commence on the date, if and when, the Lessor elects to file a Notice of Determination pursuant to the California Environmental Quality Act ("CEQA"), Section 21152 of the California Public Resources Code, reflecting Lessor's approval of the project and Lessor's compliance with CEQA for this approval. This date of filing of a Notice of Determination shall be the "Effective Date" for this Lease Agreement. This Lease Agreement shall not be a legally binding document unless and until the Lessor complies with CEQA, including without limitation the completion and certification of an Environmental Impact Report ("EIR") as specified under CEQA. Unless and until the Lessor takes action to approve the project and files said Notice of Determination, this Agreement shall not be a legally binding document, and the Lessor shall retain the sole and absolute discretion to take any action it may deem appropriate, including without limitation a decision to approve the project as proposed by Company, or disapprove the proposed project, or propose a new and different project, project alternative or project with different or additional mitigation measures. The Lessor shall at all times prior to the Effective Date be entitled to take any such action without incurring any cost, damage, liability or expense to the Lessee under this Agreement. It is the intention of the Parties that prior to any filing of the Notice of Determination described above, this document shall be regarded as a mere "statement of intent" "which is not a binding agreement" of the type permitted prior to the completion of the environmental process by the court in City of Vernon v. Board of Harbor Commissioners, 63 Cal. App. 4th 677, 690, and that this "statement of intent" shall be used to define the proposed "project" to be analyzed in the EIR prepared by the Lessor pursuant to CEQA. Company shall have the right to cancel this Agreement if the Lessor fails to file any such Notice of Determination by January 31, 2003, by providing written notice of such cancellation to Lessor.

1.2.2 The term of this Agreement will expire upon the earlier of: (a) sixty five (65) years from the recording of a Notice of Completion on the first building constructed by company on the Premises or (b) sixty eight (68) years from the Effective Date.

- 1.2.3 On or within one hundred twenty (120) days following the Effective Date, Lessor and Company agree to execute a memorandum of this Agreement evidencing the existence of this Agreement, the ownership of the Facilities by Company, the rights of Company in the Premises, the fact that this Agreement contains a right of first refusal to purchase the Premises and setting forth the Effective Date and Termination Date of this Agreement. When the first Notice of Completion is recorded, Company and Lessor shall execute and record an amended memorandum of this Agreement setting forth the exact Termination Date.
- 1.2.4 On or within one hundred twenty (120) days following the Effective Date, Company will be entitled to receive, as a Project Cost, an ALTA leasehold policy of title insurance issued by a title company selected by Company, with liability in an amount reasonably determined by Company and insuring Company's interests hereunder. Such leasehold policy will be subject only to exceptions permitted by Company. By June 1, 1999, Lessor shall deliver a preliminary title reports covering the Premises, as well as copies of the underlying document listed as exceptions to title in such report, to Company. If Company objects to any exceptions, it will give written notice of such objections (the "Notice of Objections") to Lessor within such one hundred twenty (120) days after receipt of the preliminary report and the underlying documents. Company's failure to give a Notice of Objections within such One Hundred Twenty (120) day period shall be conclusively deemed to be Company's acceptance of all exceptions. Within thirty (30) days following receipt of a Notice of Objections, Lessor, at its option, may cure, or agree to cure prior to the commencement of the term, some or all of the exceptions that are the subject of the Notice of Objections. If at the end of such thirty (30) day period, Lessor has not cured, or agreed to cure prior to the commencement of the term, any or all of such exceptions, Company may elect by written notice given within fifteen (15) days thereafter to terminate this Lease (the "Termination Notice"). Company's failure to give the Termination Notice within such fifteen (15) day period shall be conclusively deemed to be Company's election to accept such leasehold policy subject to all then uncured exceptions. Upon any termination of this Agreement pursuant to the provisions of this Section, the parties shall be released from all further liabilities and obligations under this Agreement, except for such as have accrued prior to the date of such termination. Notwithstanding the foregoing, Lessor agrees to remove, prior to the commencement of the term of this Lease, all loans secured by deeds of trust or mortgages encumbering the Premises as well as any leases or rental agreements encumbering all or any portion of the Premises. Lessor agrees not to create or permit the creation of any additional exceptions to title, after the date of the preliminary title report, without the written consent of Company.

As Facilities are constructed on the Premises, Company shall be entitled to obtain, as a Project Cost, additional ALTA leasehold title insurance with liability in an amount reasonably determined by Company and insuring Company's interests and the interest of any Leasehold Mortgagee hereunder.

- 1.2.5 Any amendments to this Agreement will not be effective as against any Leasehold Mortgagee unless Company has obtained the written consent of such Leasehold Mortgagee.

1.3 PREMISES

- 1.3.1 Lessor does hereby demise and let unto Company and Company does hereby take from Lessor that certain real property (hereinafter referred to as "Premises") as follows:

The land described on Exhibit "A" which is attached hereto and made a part hereof, together with all improvements located thereon (which improvements are owned by Company) together with all appurtenances, rights, privileges and easements appertaining thereto.

- 1.3.2 Lessor shall cause the work described on Exhibit "B" to be performed in accordance with the provisions of Exhibit "B" which is attached hereto and made a part hereof. Lessor shall commence such work within thirty (30) days after the Effective Date and shall complete such work as soon as reasonably possible, subject to extensions due to force majeure events as provided in Section 4.1. Lessor shall use commercially reasonable efforts to coordinate the timing of such work with Company's development of the Premises. All such work shall be at Lessor's sole cost and expense and shall not be considered an Equity Contribution by Lessor.

1.4 USE OF PREMISES

- 1.4.1 Upon performance of the agreements, provisions and conditions contained in this Agreement, Company will have the use of the Premises for the redevelopment of the Premises and construction and operation of Facilities and for any other business activities related thereto and for retail, warehouse, industrial, office and any other use permitted by applicable zoning regulations and applicable provisions of the Transportation-Distribution Industrial Project No. 2 adopted by Ordinance No. 316 "the Plan" and for no other purposes, unless approved in writing by the LDR. So long as no default has occurred and is continuing hereunder, Lessor covenants peaceful and quiet enjoyment of the Premises by Company. Lessor covenants and warrants that the Premises are not now affected by any covenants, restrictions, easements or agreements which prohibit the construction, operation and maintenance upon the Premises of commercial structures with appurtenant parking, nor do the same prevent access to and from the Premises and the roadways adjoining the Premises.

- 1.4.2 Company acknowledges that the Rent payable to Lessor under this Agreement is directly dependent upon the generation by Company of Net Revenue, and that the failure by Company to use commercially reasonable efforts to maximize Net Revenue will have a direct and adverse effect upon Lessor's economic return under this Agreement. Therefore, as a material inducement to Lessor to enter into this Agreement, Company agrees that it will at all times construct, manage, lease and operate all Facilities in a manner and through the use of commercially reasonable efforts so as to maximize Net Revenue throughout the term of this Agreement.

1.5 DEVELOPMENT AND SUBLEASING

- 1.5.1 Company will develop the Premises and construct the Facilities substantially in accordance with plans and specifications prepared by Company in accordance with

applicable governmental statutes, ordinances, provisions of the Plan, rules and regulations, including those of the City of Industry and the Industry Urban-Development Agency.

1.5.2 Company may enter into subleases with Sublessees or Tenants on terms and conditions that are satisfactory to Company, provided such subleases are on sublease forms that have been approved by the LDR. LDR must approve or disapprove any sublease forms within 15 days of submittal by Company. Failure of the LDR to give written notice of disapproval, stating the specific objections to any such form, within the time specified shall be deemed approval.

1.5.2.1 Company may negotiate changes to such approved forms which are typically given to Sublessees or Tenants in similar transactions without the consent of Lessor. In the event there are substantive changes or exceptions to the standard forms of sublease arrangements which are not typically given to Sublessees or Tenants in similar transactions, the Company must obtain the written approval of LDR, which approval will not be unreasonably withheld. LDR must approve or disapprove any such requested change within 2 business days of submittal by Company. Failure of the LDR to give written notice of disapproval, stating the specific reason for disapproving the requested change within the time specified shall be deemed approval.

1.5.2.2 All Subleases must be for purposes as permitted in Section 1.4, entitled USE OF PREMISES, of this Agreement and shall expressly provide that they are subject and subordinate to all provisions of this Agreement.

1.5.2.3 Except pursuant to Subleases as provided in this Section 1.5, Company shall not suffer or permit the use or occupancy of all or any portion of the Premises by any person or entity.

1.5.2.4 Rental interruption insurance or rental abatement insurance (as the case may be) shall be maintained (if available) by Company or Sublessee's or Tenants' providing for the payment of at least six (6) months' rent, taxes, insurance and maintenance expenses payable by Sublessees or Tenants under its Sublease.

1.5.3 If requested by Lessor, the Company will provide Lessor with a copy of any rules, regulations or other standards of operation developed by Company and distributed to Sublessees and Tenants.

1.6 BUDGET APPROVAL

1.6.1 Prior to the construction of any new building on the Premises, Company shall submit to Lessor copies of a written construction budget for such new building. Each such budget will show all projected Project Costs related to the design, construction, financing and leasing of such new building.

1.6.1.1 Within fifteen (15) days of receipt of the proposed budget, the LDR will review and approve or disapprove the proposed budget submitted by the Company. If the LDR does not respond in writing within fifteen (15) days, the budget shall be deemed to be the Approved Budget.

1.6.1.1.1 If disapproved, the LDR will inform Company in writing of its disapproval describing the disapproved provisions of the proposed budget or requesting further clarification of the budget elements. Company will respond within fourteen (14) days with verification of the budget elements or with a modified written budget that is reasonably satisfactory to the LDR. The Participating Parties agree to negotiate in good faith to resolve any conflicting issues that may arise. If the LDR fails to timely respond, the proposed budget will be deemed approved and will become an Approved Budget.

1.6.1.1.1.1 If, however, the Participating Parties cannot agree upon the provisions of the proposed budget and/or the elements contained in the proposed budget, or, if following approval of the Approved Budget, disputes arise concerning the Approved Budget which the Parties are unable to resolve through good faith negotiation, a neutral third party with at least ten 10 years experience in real estate developments similar to those constructed or proposed to be constructed on the Premises will be selected by the LDR to arbitrate the disputed terms.

1.6.1.1.1.2 If, however, the Company does not accept the neutral third party selected by the LDR, Company will be allowed to select a second neutral party with similar experience. The two selected parties will then select a third neutral party with at least ten 10 years experience in real estate developments similar to those constructed or proposed to be constructed on the Premises who will arbitrate the disputed terms.

1.6.1.1.1.3 The LDR and Company agree to be bound by the decisions reached by the selected arbitrator(s). The Participating Parties will cause the arbitrator(s) to make a determination within fourteen (14) days following submittal.

1.6.1.1.1.4 The Participating Parties agree that each will bear its own costs and expenses incurred for attorney's fees and all other preparation and presentation costs for the arbitration process. If only one arbitrator is selected, the Participating Parties will equally share the cost of such arbitrator. If three arbitrators are used, each Party will bear the cost of the arbitrator selected by it and the Participating Parties will equally share the cost of any third arbitrator.

1.6.1.2 The agreed upon budget will be deemed the Approved Budget for the proposed building.

1.6.2 Company will be entitled to expend funds in accordance with the Approved Budget for the construction of the proposed building. The cost of constructing any such building shall be a Project Cost. In the event Company is over-budget on a particular line item, Company may reallocate excess funds from one line item to another line item to cover any short falls in any line item. Any expenses not covered by the Approved Budget which increase the total cost of constructing such building by more than ten percent (10%) are subject to the reasonable written approval of LDR. Any Equity Contribution required to cover any such additional Project Cost shall be the responsibility of Company.

1.7 RENTALS AND EQUITY CONTRIBUTIONS

Rentals due under this Agreement and Equity Contributions for the construction and operation of the Facilities will be as follows:

1.7.1 Equity Contributions.

1.7.1.1 The Parties anticipate that from time to time during the term of this Agreement, the Company will obtain financing for the development of the Premises and the Facilities and other Project Costs in accordance with the terms and conditions of Section 2.18 entitled FINANCING. Any funds required for the completion of the initial development of the Premises and construction of the Facilities, in excess of the financing obtained by Company, shall be provided by Company as an Equity Contribution.

1.7.1.2 Any additional capital required for the operation or maintenance of the Premises and the Facilities or other Project Costs following completion of construction of the Facilities on any separate legal parcel of the Premises and any capital required to repay any Leasehold Mortgages thereon, shall be contributed fifty percent (50%) by Company and fifty percent (50%) by Lessor within thirty (30) days of the receipt of demand by Company for such capital, which demand shall be accompanied by information and evidence, in reasonable detail, substantiating the amount and reasons for such demand. If

any party fails to make such Equity Contribution, the other party may make such Equity Contribution for the delinquent party.

1.7.1.3 In the event of default by Company and the subsequent foreclosure and sale of the leasehold interest to another party, or in the event of a deed in lieu of foreclosure, the total unpaid balance of the Leasehold Mortgage at the date of the foreclosure sale or recording of the deed in lieu of foreclosure, including all costs of foreclosure, shall be considered an Equity Contribution of the Leasehold Mortgagee or purchaser at foreclosure, as the case may be, as of the date of such foreclosure sale or the date of recording the deed in lieu of foreclosure.

1.7.1.4 Any portion of Total Revenue remaining after payment by Company of Debt Service and all costs (except Rent) associated with the ownership, operation, financing, maintenance and leasing of the Premises and the Facilities, during each calendar year of the term of this Agreement will be applied to the Parties Equity Contributions until such time as all Equity Contributions are repaid in full together with interest thereon. All Equity Contributions made in accordance with the provisions of Section 1.7.1.1 and all Equity Contributions made in accordance with Section 1.7.1.3 shall be repaid in full prior to the repayment of any Equity Contributions made in accordance with Section 1.7.1.2. All Equity Contributions shall bear interest from the date of contribution until repaid at the greater of ten percent per annum or the maximum rate allowed by law.

1.7.1.5 The Participating Parties will acknowledge the date any equity contribution is paid in full by written notice from the Company and acknowledgment by the LDR.

1.7.2 Rent.

1.7.2.1 Fifty percent (50%) of all Net Revenue, if any, during each calendar year or partial calendar year during the term of this Agreement shall be paid to Lessor as Rent for the Premises.

1.7.3 Rent shall be paid to Lessor in monthly installments on or before the twenty-fifth (25th) day following the end of each calendar month. Such payments shall be accompanied by a written statement setting forth in detail the sources and amount of Total Revenue received for the preceding month and allowable deductions for the Net Revenue calculation. A check for the Lessor's fifty percent (50%) share of Net Revenue will be submitted with such statement. Except as otherwise provided in this Agreement, all Rent shall be paid without deduction, offset or abatement.

1.7.4 Company will make all payments to the Lessor at 15651 East Stafford Street, City of Industry, California 91744 or to such other place as Lessor may direct Company in writing.

- 1.7.5 In addition to, and without limiting, any other right or remedy which Lessor may have under this Agreement or at law or in equity, in the event any required payment is not made by Company to Lessor as required and remains unpaid for a period of thirty (30) days or more, the Lessor will be entitled to, and Company will pay to the Lessor, interest at the greater of ten percent (10%) per annum or the maximum amount allowed by law on all amounts unpaid and which remain unpaid thirty (30) days past the due date.
- 1.7.6 On or prior to April 30, annually during the term of this Agreement and within one hundred twenty (120) days after the expiration of the term of this Agreement, Company will provide Lessor with a statement showing in detail the sources and amount of Total Revenue received for the entire preceding calendar year. Such statement shall be prepared by the Company's chief financial officer in accordance with sound accounting principles and practices and shall contain a written opinion of such officer as to whether the Total Revenue calculations and distribution of Net Revenue and Rent has been made in accordance with the provisions of this Agreement. Should such statements show that the amount of Rent paid during the period of review was less than that which was due, such statement shall be accompanied by Company's payment of the additional amount to Lessor. Should such statement show that Company paid Lessor more than was due, after review and verification by LDR, a credit will be issued to be applied against future monthly installments of Rent, except that if such should be the case at the end of the last month of this Agreement, Lessor will refund the overpayment to Company.

1.8. RECORDS AND AUDIT

- 1.8.1 Throughout the term of this Agreement, Company shall keep and maintain, in accordance with sound accounting principles and practices, accurate and complete books, records and accounts of Total Revenue and all items constituting deductions for purposes of calculating Net Revenue. Within ten days of request by Lessor, Company agrees to provide for inspection and copying by the Lessor or its designated representatives, at a location in the metropolitan area of Los Angeles County, California, such books, records, and accounts for the then current and three (3) immediately preceding calendar years. Such inspection shall take place Monday through Friday, 9:00 AM to 5:00 PM, holidays excluded.
- 1.8.2 Lessor will, at any time, have the right to cause an audit of the Company's operation of the Premises and of Total Revenue and all items constituting deductions for purposes of calculating Net Revenue, for the then current or three (3) immediately preceding calendar years. Such audit shall be made by a Certified Public Accountant of Lessor's selection. If such audit discloses that the calculation of Net Revenue previously provided to Lessor by Company is understated (either intentionally or unintentionally) by a greater margin than one percent (1%) of Company's Total Revenue for the period of review, then Company will immediately pay to Lessor the cost of such audit; otherwise the cost of the audit will be paid by Lessor. In all events, Company shall pay to Lessor the additional payments shown to be payable to Lessor by Company.

1.9 IMPROVEMENTS, MAINTENANCE AND REPAIR BY LESSOR

1.9.1 Except as provided in Exhibit "B" and Section 3.1.2 dealing with contamination of the Premises, Lessor has no direct responsibility or obligation for any maintenance, repair or replacement of the Premises or improvements.

1.10 CONSTRUCTION OF IMPROVEMENTS BY COMPANY

1.10.1 Company will, construct and install the Facilities including, grading, fencing, paving, lighting, driveways, roads, railroad facilities, utilities, parking lots, drainage, buildings and other improvements.

1.10.2 In the event Company has not commenced the construction of Facilities or submitted a proposal for the construction of Facilities on a parcel of the Premises within 10 years after the Effective Date, Lessor shall have the right to terminate this Agreement as to any such undeveloped parcel of the Premises. Lessor shall give Company and any Leasehold Mortgagee encumbering any such undeveloped parcel of the Premises ninety days prior written notice and the right to submit a proposal for the development of any such parcel or commence construction thereon before exercising its right to terminate. In the event a proposal for the development of such undeveloped parcel is submitted within said ninety days, Lessor shall not have said right to terminate. Lessor agrees not to exercise its right to terminate as to any such undeveloped parcel until any Leasehold Mortgagee encumbering such parcel has been given its rights to cure or foreclose as set forth in Section 2.18.

1.10.3 All improvements or alterations by Company will be in accordance with all applicable governmental rules and regulations. Upon completion of any initial or additional improvements during the term hereof, Company will provide as-built drawings of same to the Lessor along with a certification of construction costs for all permanent improvements.

1.10.4 At any time during the term or any extension of this Agreement, Company may, as a Project Cost, add to or alter initially constructed Facilities, subject to all conditions set forth in 1.10.3 above. Any such addition or alteration will be performed in a workmanlike manner in accordance with all applicable governmental regulations and requirements and will not weaken or impair the structural strength or reduce the value of the Premises or improvements thereon.

1.11 MAINTENANCE AND REPAIR

1.11.1 Throughout the term of this Agreement, Company shall maintain, or cause to be maintained, as a Maintenance and Operations expense, the Premises and the Facilities in good condition and repair (including the making of any necessary replacements, both structural and nonstructural), ordinary wear and tear excepted, and in accordance with all applicable laws, rules, regulations and orders of all (i) federal, state, county, municipal, and other governmental agencies and bodies having jurisdiction, (ii) all insurance companies insuring all or any part of the Premises or the Facilities or both. Company's obligation shall include, but not be limited to, all structural and

nonstructural portions of the Premises and the Facilities, all heating, ventilating and air conditioning systems and escalators, parking lots, driveways, driving lanes, sidewalks, walkways, common areas and landscaped areas.

1.11.2 If Company shall fail to perform any of its obligations under this Section 1.11, Lessor may, but shall not be obligated to, give Company written notice specifying such failure in reasonable detail. If Company does not remedy such failure, or does not commence to remedy such failure and thereafter diligently pursue such remedy to completion, within fifteen (15) days following receipt of such notice, Lessor may, but shall not be obligated to, remedy such failure. If Lessor remedies any such failure, all reasonable costs and expenses incurred by Lessor in connection therewith shall be paid to Lessor by Company within ten (10) days following written demand, which shall be accompanied by copies of receipts for all such expenses incurred. Following such payment, the amount paid may be included as a Maintenance and Operations expense.

1.12 APPROVALS TO BE REASONABLY GIVEN

It is understood and agreed that all provisions of this Agreement that require approval by the Lessor or the LDR will receive timely response and such approvals will not be unreasonably withheld. Unless another time limit is otherwise specified in this Agreement, any approval or disapproval must be given within twenty (20) days. If the Lessor or LDR does not respond in writing within twenty (20) days, the item for which Company requests approval shall be deemed approved. If disapproved, the LDR will inform Company in writing of its disapproval and state the reason for such disapproval. The Participating Parties agree to negotiate in good faith to resolve any conflicting issues that may arise. If, however, the Participating Parties cannot agree upon the item that was disapproved, a neutral third party with at least ten (10) years experience in real estate developments similar to those constructed or proposed to be constructed on the Premises will be selected by the LDR to arbitrate the disputed issue. If, however, the Company does not accept the neutral third party selected by the LDR, Company will be allowed to select a second neutral party with similar experience. The two selected parties will then select a third neutral party with at least 10 years experience in real estate developments similar to those constructed or proposed to be constructed on the Premises who will arbitrate the disputed issue. The LDR and Company agree to be bound by the decisions reached by the selected arbitrator. The Participating Parties will cause the arbitrator to make a determination within fourteen (14) days following submittal. The Participating Parties agree that each party will bear its own costs and expenses incurred for attorney's fees, preparation and presentation costs for the arbitration process. The Participating Parties will share the cost of any third arbitrator.

Notwithstanding the foregoing, in the event of an emergency, the Company may take immediate, commercially reasonable action to prevent loss, injury or damage to persons or property or to preserve the Premises and the Facilities without the prior approval of Lessor and any costs reasonably incurred in connection therewith shall be a Project Cost.

ARTICLE II

2.1 ASSIGNMENT

2.1.1 Company will not assign this Agreement or its rights or duties hereunder or any estate created hereunder, in whole or in part, except with the prior written approval of Lessor, which approval will not be withheld unreasonably or delayed; provided, that it shall be reasonable for Lessor to withhold its approval if the assignee presented is not a proper and fit person or entity with financial resources and demonstrated business experience sufficient in Lessor's reasonable business judgment to be capable of performing the obligations hereunder which are the subject of the assignment. Further, any such assignment will be specifically subject to all provisions of this Agreement. Any assignment without the prior written approval of Lessor is Void.

2.1.1.1 Except as provided in Section 2.1.1.3, any voluntary or involuntary transfer of fifty percent (50%) or more of Company's or any permitted successor's or assign's voting common stock, or the transfer of fifty percent (50%) or more of the partnership or membership interest, or the acquisition or transfer of fifty percent (50%) or more of Company's ownership, or the transfer of substantially all of the assets of the Company or any such successor or assign will be deemed an assignment requiring the prior written approval of Lessor.

2.1.1.2 As a condition precedent to any assignment, Company shall provide Lessor reasonable prior written notice of the proposed assignment with such appropriate documentation and other information as Lessor shall reasonably request in order for Lessor to make its decision to grant or withhold approval. If the prior written approval of Lessor is given to any such assignment, the proposed assignee shall, in recordable form, expressly assume all of the terms, covenants and conditions of this Agreement which are the subject of the assignment. Any assignment will not release Company from its obligations under this Agreement arising from events occurring prior to the date of assignment, but shall release Company from all obligations arising after the effective date of the assignment.

2.1.1.3 Any transfers by partners or members of Company or shareholders of partners or members of Company to each other or for estate purposes or upon death will not be considered an assignment hereunder.

2.1.2 The foregoing provisions relating to assignment shall not be applicable to a Leasehold Mortgage hypothecating or encumbering Company's interest in this Agreement and the leasehold estate created thereby and the Facilities located on the Premises and further shall not be applicable to any sale by judicial foreclosure or pursuant to a power of sale by any Leasehold Mortgagee or to any transfer in lieu of such sale, or to any sales or transfers by any Leasehold Mortgagee (or any affiliate, parent or subsidiary of any Leasehold Mortgagee that acquires title to the Company's interest in this Agreement and the leasehold estate created thereby and the Facilities as a result of a sale by judicial foreclosure or pursuant to a power of sale or any transfer in lieu of such sale), subsequent to a sale by judicial foreclosure or pursuant to a power of sale or subsequent to any transfer in lieu of such sale. Any further assignments shall be subject to the provisions of Section 2.1, 2.1.1.1, 2.1.1.2 and 2.1.1.3.

2.2 SUBLEASING

Company will not sublease, sublet or rent to, or permit any persons, firms or corporations to occupy any part of the Premises or the Facilities without having complied with the following:

2.2.1 Company may enter into any Subleases which comply with Section 1.5 entitled DEVELOPMENT AND SUBLEASING. A copy of any such executed Sublease will be provided to the LDR. Any arrangements for the leasing of space which are not in conformance with Section 1.5 entitled DEVELOPMENT AND SUBLEASING shall not be entered into without the prior written approval of the LDR.

2.3 ATTORNMENT

2.3.1 All Subleases entered into by the Company will be subject to all terms and conditions of this Agreement. If Company defaults under this Agreement, all Sublessees will recognize Lessor as the successor to the Company under their respective Subleases, and will render performance thereunder to Lessor as if the Sublease were executed directly between Lessor and the Sublessees; provided, however, Lessor agrees that so long as a Sublessee is not in default under its Sublease, Lessor will provide quiet enjoyment to such Sublessee and Lessor agrees to be bound by all of the terms and conditions of each such Sublease.

2.3.2 All Subleases entered into by the Company will contain the following provision:

If, by reason of a default on the part of Company in the performance of the terms and provisions of the underlying Agreement, the underlying Agreement and the leasehold estate of Company thereunder is terminated by summary proceedings or otherwise in accordance with the terms of the underlying Agreement, Sublessee will attorn to Lessor and recognize Lessor as lessor under this Sublease; provided, however, Lessor agrees that so long as Sublessee is not in default, Lessor agrees to provide quiet enjoyment to Sublessee and to be bound by all the terms and conditions of this Sublease.

2.3.3 In the event this Agreement is terminated for any reason, all Sublessees will be liable to Lessor for their payment of rents and fees and will be subject to all the provisions and terms contained in their Subleases.

2.4 SUCCESSORS AND ASSIGNS

Subject to the provisions of this Article II, this Agreement shall inure to the benefit of and be binding upon the legal representatives, successors and assigns of the Parties.

2.5 CONTROL OF PERSONNEL

Company will, in and about the Premises, exercise reasonable control over the conduct, demeanor and appearance of its employees, agents and representatives and the conduct of its contractors and suppliers. The provisions of this Section 2.5 shall in no way limit the liability of the Company with respect to the negligence, acts or omissions of its employees, agents,

representatives, contractors and suppliers, nor shall such provisions limit any obligations of indemnity on the part of the Company under this Agreement.

2.6 SIGNS

Company and its Sublessees and Tenants shall have the right to install, erect and operate signs upon the Premises so long as such signs are installed, erected, operated and maintained in compliance with all applicable laws and ordinances.

2.7 ENTRY AND INSPECTION OF PREMISES

2.7.1 Lessor, its authorized officers, employees, agents, contractors, subcontractors or other representatives will have the right to enter upon all portions of the Premises and the Facilities constituting public areas when the same are open to the public, and shall have the right to enter upon all other portions of the Premises and the Facilities during normal business hours, for the purpose of inspecting the Premises and the Facilities, determining whether Company is in compliance with the terms and provisions of this Agreement, and for fulfilling Lessor's obligations and exercising Lessor's rights hereunder; provided however, that such entry will be in such manner as to not unreasonably interfere with the operations or reasonable security requirements of Company or its Sublessees. Except in the event of an emergency, Lessor shall provide Company at least two (2) business days prior written notice of its intention to enter upon the non-public areas of the Premises or the Facilities for such purposes, and, if Company so elects, Lessor shall be accompanied by a representative of Company during such entry.

2.7.2 No such entry upon the Premises by or on behalf of Lessor will cause or constitute a termination of this Agreement nor be deemed to constitute an interference with the possession thereof nor constitute a revocation of or interference with any of Company's rights in respect thereof for exclusive use of the Premises.

2.7.3 The rights of entry for inspection and other purposes as contemplated by the parties to this Agreement, pursuant to this Section, are for the sole benefit of the parties. No benefit to any third party is contemplated or intended.

2.8 INTENTION OF PARTIES

This Agreement is intended solely for the benefit of Lessor and Company and is not intended to benefit, either directly or indirectly, any third party or member(s) of the public at large. Any work done or inspection of the Premises by Lessor is solely for the benefit of Lessor and Company.

2.9 LIENS

Subject to the rights to contest set forth in Section 2.10 entitled Taxes and Assessments, Company will cause to be removed any and all tax liens and liens arising out of or because of any construction or installation performed by or on behalf of Company or any of its contractors or subcontractors upon the Premises or arising out of or because of the performance of any

work or labor to it or them at the Premises or the furnishing of any materials to it or them for use at the Premises. Should any such lien be made or filed, Company will bond against or discharge the same within thirty (30) days after written request by LDR. The cost of bonding against or discharging any liens relating to construction or installation of the Facilities shall be a Project Cost.

2.10 TAXES AND ASSESSMENTS

Throughout the term of this Agreement, Company shall pay before delinquency, as a Project Cost, all real and personal property taxes and assessments, including, without limitation, all city, county, school district and other taxes and general and special assessments, levied upon or assessed against the Premises, any Facilities now or hereafter located thereon, the leasehold estate, any personal property of Company located on or in the Premises or any Facilities, or arising in respect of the occupancy, use or possession of the Premises or the Facilities located thereon and which are assessed or become due during the term of this Agreement. All such taxes for the first and last years of the term hereof shall be equitably prorated between the parties. Company shall have the right, in Company's or Lessor's name, to contest the validity of any tax or assessment by appropriate proceedings timely instituted and diligently prosecuted.

Lessor, if requested by Company, shall cooperate with Company in any such proceedings; provided, that all costs and expenses (including attorneys' fees and costs) incurred by Lessor in connection therewith shall be paid by Company as a Project Cost. Company shall not be responsible for any of Lessor's franchise, inheritance, income, succession, transfer or other tax levied on the Lessor's rights in and to the Premises or Lessor's right to receive income from the Premises or under this Agreement. Company will keep current municipal, state or local licenses or permits required for the conduct of its business.

2.11 INDEMNITY

During the term of this Agreement, Company agrees to indemnify and hold Lessor forever harmless from and against all claim, liability, loss, demand, judgments or other expense (including, but not limited to, defense costs, expenses and reasonable attorney fees) imposed upon Lessor by reason of injuries or death of persons (including wrongful death) and damages to property caused during and because of Company's use or occupancy of the Premises or any actions or non-actions of Company, its officers, employees, agents, or other representatives, including movement of vehicles, provided, however, that (without limiting Lessor's right to coverage under any applicable insurance policies) such indemnity will not apply as to any negligent or intentional act or omission of Lessor, its employees, agents or representatives.

During the term of this Agreement, Lessor agrees to indemnify and hold Company harmless from and against all claim, liability, loss, demand, judgments or other expense (including, but not limited to, defense costs, expenses and reasonable attorneys fees) imposed upon Company by reason of injuries or death of persons (including wrongful death) and damages to property caused by Lessors use or occupancy of the Premises or any actions or non-actions of Lessor, its officers, employees, agents, contractors or other representatives, including movement of vehicles, provided, however, that (without limiting Company's right to coverage under applicable insurance policies) such indemnity will not apply to any negligent or intentional act or omission of Company, its employees, agents or representatives.

2.12 INSURANCE AND BONDS

2.12.1 Bonds

2.12.1.1 No bonds will be required for any Facilities constructed by Commerce Construction Co. Otherwise, Company, as a Project Cost, will require its general contractor on any construction contract in excess of two million dollars to furnish bonds covering the faithful performance of the construction of the improvements or installation of equipment, payment of all obligations arising thereunder to take effect upon completion of the project. Bonds may be secured through the contractor's usual sources provided the surety is authorized and licensed to do business in the State of California. Company will be allowed to name any Leasehold Mortgagee as an additional obligee under any such bond.

2.12.1.2 Prior to execution of a construction contract with a contractor required to furnish bonds, and not later than ten (10) calendar days after notification of award, Company will require such contractor to furnish contract bonds to LDR as follows:

- a. Labor and material payment bond in the amount of one hundred percent (100%) of the contract price.
- b. Payment and performance bond in the amount of one hundred percent (100%) of the contract price.

LDR may, if considered appropriate in its sole judgment, waive the requirements of this Section 2.12.1.2 upon written request by Company.

2.12.1.3 The bonds referred to in Section 2.12.1.1 and 2.12.1.2 above will be written on payment and performance bond and labor and material payment bond forms generally used for similar projects in Southern California and approved by LDR.

2.12.1.4 Company will require its contractor to require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of his power of attorney.

2.12.2 Insurance

2.12.2.1 Before any construction contractor (including Commerce Construction Co.) Commences Construction of any Facilities or any equipment installation on or about the Premises, the construction contractor shall procure and maintain insurance for such construction and installation protecting both Company and Lessor, as well as the construction contractor. Such insurance will provide coverage and limits as are

commercially reasonable in the industry. Such insurance will include, but is not limited to:

General Liability on an "occurrence" basis only
Automobile Liability
Builder's Risk equal to the maximum contract cost of the project.

- 2.12.2.2 Company's (or its contractor's) insurance will be primary as respects Lessor and Company, their officers, employees and authorized agents. Any other coverage carried by or available to Lessor, its officers, employees and authorized agents will be excess over the insurance required of the Company or its contractor and shall not contribute with it.
- 2.12.2.3 Company and its contractors will maintain worker's compensation insurance in the amounts and form as required by California law. Certificates evidencing the valid, effective insurance policies will be provided to LDR.
- 2.12.2.4 Company will keep insured with responsible insurance underwriters the Facilities and any improvements from time to time constructed by it upon and within the Premises to the extent of not less than the full replacement value of such improvements from time to time (without deduction for depreciation) using an industry standard all risk form of protection. Company will use commercially reasonable efforts to cause its Sublessees or Tenants to keep insured with responsible insurance underwriters any improvements constructed by such Sublessees or Tenants to the same extent.
- 2.12.2.5 Company will obtain and keep in full force and effect a policy(s) of general liability insurance on an "occurrence" basis only and not "claims made." The coverage must be provided either on an ISO Commercial General Liability form, or an Accord Comprehensive General Liability form, or equivalent, approved by the LDR and Company. Any exceptions to coverages must be fully disclosed on the required Certificate. If other than these forms are submitted as evidence of compliance, complete copies of such policy forms will be submitted to LDR within ten (10) days after notice to Company. Policies must include, but need not be limited to, coverages for bodily injury, property damage, personal injury, Broad Form property damage, premises and operations, severability of interest, products and completed operations, contractual and independent contractors with no exclusions of coverage for liability resulting from the hazards of explosion, collapse, and underground property damage.

Company will maintain limits of no less than five million dollars (\$5,000,000) combined single limit per occurrence for bodily injury (including death), personal injury and property damage.

2.12.2.6 Company will furnish Automobile Liability coverage for claims for damage because of bodily injury or death of any person, or property damage arising out of the ownership, maintenance or use of any motor vehicles whether owned, hired or non-owned. Company will maintain limits of no less than five million dollars (\$5,000,000) combined single limit "per accident" for bodily injury and property damage.

2.12.2.7 All required insurance coverage as stated in Section 2.12.2 will be a Project Cost and evidenced by a current Certificate(s) of Insurance. Such Certificates will include, but will not be limited to, the following:

2.12.2.7.1 All Certificates for each insurance policy are to be signed by a person authorized by that insurer and licensed by the State of California.

2.12.2.7.2 Each insurance company's rating as shown in the latest Best's Key Rating Guide will be fully disclosed and entered on the required Certificates of Insurance. If the insurance company providing the coverage has a Best rating of less than A+, the adequacy of the insurance supplied by Company (or its contractor), including the rating and financial health of each insurance company providing coverage, is subject to the approval by the LDR. Such approval will not be unreasonably withheld.

2.12.2.7.3 Company (or its contractor) will furnish renewal Certificates for the required insurance during the period of coverage required by this Agreement. Company (or its contractor) will furnish renewal Certificates for the same minimum coverages as required in this Agreement.

2.12.2.7.4 Lessor, its officers and employees shall be covered as additional insureds with respect to liability arising out of the activities by or on behalf of the named insured in connection with this Agreement. All property insurance policies will contain a waiver of subrogation clause in favor of Lessor.

2.12.2.7.5 Each insurance policy supplied by the Company (or its contractor) must be endorsed to provide that the amount and type of coverage afforded to the Lessor by the terms of this Agreement will not be suspended,

voided, canceled or reduced in coverage or in limits except after thirty (30) days' prior written notice by mail to Company, Lessor and any Leasehold Mortgagee.

2.12.2.7.6 Any deductible, as it relates to coverage provided under this Agreement, will be fully disclosed on the Certificates of Insurance. Any deductible provided will be reasonable and customary for the type of risk.

2.12.2.7.7 If aggregate limits are imposed on the insurance coverage, then the amounts of such limits must be not less than five million dollars (\$5,000,000) per occurrence or per accident. All aggregates must be fully disclosed and the amount entered on the required certificate of insurance. Company's insurer must notify the LDR of any erosion of the aggregate limits. The "per occurrence" limits of insurance required herein must be maintained in full, irrespective of any erosion of aggregate. A modification of the aggregation limitation may be permitted if it is deemed necessary and approved by the LDR and Company.

2.12.2.8 If the Company fails to maintain any of the insurance coverages required herein, then the Lessor, after 10 days prior notice to Company, may purchase replacement insurance or pay the premiums that are due on existing policies in order that the required coverages may be maintained. The Company is responsible for any expenses paid by the Lessor to maintain such insurance and Lessor may collect the same from the Company.

2.12.2.9 The insurance requirements specified herein do not relieve the Company (or its contractor) of its responsibility or limit the amount of its liability to the Lessor or other persons and the Company is encouraged to purchase such additional insurance as it deems necessary.

2.12.2.10 Company (or its contractor) is responsible for and must remedy all damage or loss to any property, including property of Lessor, caused in whole or in part by the Company or its contractor, any subcontractor or anyone employed, directed or supervised by the Company; provided, however neither Company nor any Leasehold Mortgagee shall be liable for any uninsured or underinsured loss relating to the Premises or the Facilities, unless such loss is a result of Company's failure to obtain the insurance it is required to maintain under this Agreement, in which event Company shall be liable for such loss and such loss shall not be a Project Cost. Company is responsible for

initiating, maintaining, and supervising all safety precautions and programs in connection with this Agreement.

2.12.2.11 Company and Lessor agree and acknowledge that any Leasehold Mortgagee shall be named as an additional insured under any insurance policy relating to the Premises, the Facilities or otherwise required under this Agreement. Company agrees to provide any Leasehold Mortgagee with appropriate certificates of insurance relating to all policies.

2.12.2.12 Company, at its option, may satisfy its obligations hereunder to insure within the coverage of any so-called blanket policy or policies of insurance which it now or hereafter may carry, by appropriate amendment, rider, endorsement or otherwise; provided, however, that the interests of Lessor shall thereupon be as fully protected by such blanket policy or policies as they would be if this option to so insure by blanket policy were not permitted.

2.12.2.13 Waiver of Subrogation. Without affecting any other rights or remedies, Company and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable thereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Company, as the case may be, so long as the insurance is not invalidated thereby.

2.13 DAMAGE AND DESTRUCTION

In the event that any Facilities located on the Premises are damaged or destroyed, and the net proceeds of insurance are sufficient to cover the Company's estimated cost of rebuilding (or if Company failed to maintain insurance it is required to maintain under this Agreement and the proceeds of such insurance, had it been maintained, would have been sufficient to cover the Company's estimated cost of rebuilding), Company shall repair and rebuild the said Facilities, and this Agreement shall continue in full force and effect, and Company shall commence and continue such repair or rebuilding with reasonable diligence and shall complete such repair and rebuilding within a reasonable time after the same is commenced; provided, however, that any delay in the completion of the said repairs resulting from fire or other casualty, strikes, shortages of material or labor, governmental laws, rules and regulations, the elements or matters beyond the reasonable control of Company, shall extend such reasonable time within which Company may complete said repairs or rebuilding by the period of such delay. The net proceeds of any insurance, to the extent that such proceeds are received by Lessor or any Leasehold Mortgagee, less any expenses of recovery thereof (including attorneys' fees), shall be made available to Company to be applied to the cost and expense of repair or rebuilding the damage or destruction insured against, subject to reasonable conditions and payable on the usual architect's certificates, but Lessor or any Leasehold Mortgagee holding said insurance

proceeds may withhold an amount reasonably necessary to insure completion of such repairs or rebuilding (not to exceed ten percent (10%) of such proceeds) until completion and the expiration of the period within which mechanics' or materialmen's liens may be filed and until receipt of satisfactory evidence that no liens exist.

In the event the Company maintains the insurance it is required to maintain under this Agreement and the proceeds of insurance are not sufficient to cover the Company's estimated cost of rebuilding, or in the event the damage or destruction occurs during the last 10 years of the lease term, Company will have the option to terminate this Agreement, subject to the rights of any Leasehold Mortgagee, which option will be exercisable by written notice to Lessor within forth five (45) days after the occurrence of such event. Company will only have such option to terminate this Agreement as to the specific legal parcel or parcels upon which the Facilities are damaged or destroyed. Any such termination by Company shall require the prior written consent of any Leasehold Mortgagee. In the event the Company elects to terminate this Agreement based upon such damage, destruction, or substantial loss, the Company will be liable for and will pay for all cleanup or demolition of the Premises necessary to make the Premises ready for repair, replacement, restoration or rebuilding: (a) if the Company or its employees or agents caused such damage, destruction or substantial loss to occur, (b) to the extent of any insurance proceeds payable with respect to such damage, destruction or substantial loss, or (c) to the extent of any insurance proceeds which would have been payable with respect to such damage, destruction or substantial loss had Company maintained the insurance it is required to maintain under this Agreement. In the event Company does not exercise such option then Company will promptly repair, replace, restore or rebuild said improvements.

2.14 DEFAULT BY COMPANY

2.14.1 Default by Company:

Subject to the provisions of Section 2.16 and Section 2.18, Company will be considered in default as Lessee under this Agreement in the event of any one or more of the following occurrences:

- 2.14.1.1 Company fails to pay the rent or any other money payments required by this Agreement when the same are due and the continuance of such failure for a period of thirty (30) days after written notice thereof from the LDR to Company or Company fails to maintain any insurance required to be maintained by it under this Agreement and such failure continues for a period of fifteen (15) days after written notice thereof from the LDR to Company.
- 2.14.1.2 Company fails to perform any other covenant contained in this Agreement and such failure continues for a period of sixty (60) days after written notice thereof from the LDR to Company; provided, however, that if a nonmonetary default cannot be cured with reasonable diligence within such sixty (60) day period, then Lessor shall not have the right to terminate this Agreement or pursue any other remedy against Company, as long as Company commences the curing of such

default within said sixty (60) day period and thereafter proceeds with the curing of such default to completion with reasonable diligence, with allowance for delays due to the action or failure to act of governmental authorities, strikes, acts of God or other matters beyond the reasonable control of Company.

2.14.1.3 Company voluntarily abandons the Premises for a period of sixty (60) days following written notice from the LDR to Company.

2.14.2 Cure

Subject to the mortgagee protection provisions set forth in this Agreement, Company will be considered in default of this Agreement if Company fails to fulfill any of the terms, covenants, or conditions set forth in this Agreement following the expiration of the cure period and written notice set forth in Sections 2.14.1 and 2.14.3.

2.14.3 Termination For Default By Company

Subject to the lender protection provisions of Section 2.18, if default is made by Company as described in Section 2.14.1 hereinabove, and such default is not cured as provided in Sections 2.14.1 and 2.14.2, Lessor shall provide Company with an additional written notice thereof and if such failure Lessor shall be entitled to pursue any and all rights and remedies which it may have under this Agreement or at law or in equity, including, without limitation, the right to terminate this Agreement. All of such rights and remedies shall be cumulative and not alternative.

2.14.3.1 If Lessor elects to terminate this Agreement, it will in no way prejudice the right of action for rental arrearages owed by Company.

2.14.3.2 Redelivery and disposal of improvements will be as described in Section 2.17, entitled SURRENDER AT END OF TERM.

2.15 DEFAULT BY LESSOR

2.15.1 Default By Lessor

Lessor will be considered in default of this Agreement if Lessor fails to fulfill any of the terms, covenants or conditions set forth in this Agreement if such failure shall continue for a period of more than sixty (60) days after delivery by Company of a written notice of such default.

2.15.2 Cure

If the default cannot be cured with reasonable diligence within such Sixty (60) day period, then Company shall not have the right to terminate this Agreement or pursue any other remedy against Lessor, as long as Lessor commences the curing of such default within said sixty (60) day period and thereafter proceeds with the curing of such default to completion with reasonable diligence, with allowance for delays due to the

action or failure to act of governmental authorities, strikes, acts of God or other matters beyond the reasonable control of Lessor.

2.15.3 Remedies

Subject to the mortgagee protection provisions set forth in this Agreement, if default is made by Lessor as described in Section 2.15.1 hereinabove, and is not cured as provided in Section 2.15.2 hereinabove, Company shall provide Lessor with an additional written notice thereof and if such failure to cure continues for an additional period of sixty (60) days, Company shall be entitled to pursue any and all rights and remedies which it may have under this Agreement or at law or in equity, including, without limitation, the right to terminate this Agreement. All of such rights and remedies shall be cumulative and not alternative. Redelivery and disposal of improvements will be as described in Section 2.17, entitled SURRENDER AT END OF TERM.

2.16 WAIVERS AND ACCEPTANCE OF FEES

2.16.1 No waiver of default by either party hereto of any of the terms, covenants or conditions hereof to be performed, kept or observed will be construed to be or act as a waiver of any subsequent default of any of the terms, covenants, conditions herein contained to be performed, kept and observed.

2.16.2 No acceptance of fees or other money payments in whole or in part for any period or periods during or after default of any of the terms, conditions or covenants to be performed, kept or observed by the Company will be deemed a waiver on the part of the Lessor of any right or remedy which it may have under this Agreement or at law or in equity.

2.16.3 No acceptance of fees or other money payments in whole or in part for any period or periods during or after default of any of the terms, conditions or covenants to be performed, kept or observed by the Lessor will be deemed a waiver on the part of the Company of any right or remedy which it may have under this Agreement or at law or in equity.

2.17 SURRENDER AT END OF TERM

2.17.1 Subject to the mortgagee protection provisions set forth in Section 2.18 and subject to the rights of Sublessee's, Company covenants that at the termination of this Agreement, howsoever caused, it will quit and surrender the Company's right, title and interest in the Premises in good repair and condition, excepting reasonable wear and tear, acts of God, the public enemy or the action of the elements.

2.17.2 All Facilities located on the Premises at the expiration or sooner termination of the term of this Agreement, howsoever caused, shall, without payment or compensation of any kind to Company, then become Lessor's property, in fee simple, free and clear of all claims, liens and encumbrances to or against them by Company, any Leasehold Mortgagee, any Sublessee or Tenant, or any other third party claiming by or through Company. Subject to the mortgagee protection provisions set forth in Section 2.18 and subject to the rights of Sublessee's, upon termination of this Agreement howsoever

caused, Company shall have the right to remove from the Premises, within sixty (60) days following the Termination Date, all equipment, trade fixtures and personal property belonging to Company or Sublessee's, provided Company or its Sublessees repair any damage caused by such removal.

For purposes of this Subsection 2.17.2, the words "equipment, trade fixtures and personal property" will include, but not be limited to, (i) signs (electrical or otherwise), (ii) all equipment used in connection with the conduct of Company's or its Sublessees business whether or not such equipment is attached to the Premises or the Facilities, (iii) any other mechanical device, and (iv) all other miscellaneous equipment, furnishings and fixtures installed on or placed on or about the Premises and used in connection with Company's or its Sublessees business thereon; provided, however, that such words shall not include elevators, escalators, plumbing systems, electrical systems, life safety systems, boilers, heating, ventilating and air conditioning systems, floor and wall coverings, ceiling lights, built-in shelving and cabinets, doors, windows, outside walls and fencing, and landscaping. All equipment, trade fixtures and personal property that is not removed within sixty (60) days following the Termination Date, shall become the property of Lessor.

2.17.3 Without limiting the provisions of this Section 2.17, Company agrees that upon the expiration or sooner termination of this Agreement, howsoever caused, it will execute, acknowledge and deliver to Lessor within thirty (30) days after demand from Lessor, all such documents and instruments as shall be reasonably necessary to evidence and confirm the transfer of ownership of the Facilities from Company to Lessor, "as-is" in their existing condition without any further consideration required from Lessor.

2.18 FINANCING

2.18.1 Notwithstanding anything to the contrary contained in this Agreement, Company will have the right at such time or times as Company desires and without Lessor's consent, to hypothecate Company's interest in all or part of this Agreement, the Premises and the Facilities with one or more Leasehold Mortgages. Such Leasehold Mortgages may contain such terms and conditions as are acceptable to Company and Company will have the right, without the consent of Lessor, at any time during the term hereof to execute and deliver to any or all of its Leasehold Mortgagees any documents which will operate as collateral security for any loan or loans made, even if such document or documents result in a form or type of conveyance or assignment of the leasehold interest demised hereunder. It is hereby agreed that Company or any such Leasehold Mortgagees will have the right to immediately record such document or document(s) with an appropriate public official or officials. Company agrees that copies of all such documents of conveyance or assignment as contained in this Section 2.18 will be provided to the LDR forthwith. Lessor agrees to cooperate in executing any documents reasonably requested of Lessor by Company or the Leasehold Mortgagee in connection with any such Leasehold Mortgage; PROVIDED, HOWEVER, UNDER NO CIRCUMSTANCES SHALL LESSOR BE OBLIGATED TO SUBORDINATE ITS FEE INTEREST IN THE PREMISES TO ANY LEASEHOLD MORTGAGE, AND, NOTWITHSTANDING ANY TERM OR PROVISION OF ANY SUCH LEASEHOLD MORTGAGE OR THIS AGREEMENT TO THE CONTRARY,

UNDER NO CIRCUMSTANCES SHALL ANY SUCH LEASEHOLD MORTGAGE CONSTITUTE AN INDEBTEDNESS OR OBLIGATION OF LESSOR NOR SHALL LESSOR BE LIABLE IN ANY WAY FOR THE PAYMENT OF ANY PORTION OF THE INDEBTEDNESS EVIDENCED BY SUCH LEASEHOLD MORTGAGE OR FOR THE PAYMENT OR PERFORMANCE OF ANY OTHER OBLIGATION THEREUNDER OR SECURED THEREBY.

- 2.18.2 Lessor will deliver to any such Leasehold Mortgagee written notice of any default of Company under the terms of this Agreement and said notice will specify the nature of the default. Before terminating this Agreement, Lessor will allow such Leasehold Mortgagee to cure or commence to cure any default of Company in accordance with the provisions of this Agreement. The time period to cure any default of Company will commence when said notice is delivered to Leasehold Mortgagee and Leasehold Mortgagee shall have the same lengths of time to cure the specified default as are permitted Company in Section 2.14. In the event Company fails to timely cure a default after receipt of written notice and expiration of any applicable cure period, Lessor agrees to provide any Leasehold Mortgagee with a second written notice and provide such Leasehold Mortgagee with an additional thirty (30) day cure period. Lessor will not have the right to exercise any remedies under this Agreement so long as a Leasehold Mortgagee is diligently prosecuting to complete a cure of any default. If such default is of a nature which is incapable of being cured by Leasehold Mortgagee, Lessor agrees not to exercise its remedies arising from such default if (i) Leasehold Mortgagee notifies Lessor in writing within such thirty (30) day cure period that Leasehold Mortgagee intends to foreclose its mortgage and Leasehold Mortgagee commences and diligently pursues such foreclosure; and (ii) Leasehold Mortgagee makes all payments due by Company under this Agreement through the date of foreclosure.
- 2.18.3 Any default by the Company in the payment of money as required under the terms of this Agreement may be cured by the Leasehold Mortgagee in accordance with the terms of Sections 2.14 and 2.18.2 of this Agreement, and Lessor will accept any such payment or cure from such Leasehold Mortgagee during the term of the Leasehold Mortgage.
- 2.18.3.1 Should the Company default under the terms of this Agreement and should the default be such that it cannot be cured by the payment of money, Lessor will accept payments of rent from such Leasehold Mortgagee and this Agreement will not terminate, but will remain in full force and effect, pending Leasehold Mortgagee's cure of such default within the time periods described herein or resort to foreclosure or sale proceedings under its deed of trust or other security instruments.
- 2.18.4 If any default has been cured by a Leasehold Mortgagee or Assignee, Lessor agrees that upon completion of any foreclosure proceedings or sale under the deed of trust or other security instrument securing the loan, or upon delivery of a deed in lieu of foreclosure, the Leasehold Mortgagee or purchaser at such sale or any heir, successor, or assign of Leasehold Mortgagee (Assignee) subsequent to such sale will be

recognized by Lessor as the lessee under the terms of this Agreement for all purposes for the remaining term hereof. The leasehold interest of the Leasehold Mortgagee or such Assignee will not be adversely affected or terminated by reason of any nonmonetary default occurring prior to the completion of such proceedings or sale, provided such default has been promptly remedied (to the extent it is capable of being remedied by Leasehold Mortgagee), or if such default requires possession to cure, provided such Leasehold Mortgagee, Assignee or purchaser promptly commences to cure upon taking possession of the Premises.

2.18.5 Such Leasehold Mortgagee will not become personally liable under the terms and obligations of this Agreement unless and until it assumes the obligations and is recognized by Lessor as lessee under this Agreement and will be liable only so long as such Leasehold Mortgagee or Assignee maintains ownership of the leasehold interest or estate and recourse to such Leasehold Mortgagee or Assignee shall be limited solely to Leasehold Mortgagee's or Assignee's interest in the Premises.

2.18.6 At any time during the term of this Lease, within ten (10) days after a written request by the Company or any Leasehold Mortgagee, Lessor, through Lessor's Designated Representative, will execute, acknowledge and deliver to the Company or such person or entity as the Company designates, a certificate stating:

- (a) that this Agreement is the only Agreement between Lessor and Company concerning the Premises and is unmodified and in full force and effect in accordance with its terms (or if there have been modifications, that this Agreement is in force and effect as modified, and identifying the modification agreements, or if this Agreement is not in full force and effect, that it is not);
- (b) the commencement and expiration dates of this Agreement and the date to which rental has been paid to Lessor under this Agreement;
- (c) whether or not, to the knowledge of the Lessor, there is an existing default by Company in the payment of Rent or any other sum of money under this Agreement, and whether or not there is any other existing default by either party under this Agreement with respect to which a notice of default has been served, and if there is such a default specifying its nature and extent;
- (d) whether or not, to the knowledge of Lessor, there are any set-offs, defenses or counter-claims against enforcement of the obligations to be performed by Lessor or Company under this Agreement; and,
- (e) such other reasonable information relating to this Agreement that a Leasehold Mortgagee or assignee may request.

2.18.7 All notices of default required to be delivered to a Leasehold Mortgagee under this Agreement will be sent to any Leasehold Mortgagee by overnight courier service or certified mail, return receipt requested. No such notice shall be valid or effective as against the Leasehold Mortgagee until and unless actually received by the Leasehold Mortgagee as evidenced by the courier service's delivery records or the return receipt.

- 2.18.8 In the event this Agreement is terminated for any reason prior to the end of the term (it being the intent that the Agreement will remain in full force and effect if Leasehold Mortgagee performs), Lessor shall enter into a new Agreement with Leasehold Mortgagee holding a first priority interest covering the Premises, provided that the Leasehold Mortgagee (i) requests such new Agreement by written notice to Lessor within sixty (60) days after termination, and (ii) cures all prior defaults of Company that are capable of being cured by Leasehold Mortgagee. The new Agreement shall be for the remainder of the term, effective at the date of such termination, at the same rent and on the same covenants, agreements, conditions, provisions, restrictions and limitations contained in this Agreement. The new Agreement shall have the same title priority as this Agreement and shall be subject only to the exceptions to title having priority over this Agreement or such additional exceptions to which such Leasehold Mortgagee has consented in writing. In the event the Lessor and such Leasehold Mortgagee enter into any such new Agreement, title to all the Facilities located upon the Premises as of the date of such new Agreement shall automatically vest in such Leasehold Mortgagee. If requested by such Leasehold Mortgagee, Lessor agrees to execute and deliver to Leasehold Mortgagee within 10 days after request therefore, a quitclaim deed in recordable form conveying title to such Facilities to such Leasehold Mortgagee. Lessor also agrees to assign to such Leasehold Mortgagee all Subleases with Tenants whose Subleases attach to Lessor upon the termination of this Agreement.
- 2.18.9 Lessor shall cooperate in amending this Agreement from time to time to add any provision which may reasonably be requested by any Leasehold Mortgagee or proposed lender for the purpose of implementing the mortgagee protection provisions contained in this Agreement and allowing such Leasehold Mortgagee reasonable means to protect or preserve the lien of its loan and the value of its security. Lessor agrees to execute and deliver (and to acknowledge if necessary for recording purposes) any agreement necessary to effect any such amendment; provided, however, that any such amendment shall not in any way affect or change the term of this Agreement or the Rent or other amounts payable to Lessor under this Agreement, subordinate the fee interest of Lessor in the real property underlying the Premises, nor otherwise in any material respect adversely affect any rights of Lessor under this Agreement.
- 2.18.10 The bankruptcy or insolvency of Company will not operate or permit the Lessor to terminate this Agreement as long as all Rent or other monetary payments required to be paid by Company continue to be paid and other required obligations are performed in accordance with the terms of this Agreement.
- 2.18.11 To the extent any of the terms of this Agreement are inconsistent with the terms of this Section regarding mortgagee protection provisions, the mortgagee protection provisions will control.
- 2.18.12 Every Leasehold Mortgage shall contain a provision that copies of all notices of default by Company thereunder must be sent to Lessor. In the event of any default by Company under any Leasehold Mortgage, the Lessor reserves the right to make any payments due to the Leasehold Mortgagee before the Leasehold Mortgagee resorts to any foreclosure or sale proceedings under its deed of trust or other security instrument.

- 2.18.12.1 Following any foreclosure or deed in lieu of foreclosure the leasehold estate created by this Agreement and the Facilities may be transferred or assigned as provided in Section 2.1.2.
- 2.18.13 Any mortgage placed by the Lessor on the fee title to the Premises shall be subordinate to this Agreement (and any replacement to this Agreement), any separate lease entered into in accordance with Section 4.9 and all Subleases.
- 2.18.14 Prior to any termination of this Agreement by Lessor, any Leasehold Mortgagee shall be allowed sufficient time to complete any foreclosure action, including time for delays due to official restraint (including by law, process or injunction issued by a court), so long as such Leasehold Mortgagee is making payments required by this Agreement which can be reasonably determined prior to acquiring the Company's interest under this Agreement. Leasehold Mortgagee shall have the right to terminate foreclosure proceedings at any time if Company has cured all defaults under any loan from Leasehold Mortgagee. However, no such termination of foreclosure proceedings shall prevent Lessor from pursuing, or continuing to pursue, its rights and remedies under this Agreement against Company for any uncured defaults under this Agreement.
- 2.18.15 So long as any Leasehold Mortgage is in effect, there shall be no merger of the leasehold estate created by this Agreement into the fee simple estate in the Premises without the prior written consent of the Leasehold Mortgagee.
- 2.18.16 Any Leasehold Mortgagee shall have the right to participate in any settlement or adjustment of losses under insurance policies maintained by Company under this Agreement. Such Leasehold Mortgagee shall be named as a loss payee or additional insured, as applicable, in accordance with any loan documents executed by Company, under the insurance policies required under this Agreement. Company shall use commercially reasonable efforts to obtain provisions in Leasehold Mortgages providing that any proceeds of insurance shall first be used for the purposes provided for in this Agreement before any portion thereof is applied to repay any indebtedness under such Leasehold Mortgage.

2.19 EMINENT DOMAIN

2.19.1 In the event of any acquisition of or damage to all or any part of the Premises or any interest therein by eminent domain, whether by condemnation proceeding or transfer in avoidance of an exercise of the power of eminent domain or otherwise during the term of this Agreement, the rights and obligations of the parties with respect to such appropriation shall be as provided in this Section. As used herein:

- a. "Taking" shall mean any taking or damage, including severance damage, by eminent domain or by inverse condemnation or for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance in lieu of an exercise of eminent domain or while condemnation proceedings are pending. The taking shall be deemed to take place on the

earlier of (i) the date actual physical possession is taken by the condemnor or (ii) the date on which the title passes to the condemnor.

- b. "Total Taking" shall mean the taking of fee title to all of the Premises or so much of the Premises that the portions of the Premises not so taken are, in the reasonable judgment of Company, not reasonably suited for the uses of the Premises that have been previously made by Company. A Temporary Taking, defined below, may be treated as a Total Taking if it meets the test set forth above.
- c. "Partial Taking" shall mean any taking of fee title that is not a Total Taking.
- d. "Temporary Taking" shall mean the taking for temporary use of all or any portion of the Premises for a period ending on or before the expiration of the term.
- e. "Award" shall mean all compensation paid for the taking whether pursuant to a judgment or by agreement or otherwise.
- f. "Notice of Intended Taking" shall mean any notice or notification on which a reasonably prudent man would rely and which he would interpret as expressing an existing intention of taking as distinguished from a mere preliminary inquiry or proposal and shall include without limitation the service of a condemnation summons and complaint on either Lessor or Company or the receipt by either Lessor or Company from a condemning agency or entity of a written notice of intent to take containing a description or map of the taking reasonably defining the extent thereof.

2.19.2 Upon receipt of any of the following by either Party hereto, such Party shall promptly deliver a copy thereof, endorsed with the date received, to the other and any Leasehold Mortgagee which has given its name and address to such Party for such purpose.

- a. Notice of Intended Taking;
- b. Service of any legal process relating to the condemnation of all or any part of the Premises;
- c. Notice in connection with any proceedings or negotiations with respect to any such condemnation; and
- d. Notice of intent or willingness to make or negotiate a private purchase, sale or other transfer in lieu of condemnation.

2.19.3 Lessor, Company and any Leasehold Mortgagee that would be affected by such taking, shall each have the right to represent its respective interest in each proceeding or negotiation with respect to any taking or intended taking and to make full proof of its claims. No agreements, settlement, sale or transfer to or with the condemning authority shall be made without the prior written consent of Lessor, Company and

Leasehold Mortgagee, which consent shall not be unreasonably withheld. Each of the parties hereto agrees to execute and deliver to the other any instruments that may be required to effectuate or facilitate any of the provisions of this Section where such execution or delivery will not adversely affect the right of such party to receive just compensation for any loss sustained in such negotiation or proceeding.

- 2.19.4 In the event of a Total Taking, this Agreement and all interests, rights, liabilities and obligations of the Parties hereunder shall terminate as of the date of Taking, except for liabilities and obligations arising out of events occurring prior to the date of termination.

In the event of a Taking of fee title to less than all of the Premises which Company reasonably believes to be a Total Taking, Company may, by written notice to Lessor approved by all Leasehold Mortgagees, within one hundred twenty (120) days after Company receives Notice of Intended Taking thereof, elect to treat such taking as a Total Taking. If Company fails to make such timely election, such Taking shall be deemed to be a Partial Taking for all intents and purposes.

Any taking determined to be a Total Taking in accordance with the foregoing paragraph shall be treated as a Total Taking if (i) Company delivers possession of the Premises to Lessor within one hundred twenty (120) days after Company shall have delivered written notice to Lessor electing to treat such taking as a Total Taking and (ii) Company has complied with all of the provisions hereof relating to the apportionment of the awards.

In a Total Taking, all sums, including damages and interest, awarded for the fee or the leasehold or both shall be distributed in the following order of priority:

- a. First, to Leasehold Mortgagees to the extent of the then balance due on all Leasehold Mortgages;
- b. Second, to Lessor an amount equal to the then present value of the reversionary interest of Lessor in the real property underlying the Premises at the Expiration of this Agreement;
- c. Third, subject to Section 1.1.25, the balance of the Award to Company.

All sums awarded for the leasehold or the fee shall (i) be delivered to Lessor and Company (or to Leasehold Mortgagee), respectively, if such award has been apportioned between Lessor and Company by such condemning authority, or (ii) deposited promptly with Leasehold Mortgagee (or in the event that there is no lender of record, with an escrow agent selected by Company in the reasonable exercise of its discretion), if only a single award is made, and distributed and disbursed as set forth above. Sums being held by the escrow agent pending disbursement shall be deposited in a federally insured interest bearing account and, upon distribution, each party having a right to any of the sums being disbursed shall be entitled to receive the interest attributable to its share of said sums.

2.19.5 In the event of a Partial Taking, this Agreement shall remain in full force and effect as to the portion of the Premises remaining.

On a Partial Taking, all sums, including damages and interest, awarded for the fee or the leasehold or both shall be distributed in the following order of priority:

- a. First, to Company an amount equal to the cost of making all repairs and restorations to any Facilities on the Premises affected by such taking to the extent necessary to restore the same to a complete architectural and economically viable or functioning units (to the extent permitted, however, taking into consideration the amount of land remaining after such taking or purchase);
- b. Second, to any Leasehold Mortgagee to the extent that the security of its Leasehold Mortgage has been impaired as a result of the Partial Taking or as required by its loan documents, whichever is greater;
- c. Third, to Lessor an amount equal to the then present value of the reversionary interest of Lessor in the real property underlying the Premises at the Expiration of this Agreement in that portion of the real property underlying the Premises that is taken in such Partial taking;
- d. Fourth, subject to Section 1.1.25, the balance of the Award to Company.

All sums awarded for the leasehold or the fee shall (i) be delivered to Lessor and Company (or to Leasehold Mortgagee), respectively, if such award has been apportioned between Lessor and Company by such condemning authority, or (ii) deposited promptly with Leasehold Mortgagee (or in the event that there is no lender of record, with an escrow agent selected by Company in the reasonable exercise of its discretion), if only a single award is made; and distributed and disbursed as set forth above. Sums being held by the escrow agent pending disbursement shall be deposited in a federally insured interest bearing account and, upon disbursement, each party having a right to any of the sums being disbursed shall be entitled to receive the interest attributable to its share of said sums.

2.19.6 In the event of a Temporary Taking, this Agreement shall remain in full force and effect, neither the rents reserved hereunder nor the term hereof shall be reduced or affected in any way; and, subject to Section 1.1.25, Company shall be entitled to any award for the use or estate taken, subject to the requirements of any Leasehold Mortgagee.

2.19.7 Unless the respective values are determined by the court in the eminent domain proceeding, the values of the interests for which Lessor and Company are entitled to compensation in the event of a Total or Partial Taking shall be determined by the mutual written agreement of Lessor and Company. If Lessor and Company are unable to agree on the value of said interests within thirty (30) days after the deposit of the sums awarded with the escrow agent, then within thirty (30) days after the expiration of that period, each such party shall submit its good faith estimate of the value of said

interests as of the date of the taking. If the higher of said estimates is not more than 105% of the lower of such estimates, the value shall be the average of the submitted estimates. If otherwise, then within ten (10) days the question shall be submitted to arbitration pursuant to the rules of the American Arbitration Association.

ARTICLE III

3.1 ENVIRONMENTAL POLICY

3.1.1 Violation Of Environmental Laws

During the term of this Agreement, Company will not cause or permit any Hazardous Material to be used, generated, manufactured, produced, stored, brought upon, or released on, under or about the Premises, or transported to and from the Premises, by Company, its Sublessees and Tenants, or their respective agents, employees, contractors, invitees or a third party in violation of the Environmental Laws.

3.1.1.1 LDR will have access to the Premises to inspect same to insure that Company is using the Premises in accordance with Environmental Laws.

3.1.1.2 Company, at the LDR's reasonable request, as a Project Cost, will conduct such testing and analysis as necessary to ascertain whether Company is using the Premises in compliance with environmental requirements. Any such tests will be conducted by qualified independent experts chosen by Company and subject to LDR's reasonable written approval. Copies of such reports from any such testing will be provided to LDR.

3.1.1.3 Company will promptly provide copies of all notices, reports, claims, demands or actions concerning any environmental concern or release or threatened release of Hazardous Materials to Lessor.

3.1.2 Contamination Of Premises

3.1.2.1 If the illegal use of any Hazardous Material on, under or about the Premises by Company, its agents, employees or contractors results in any contamination of the Premises, in violation of an Environmental Law, Company will promptly take all actions as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises. Company will take all steps necessary to remedy and remove any such Hazardous Materials as are necessary to protect the public health and safety and the environment from actual harm and to bring the Premises into compliance with all environmental requirements. If any such contamination is a result of the gross negligence of Company or its employees or if Company or its employees intentionally contaminate the Premises, all costs incurred to bring the Premises into compliance with environmental laws shall be at Company's cost and expense and not as a Project Cost. If any such contamination is a

result of the actions of agents, contractors, third parties or the actions of Company that were not intended to contaminate the Premises, all costs incurred to bring the Premises into compliance with environmental laws shall be a Project Cost.

3.1.2.2 Lessor will be solely responsible for any environmental condition existing on or about the Premises prior to the commencement of the term of this Agreement or any environmental conditions caused by Lessor, its agents, employees, contractors or invitees during the term. Lessor will promptly take all actions, at its cost and expense, as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises. Lessor will take all steps necessary to remedy and remove any such Hazardous Materials as are necessary to protect the public health and safety and the environment from actual harm and to bring the Premises into compliance with all environmental requirements.

3.1.2.3 If the illegal use of any Hazardous Material on, under or about the Premises by Sublessees and Tenants, their respective agents, employees, contractors, servants or invitees results in any contamination of the Premises, in violation of an Environmental Law, Company will promptly take all actions, as a Project Cost, as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises. Company will take all steps necessary to remedy and remove any such Hazardous Materials as are necessary to protect the public health and safety and the environment from actual harm and to bring the Premises into compliance with all environmental requirements. All amounts recovered (whether by way of settlement of a claim, judgment, indemnity or otherwise) by Company from any such Sublessee, Tenant, agent, employee, contractor, servant or invitee in connection with the foregoing matters shall be included in Total Revenue for the full or partial calendar year of the term of this Agreement in which recovered (Company's reasonable costs of recovery shall be deducted as a Project Cost), or if recovered following the expiration or termination of the term of this Agreement, fifty percent (50%) of such recovery (after deducting from such recovery the Company's reasonable costs of recovery not theretofore included in Project Costs) shall be promptly paid over to Lessor.

3.1.3 Compliance With All Governmental Authorities

During the term of this Agreement, Company will promptly make all submissions required of Company and comply with all requirements of the appropriate governmental authority under all Environmental Laws. During the term of this Agreement, Lessor will promptly make all submissions required of Lessor to, and comply with, all requirements of the appropriate governmental authority under all Environmental Laws.

3.1.3.1 Should any governmental agency having authority over such matters determine that a site characterization, site assessment, and/or cleanup plan be prepared or that a cleanup should be undertaken because of any spills or discharges of hazardous materials at the Premises by Company, its

agents, employees or contractors which occur during the term of this Agreement, then Company shall prepare and submit the required plans and financial assurances, and carry out the approved plans. If any such spills or discharges are a result of the gross negligence of Company or its employees or if Company or its employees intentionally spilled or discharged hazardous materials at the Premises, all costs incurred to prepare and submit the required plans and carry out the approved plans shall be at Company's cost and expense and not as a Project Cost. If any such spills or discharges are a result of the actions of agents, contractors, third parties or the actions of Company that were not intended to spill or discharge hazardous materials at the Premises, all costs incurred to prepare and submit the required plans and carry out the approved plans shall be a Project Cost.

3.1.3.2 Company hereby agrees to indemnify Lessor from all costs incurred in connection with any investigation of site conditions or any cleanup, remediation, removal or restoration work required by any Federal, State or local governmental agency or political subdivision because of an environmental condition on, under or about the Premises that is caused by Company, its Sublessees, their agents, employees, contractors or invitees. If any such environmental condition is a result of the gross negligence of Company or its employees or if Company or its employees intentionally caused such environmental condition, all costs incurred to bring the Premises into compliance with environmental laws shall be at Company's cost and expense and not as a Project Cost. If any such environmental condition is a result of the actions of Sublessees, agents, contractors, third parties or the actions of Company that were not intended to contaminate the Premises, all costs incurred to bring the Premises into compliance with environmental laws shall be a Project Cost. Lessor hereby agrees to indemnify Company from all costs incurred in connection with any investigation of site conditions or any cleanup, remediation, removal or restoration work required by any Federal, State or local governmental agency or political subdivision because of an environmental condition on, under or about the Premises that existed prior to the Effective Date of this Agreement or was caused by Lessor, its agents, employees, contractors or invitees during the term.

3.1.3.3 Should any governmental agency having authority over such matters determine that a site characterization, site assessment, and/or cleanup plan be prepared or that a cleanup should be undertaken because of any spills or discharges of hazardous materials at the Premises by Sublessees and Tenants, and their respective agents, employees, contractors or invitees which occur during the term of this Agreement, then Company shall (as a Project Cost) prepare and submit the required plans and financial assurances, and carry out the approved plans. Company will promptly provide all information requested by Lessor to determine the applicability of the Environmental Laws to the Premises, or to respond to any governmental investigation or to respond to any claim of liability by third parties which is related to such environmental contamination. All amounts recovered (whether by way of settlement of a claim, judgment, indemnity or otherwise) by Company from any such Sublessee, Tenant, agent, employee, contractor, servant or invitee in connection with the foregoing matters shall be included in Total Revenue for the full or partial calendar year of the term of this Agreement in which recovered (Company's reasonable costs of recovery shall be deducted as a Project Cost), or if recovered following the expiration or termination of the term of this Agreement, fifty percent (50%) of such recovery (after deducting from such recovery the Company's reasonable costs of recovery not theretofore included in Project Costs) shall be promptly paid over to Lessor.

ARTICLE IV

4.1 FORCE MAJEURE

Neither Lessor, Company or any Leasehold Mortgagee will be deemed to be in breach of this Agreement by reason of failure to perform any of its obligations hereunder if, while and to the extent that such failure is due to strikes, boycotts, labor disputes, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of governmental authority, unusual weather conditions, floods, riots, rebellion or sabotage. However, the provisions of this Section will not apply to, nor excuse any failure by Company to pay Rents, fees or any other money payments required under the provisions, covenants or agreements contained in this Agreement.

4.2 QUIET ENJOYMENT

Lessor agrees that, on payment of the Rents and fees and performance of the covenants, conditions and agreements on the part of Company to be performed hereunder, Company will have the right to peaceably occupy and enjoy the Premises.

4.3 NOTICES

All notices, requests, consents and approvals under this Agreement will be given only by personal delivery, certified mail return receipt requested, overnight courier service or facsimile. The same shall be deemed to have been given: (i) if personally delivered, upon receipt, (ii) if by certified mail, upon the date indicated on the return receipt, (iii) if by overnight courier service, upon the date delivered as shown by the records of the courier, and (iv) if by facsimile, at the time of electronic confirmation of successful transmission.

Notices intended for the Lessor will be addressed to:

Industry Urban-Development Agency
15651 East Stafford Street
City of Industry, California 91744
Attn: Executive Director
Facsimile: (626) 961-6795

or to such other address as may be designated by the Lessor by written notice to Company.

Notices intended for the Company will be addressed to:

Industry East Land, LLC
c/o Majestic Realty Co.
13191 Crossroads Parkway North
City of Industry, California 91746
Attn: Edward P. Roski, Jr.
Facsimile: (562) 692-1553

or to such other address as may be designated by the Company by written notice to Lessor.

4.4 HEADINGS, TITLES OR CAPTIONS

Article, section or paragraph headings, titles or captions are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or extent of any provision of this Agreement.

4.5 INVALID PROVISIONS

It is expressly understood and agreed by and between the parties hereto that in the event any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such covenant, condition or provision will in no way affect any other covenant, condition or provision herein contained; provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either Lessor or Company in their respective rights and obligations contained in the valid covenants, conditions or provisions of this Agreement.

4.6 STATE OF CALIFORNIA LAW

This Agreement will be interpreted under and governed by the internal laws of the State of California, without regard to principles of conflicts of law.

4.7 ENTIRE AGREEMENT

This document represents the entire agreement between the parties hereto and it cannot be effectively modified or canceled by mutual agreement or in any manner, nor may any term or provisions of this Agreement be waived, except by an instrument in writing approved by Lessor and executed by duly authorized officials, officers or agents of the Parties.

4.8 SUBDIVISION OF THE PREMISES AND RIGHT TO SEPARATE LEASES

- 4.8.1 The parties hereto acknowledge and agree that the Premises will be developed by Company with Facilities, in phases, over a number of years. During the term of this Agreement, Company may, from time to time, as a Project Cost, to subdivide the Premises to create such separate legal parcels as Company reasonably deems desirable for the development of the Premises and to cause subdivision maps covering the Premises, or any portion thereof, to be prepared and processed through the appropriate governmental agencies, executed by Company and Lessor, and filed for record in accordance with all laws and ordinances applicable thereto. Subject to the foregoing, at any time, and from time to time during the term of this Agreement, Lessor agrees to, within 15 days after the written request of Company, execute and deliver such instruments as may be appropriate, necessary, or required for: (i) the grant or dedication of any easement, right of way or other property right to any public entity or service corporation for ingress, egress, road or utility purposes and reasonably required for the subdivision or development of the Premises, or (ii) the obtaining of governmental approvals, consents, zoning changes, conditional uses, variances, subdivision maps or the like, or for the purpose of providing adequate utility services to the Premises, or permitting Company to construct the

Facilities or other improvements on the Premises or make any alteration or addition to the Facilities.

4.8.2 The parties further acknowledge and agree that as a result of such phased development, Company will be obtaining construction, interim and permanent financing for the development of various portions of the Premises and the Facilities at different times during the Term of this Agreement. In order to facilitate such phased development and to facilitate separate financing for various phases thereof, the parties hereby agree that the Company shall have the right, at any time, and from time to time, during the term of this Agreement, or any extension thereof, to have any portion of the Premises removed from the legal description of the Premises and to have the Lessor and Company enter into a new separate lease covering the portion of the Premises so removed from this Agreement.

4.8.2.1 All such new leases shall be for the remainder of the Term of this Agreement and shall be on the same terms and conditions as this Agreement, including, without limitation, the right of first refusal as set forth herein. If requested by Company, Lessor agrees to grant any easements reasonably required for access, road or utility purposes between the Premises remaining subject to this Agreement and the portion of the Premises which becomes subject to any such new lease.

4.8.2.2 At any time Company desires a separate lease, Company shall prepare an amendment to this Agreement deleting the portion of the Premises to be covered by the separate lease and shall also prepare such separate lease and submit both documents to Lessor for execution. Lessor agrees to execute such amendment and separate lease within twenty (20) days after Company submits such documents. Concurrently with the execution of each such amendment and separate lease, the Parties shall execute a memorandum in recordable form evidencing the existence of such separate lease, the portion of the Premises subject to such separate lease, the effective date and termination date of such separate lease and the fact that there is a right of first refusal to purchase the Premises. Concurrently with the execution of such amendment and separate lease, the parties shall also execute a memorandum in recordable form evidencing the existence of such amendment to this Agreement. Any such separate lease shall have the same title priority as this Agreement and shall be subject only to the exceptions to title having priority over this Agreement or such additional exceptions to which Company has consented in writing. In the event the parties enter into any such separate lease, title to all Facilities located upon the Premises subject to such separate lease shall automatically vest in Company as of the effective date of such separate lease. If requested by Company, Lessor agrees to execute and deliver to Company within 10 days after request therefore, a quitclaim deed in recordable form conveying title to such Facilities on the premises subject to the separate lease to Company. Lessor also agrees to assign to Company all Subleases with Tenants whose Subleases attorn to Lessor upon the termination of this Agreement and creation of such separate lease.

4.9 RIGHT OF FIRST REFUSAL TO PURCHASE

At all times during the term of this Agreement and any extensions or renewals thereof, should Lessor receive a bona fide offer from any third party to purchase all or any portion of the Premises, which offer Lessor desires to accept, Lessor shall, before accepting such offer,

provide Company with a full and complete copy of such offer and shall first offer in writing to sell the portion of the Premises which is the subject of such offer to Company on the same terms and conditions as set forth in said offer. Upon receipt of any such notice and copy of such offer from Lessor, Company shall have thirty (30) days thereafter within which to accept the same. Should Company fail to accept any such offer within said thirty (30) day period, Lessor shall be free to sell said portion of the Premises to the original offeror upon the same terms and conditions offered to Company without further notice to Company. Should Lessor after having made such offer to Company as above described, fail to sell said portion of the Premises upon the same terms and conditions offered to Company, Lessor shall give Company notice and the first right to purchase in the manner set forth above of any further or different offers received by Lessor for the purchase of said portion of the Premises and shall first offer to sell the same to Company upon the same terms and conditions before accepting any such further or different offer. The right of first refusal set forth herein is a continuing right of first refusal to purchase and shall apply to all subsequent bona fide offers from third parties after a sale by Lessor, or its successors, to a party other than Company.

4.10 UTILITIES

To the extent not paid by Sublessees, Company shall, as a Project Cost, pay for all water, gas, heat, light, power, telephone service, trash disposal and other utilities and services supplied to the Premises and the Facilities located thereon, together with any taxes thereon.

4.11 OWNERSHIP OF IMPROVEMENTS

All improvements constructed on the Premises by Company (including, without limitation, the Facilities) at any time and from time to time, will be owned by Company during the term of this Agreement. If requested by Company, any Leasehold Mortgagee or title insurance company, Lessor agrees to execute and deliver to Company within ten (10) days after request therefor, a quitclaim deed in recordable form conveying or confirming title to all such improvements in Company. All such buildings and improvements constructed upon the Premises by Company are and shall remain real property and may not be severed from this Agreement or the leasehold estate created hereby.

4.12 LEASING COMMISSIONS

In the event Company retains the services of Majestic Realty Co. or any affiliate of Company to Sublease the Premises and the Facilities, the leasing commissions paid to Majestic Realty Co. or any such affiliate, as a Project Cost, shall not exceed the scheduled commissions for similar services charged by the major brokerage companies operating in the County of Los Angeles, California.

4.13 COVENANTS FOR NON-DISCRIMINATION

The Company covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry in the use and occupancy of the Premises, nor shall the Company itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation

with reference to the use or occupancy of the Premises.

4.13.1 The Company shall refrain from restricting the rental or lease of the Premises on the basis of race, color, creed, religion, sex, marital status, handicap, national origin or ancestry of any person. All such leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

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

"There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, handicap, ancestry or national origin in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased."

2. In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, marital status, handicap, ancestry or national origin, in the sale, lease, sublease; transfer; use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants or vendees of the premises."

4.13.2 The covenants established in this Section shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Lessor, its successors and assigns, the City of Industry and any successor in interest to the fee ownership of the Premises or any part thereof. The covenants, contained in this Section shall remain in effect fro the term of this Agreement.

IN WITNESS WHEREOF, Lessor and Company have executed these presents the day and year first above written.

ATTEST:

INDUSTRY URBAN-DEVELOPMENT AGENCY

BY: Annie Faure
Annie Faure, Secretary

BY: Rolene Harrison
Rolene Harrison, Chairman

INDUSTRY EAST LAND, LLC, a
California Limited Liability Corporation

WITNESS: [Signature]

BY: Majestic Realty Co., a California corporation, its
Manager

APPROVED AS TO FORM:
_____, Agency Legal Counsel

By: [Signature]

BY: Orville R. Jordan

Its: PRESIDENT

By: [Signature]
Its: EXEC V.P.

EXHIBIT A

LEGAL DESCRIPTION

SOUTHERN PARCEL

A parcel of land, in the City of Industry, County of Los Angeles, State of California, bounded northwesterly by Brea Canyon Road, northeasterly by Old Ranch Road, southeasterly by the northwesterly base of the hills lying northwesterly of the 60/57 freeway and southwesterly by the City of Diamond Bar, and being more particularly described as follows:

PARCEL 1 - FNTC PTR 68033C-RD

Those portions of Sections 4, 8 and 9, Township 2 South, Range 9 West, San Bernardino Meridian, County of Los Angeles, State of California, according to the Official Plat of said lands filed in the District Land Office, September 28, 1868, more particularly described as follows:

Beginning at the most Northerly corner of Tract No. 2166, in said County and State, as per map recorded in Book 22 Page 4, of Maps, in the office of the County Recorder of said County; thence along the Northeasterly fine of said Tract and its Southeasterly prolongation South 62° 46' 58 " East 2200.92 feet to a found 2 inch iron pipe making an angle point in the boundary of the land described in deed to Isaac N. Krushaar, recorded February 10, 1955, in Book 46873, Page 70, Official Records of said County, thence Northerly along the boundary described in said deeds, North 27°, 52' 2 " East 4289.22 feet, North 6° 16' 8" West 589.49 and North 13° 15' 47" East 1975.51 feet to a found 2 inch iron pipe in the Southeasterly line of the Los Angeles and Salt Lake Railroad company, right of way 100 feet wide, as shown map recorded in Book 1507, Page 74, of Deeds, in the office of the County Recorder of said County, thence continuing North 13°

P S O M A S

1 15' 47 " East 114.09 feet to the center line of said right of way; thence along the
2 centerline of said right of way South 39° 15' 20" West 3537.47 feet to the found nail and
3 tin marking Engineer's Station 1366 plus 07.4 on said center line of right of way; thence
4 continuing along said centerline South 9° 15' 20 " West 3083.21 feet to the beginning of a
5 tangent curve concave to the Northwest, thence along a radial line of said curve South 56°
6 44' 40 " East 50. 00 feet to the Southeasterly line of said right of way, said last mentioned
7 poi t being also the beginning of a curve concave to the Northwest having a radius of
8 2914.93 feet, and a central angle of 6° 36'; thence Southerly along said curve and said
9 Southeasterly line of right of way 334.93 to the point of beginning.

10
11 **EXCEPTING** that portion of the above described parcel of land within said Railroad right
12 of way.

13
14 **ALSO EXCEPTING** all minerals and all mineral rights of every kind and character now
15 known to exist or hereafter discovered, including, without limiting the generality of the
16 foregoing, oil and gas and rights thereto, together with the sole, exclusive and perpetual
17 right to explore for, remove and dispose of said minerals by any means or methods
18 suitable to Grantor, its successors and assigns, but without entering upon or using the
19 surface of the lands hereby conveyed, or any portion of the subsurface of said lands
20 above a plane five hundred feet (500') below the surface of said land, and in such manner
21 as not to damage the surface of said lands or to interfere with the use thereof, as reserved
22 by Upland Industries Corporation, a California corporation, in Deed recorded December
23 24, 1981, as Instrument No. 81-1260114, Official Records.

24
25 **PARCEL 1-A - FNTC PTR 68033C-RD**

26
27
28 An easement for travel, oil, sever, gas and water pipe lines, telephone lines and other
29 utility lines with right of ingress and egress to install, repair and maintain such lines over
30 a strip of land 80 feet in width, said strip of land being described as follows:

31

P S O M A S

1 Those portions of Sections 5, 8 and 9, Township 2 south, Range 9 West, San Bernardino
2 Meridian, in the County of Los Angeles, State of California, according to the Official Plat
3 of said land filed in the District Land Office, September 28, 1858, and that portion of
4 Lot 3 of the subdivision of the land of William R. Rowland and Thomas Rhodes in the
5 Rancho La Puente, in said County and State, as per map recorded in Book 7, Page 6 and
6 7 of Miscellaneous Records, in the office of the County Recorder of said County,
7 described as follows:

8
9 Beginning at the Northerly terminus of that certain course in the Westerly line of said Lot
10 3, shown on said map as having a bearing of North 31° 30' East and a length of 19.77
11 chains on the map of said subdivision of the land of William R. Rowland and Thomas
12 Rhodes, said above described course bearing North 31° 24'45" East for the purpose of this
13 description; thence South 31° 24'45" West along said Westerly line 59.64 feet; thence
14 South 55° 45' 30" East, 1506.83 feet to Northwesterly line of the 100 foot right of way of
15 the Union Pacific (formerly the San Pedro, Los Angeles & Salt Lake), railroad; thence
16 39° 21'05" East 80.32 feet to a line parallel with the above described course having a
17 bearing of South 55° 45' 30" East and a length of 1506.83 feet and distant Northeasterly
18 80 feet, measured at right angles therefrom, thence North 55 ° 45' 30 " seconds West
19 along said parallel line to the Westerly line of said Lot 3; thence Southerly along said
20 Westerly line to the point of beginning.

21

22 **PARCEL 2 - FNTC PTR 68033C-RD**

23

24 Those portions of Section 8 and 9 in Township 2 South, Range 9 West, San Bernardino
25 Meridian, in the City of Industry, according to the Official Plat thereof, together with that
26 portion of Lot 3 of the Subdivision of the Land of William R. Rowland and Thomas
27 Rhodes in the Rancho La Puente, in said county and state, as shown on map recorded in
28 Book 7, Pages 6 and 7 of Miscellaneous Records, in the office of the County Recorder of
29 said County, more particularly described as follows:

30

P S O M A S

1 BEGINNING at the intersection of the Northwesterly line of the right of way of the
2 Union Pacific (formerly San Pedro, Los Angeles and Salt Lake Railroad Company) with
3 the Southerly prolongation of that certain center line course described in the deed to the
4 County of Los Angeles recorded January 29, 1929, as Instrument No. 1710, in Book
5 7444, Page 89, Official Records of said county, as having a bearing and length of "North
6 00° 10' 10" East 245. 01 feet"; thence Northerly along said prolongation and along said
7 center line, as described in said deed, to the Westerly prolongation of the Southerly line
8 of said Lot 3, thence Easterly along said last-mentioned prolongation to the Southwest
9 comer of said Lot 3, thence Northerly along the Westerly line of said Lot 3 to the most
10 Westerly comer of the land described in the deed to Chain-Bert Company, recorded May
11 14, 1957, as Instrument No. 1924 in Book 54494, Page 32 Official Records; thence
12 Southeasterly along the Southwest line of the land described, in said land-mentioned deed
13 to the Northwest line of the 100. 00 foot right of way of the Union Pacific Railroad
14 (formerly the San Pedro, Los Angeles and Salt Lake Railroad); thence Southwesterly
15 along said Northwest line to the point of beginning.

16
17 EXCEPT THEREFROM that portion of said land which lies within Brea Canyon Road
18 (formerly Anaheim-Spadra Road) 60. 00 feet wide, as described in deed to the County of
19 Los Angeles, recorded in Book 90, Page 372 of Deeds, records of said County.

20
21 ALSO EXCEPT THEREFROM that portion of said land which lies southwesterly line of
22 the easement of the Southern California Edison Company, 50 feet wide, as described in
23 deed recorded in Book 4706, Page 125 of Deeds, records of said County.

24
25 ALSO EXCEPT from that portion of said land lying within said Lot 3 "all precious
26 metals and ores thereof", as contained in the deed of partition of the Rancho La Puente
27 between William Workman and John Rowland, recorded in Book 10, Page 39 et seq., of
28 Deeds.

29
30 ALSO EXCEPT THEREFROM all minerals and all mineral rights of every kind and
31 character now known to exist or hereafter discovered, including, without limiting the

P S O M A S

1 generality of the foregoing, oil and gas and rights thereto, together with the sole,
2 exclusive and perpetual right to explore for, remove and dispose of said minerals by any
3 means or methods suitable to Grantor, its successors and assigns, but without entering
4 upon or using the surface of the lands hereby conveyed, or any portion of the subsurface
5 of said lands above a plane five hundred feet (500') below the surface of said lands, and
6 in such manner as not to damage the surface of said lands or to interfere with the use
7 thereof.

8
9

PARCEL 3.- FNTC PTR 68033C-RD

10
11
12
13
14
15
16
17

That portion of Sections 8 and 9, in Township 2 South, Range 9 West, San Bernardino
Meridian, in the City of Industry, county of Los Angeles, state of California, according to
the official plat of said land filed in the district land office on September 28, 1868,
together with that portion of lot 3 of the subdivision of the land of William R. Rowland
and Thomas Rhodes in the Rancho La Puente, in said city, county and state, as per map
recorded in book 7, pages 6 and 7 of miscellaneous records in the office of the county
recorder of said county, described as follows:

18
19
20
21
22
23
24
25
26
27
28
29
30
31

Beginning at the Northerly terminus of that certain course in the Westerly line of lot 3,
shown on said map recorded in book 7, pages 6 and 7 of miscellaneous records, as having
a bearing and length of North 31° 30' East 19.77 chains, which course for the purpose of
the description bears North 31° 24' 45" East, thence along the said Westerly line, South
31° 24' 45" West 19.59 feet to the center line of an 80 foot easement as said easement is
described in the deed to Edward Rothschild, a married man, recorded on April 8, 1955 as
instrument no. 1225 in book 47431, page 34 of official records, and the TRUE POINT
OF BEGINNING for this description; thence along said center line South 55° 45' 30"
East 1512.38 feet to the Northwesterly line of the 100 foot right of way of the Union
Pacific (formerly of the San Pedro, Los Angeles and Salt Lake) Railroad, thence along
said North westerly line, South 39° 21' 05 " West 1010.45 feet, thence North 50° 38' 55"
West 1384.24 feet to the said Westerly line of lot 3, thence thereon, North 31° 24' 45"
East 884.23 feet to the TRUE POINT OF BEGINNING.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

Excepting therefrom that portion of said land lying within said lot 3, "all precious metals and ores thereof", as contained in the deed of partition of the Rancho La Puente, between William Workman and John Rowland, recorded in book 10, page 39 et seq., of deeds.

NORTHERN PARCEL

A parcel of land, in the City of Industry, County of Los Angeles, State of California, bounded northwesterly by Valley Boulevard and southeasterly by Southern Pacific Railroad right of way, and being more particularly described as follows:

PARCEL 1 - FNTC PTR 68033D-RD:

Lot 2 partly in the City of Industry, partly in the City of Walnut, and partly in unincorporated territory, as shown on record of survey map filed in Book 78, Pages 1 to 5 inclusive of Record of Surveys, in the office of the County Recorder of said County.

EXCEPT THEREFROM all that portion of said Lot 2 described in deed recorded March 18, 1980 as Instrument No. 80-270344 of Official Records, in the office of said recorder.

ALSO EXCEPT THEREFROM all those portions of said Lot 2, described as Parcels 191A and 191 C in document recorded August 14, 1968 in Book D4100, Page 452 of said Official Records.

ALSO EXCEPT THEREFROM all that portion of said Lot 2 described as Parcel 1A in document recorded November 27, 1974 as Instrument No. 3613 of said Official Records.

ALSO EXCEPT THEREFROM all that portion of said Lot described as Parcel 192 in Book D2138, Page 126 of said Official Records.

P S O M A S

1 ALSO EXCEPT THEREFROM all that portion of said Lot bounded southwesterly by the
2 southeasterly prolongation of that certain course in the generally northwesterly line of
3 said Lot, shown as having a bearing and length of North 55 degrees 07 minutes 22
4 seconds West, 97.56 feet, and bounded southeasterly by the Parcel 192 in Book D2138,
5 Page 126 of said Official Records.

6
7

8 **PARCEL 2 - FNTC PTR 68033D-RD:**

9
10

11 That portion of Lot 19 of W. R. Rowland's Subdivision, in the City of Industry, as shown
12 on map recorded in Book 42 Pages 79 and 80 of Miscellaneous Records, in the office of
13 the County Recorder of said county, together with those portions of the Rancho La
14 Puente being unnumbered lot, as shown on said map of W R Rowland's Subdivision,
15 adjoining said Lot 19 on the West and on the North, described as a whole as follows:

16
17

18 Beginning at the Southeasterly terminus of that certain course in the Easterly boundary of
19 the land described in Parcel 31D in the Final Decree of Condemnation entered Los
20 Angeles County Superior Court Case No. 903761, a certified copy of which was recorded
21 May 12, 1972 as Instrument No. 3343, of Official Records of said county, as having a
22 bearing of "South 57° 31' 03" East" ; thence Northeasterly along the Southerly line of said
23 Lot 19 to and along the Southeasterly line of Parcel 2 in said city, county, and state, as
24 shown on record of survey, filed in Book 78, Pages 1 to 5 inclusive of Record of Surveys
in said recorder's office, a distance of 773 feet; thence Northwesterly along a line that is

25 at right angles to said Southwesterly line to the intersection with the Easterly line of said
26 Lot 19, said intersection being the true point of beginning; thence continuing
27 Northwesterly along, said line to the Easterly boundary of the land described in Parcel
28 31D of said hereinabove mentioned Final Decree of Condemnation; thence Northeasterly
29 along said Easterly boundary to the Easterly boundary of said unnumbered lot, thence
30 Southerly along the Easterly boundary of said unnumbered lot to and along Easterly line
31 of said Lot 19 to the true point of beginning, being the property described in deed

1 recorded March 18, 1980 as Instrument No. 80-270348 of Official Records, in the office
2 of said County.

3
4 **PARCEL 3 - FNTC PTR 68033D-RD:**

5
6 That portion of Lot 18 of W R. Rowland's Subdivision of a portion of the Rancho La
7 Puente, in the City of Industry, as per map filed in Book 4Z Pages 79 and 80 of
8 Miscellaneous Records, in the office of the County Recorder of said County and that
9 portion of the Rancho La Puente, being an unnumbered lot adjoining on the South, as
10 shown on the map, described as a whole as follows:

11
12 Beginning at the most Northerly comer of said Lot 18, thence along the Northerly line of
13 said Lot 18, South 75° 23' 50 " West, 378.06 feet, to a point in the Southeasterly line of
14 Valley Boulevard, (formerly Pomona Boulevard) as described in Parcel 1 of the deed to
15 the County of Los Angeles, recorded in Book 16082, Page 243, Official Records, in said
16 office of county recorder, said Southeasterly line being a curve, concave Southeasterly
17 and having a radius of 950 feet; a radial line of said curve from said point bears South 34°
18 54' 13" East, thence Southwesterly along said curve Southeasterly line, through a central
19 angle of 36° 50' 45" an arc distance of 610.93 feet, thence continuing along said
20 Southeasterly line and tangent to said curve, South 18° 15' 00" West to the Northwesterly
21 terminus of that certain course shown as "South 69° 22' 35" East 89.97 feet" in Parcel 31
22 D in the Final Order of Condemnation had in Superior Court Case No. 903761, a certified
23 copy of which recorded May 12, 1972 in Book D5459, Page 492 of said Official
24 Records; thence along the lines of the land described in said Parcel 31 D as follows:

25
26 South 69 °22' 35 East 89.97 feet; South 20° 37'25" West 170.07 feet; Southwesterly
27 along a tangent curve concave Southeasterly and having a radius of 3355.00 feet, an arc
28 distance of 161.74 feet; tangent to said curve South 17° 51' 41 " West 12.81 feet, having a
29 radius of 1295.00 feet, from a tangent which bears North 35° 17'49" East, an arc distance
30 of 552.23 feet and tangent North 59° 43' 47" East to the Southeasterly line of said Lot 18;
31 thence Northeasterly thereon to the point of beginning.

P S O M A S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

EXCEPT that portion of said Lot 18, described as follows:

Beginning at the intersection of the Southeasterly boundary line of Rancho La Puente with the centerline of Valley Boulevard (70 feet wide) as said intersection is shown on County Surveyor's Map No. B-2897, filed in the office of the County Engineer of said county, thence South $61^{\circ} 33' 40''$ West along said centerline of Valley Boulevard, a distance of 246.07 feet; to the beginning of a tangent curve, concave Southeasterly and having a radius of 1,500.00 feet as said curve is shown on County Surveyor's Map No. B-14149, Sheet 3, filed in said office of County Engineer, said curve also being the proposed centerline of Valley Boulevard (100 feet wide); thence Southwesterly along said curve through a central angle of $22^{\circ} 36' 50''$ an arc distance of 592.03 feet to a point, a radial line of said curve to said point bears North $51^{\circ} 03' 10''$ West; thence South $51^{\circ} 03' 10''$ East, along said radial line, a distance of 11.45 feet, more or less, to a point on the Southeasterly line of Valley Boulevard (formerly Pomona Boulevard) described in Parcel 1 of a deed to the County of Los Angeles recorded in Book 16082 Page 242 of said Official Records, said point being the true point of beginning, thence Northeasterly along said Southeasterly right of way line of Valley Boulevard, as described in said deed, a curve concave Southeasterly and having a radius of 950 feet, an arc distance of 205.08 feet; to a point on the future centerline of Grand Avenue (100 feet wide), as said centerline is shown on said County Surveyor's Map No. B-2897, a radial line of said curve to said point bears North $39^{\circ} 07' 47''$ West, thence Southeasterly along said future centerline of Grand Avenue, being a curve concave Northeasterly and having a radius of 1,500 feet, through a central angle of $6^{\circ} 46' 23''$, an arc distance of 177.31 feet to a point on said curve, a radial line of said curve to said point bears South $40^{\circ} 16' 49''$ West, thence South $40^{\circ} 16' 49''$ West, along the prolongation of the last mentioned radial line, a distance of 189.08 feet, more or less, to the aforementioned radial line which passes through the true point of beginning; thence North $51^{\circ} 03' 10''$ West, along said aforementioned radial line, a distance of 192.68 feet, more or less, to the true point of beginning.

1 **PARCEL 4 - FNTC PTR 68033D-RD::**

2
3 That portion of Lot 18 of W. R. Rowland's Subdivision, in the City of Industry, as per
4 map filed in Book 42 Pages 79 and 80 of Miscellaneous Records, in the office of the
5 County Recorder of said County, described as follows: Beginning at the intersection of
6 the Southeasterly boundary line of Rancho La Puente with the centerline of Valley
7 Boulevard (70 feet wide) as said intersection is shown on County Surveyor's Map No.
8 B-2597, thence South $61^{\circ} 33' 40''$ West along said centerline of Valley Boulevard, a
9 distance of 246.07 feet to the beginning of a tangent curve concave Southerly and having
10 a radius of 1500.00 feet as curve is shown on County Surveyor's Map No. B- 1419, Sheet
11 3, in the office of the County Engineer of said county, said curve also being the proposed
12 centerline of Valley Boulevard (100 feet wide); thence Southwesterly along said curve
13 through a central angle of $22^{\circ} 36' 50''$ an arc distance of 592.03 feet to a point, a radial to
14 said point bears North $51^{\circ} 03' 10''$ West; thence South $51^{\circ} 03' 10''$ East along said
15 Southeasterly line of the land described in Parcel 1 of a deed to the County of Los
16 Angeles, recorded in Book 16082, Page 242, Official Records of said county; said point
17 also being the true point of beginning, thence Northeasterly along said Southeasterly
18 right-of-way line of Valley Boulevard, as described in said deed, being a curve concave
19 Southeasterly and having a radius of 950.13 feet, a central angle of $12^{\circ} 22' 03''$, an arc
20 distance of 205.08 feet, to a point on the future centerline of Grand Avenue, (100 feet
21 wide) as said centerline is shown on said County Surveyor's Map No. B-2897, a radial to
22 said point bearing North $39^{\circ} 07' 17''$ West, thence Southeasterly along said future
23 centerline of Grand Avenue, being a curve concave Northeasterly and having a radius of
24 1500 feet, a central angle of $6^{\circ} 46' 23''$ an arc distance of 177.31 feet to a point on said
25 curve, a radial of said last mentioned curve to said point bearing South $40^{\circ} 16' 49''$ West;
26 thence South $40^{\circ} 16' 49''$ West along the prolongation of the last mentioned radial line, a
27 distance of 189.08 feet, more or less, to the aforementioned radial line which passes
28 through the true point of beginning; thence North $51^{\circ} 03' 10''$ West along said
29 aforementioned radial line a distance of 192.68 feet, more or less to the true point of
30 beginning.

31

1 This Legal Description as described is delineated on the accompanying "PROJECT
2 LEGAL DESCRIPTION" and is made a part hereof for reference purposes.

3

4 This legal description is not intended to be used in the conveyance of land in violation of
5 the Subdivision Map Act of the State of California.

6

7

8 This legal description was compiled under the direction of:

9

Robert C. Olson

10

Robert C. Olson, PLS 5490

11

12

Psomas

13

14

Date: 5.28.99

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31



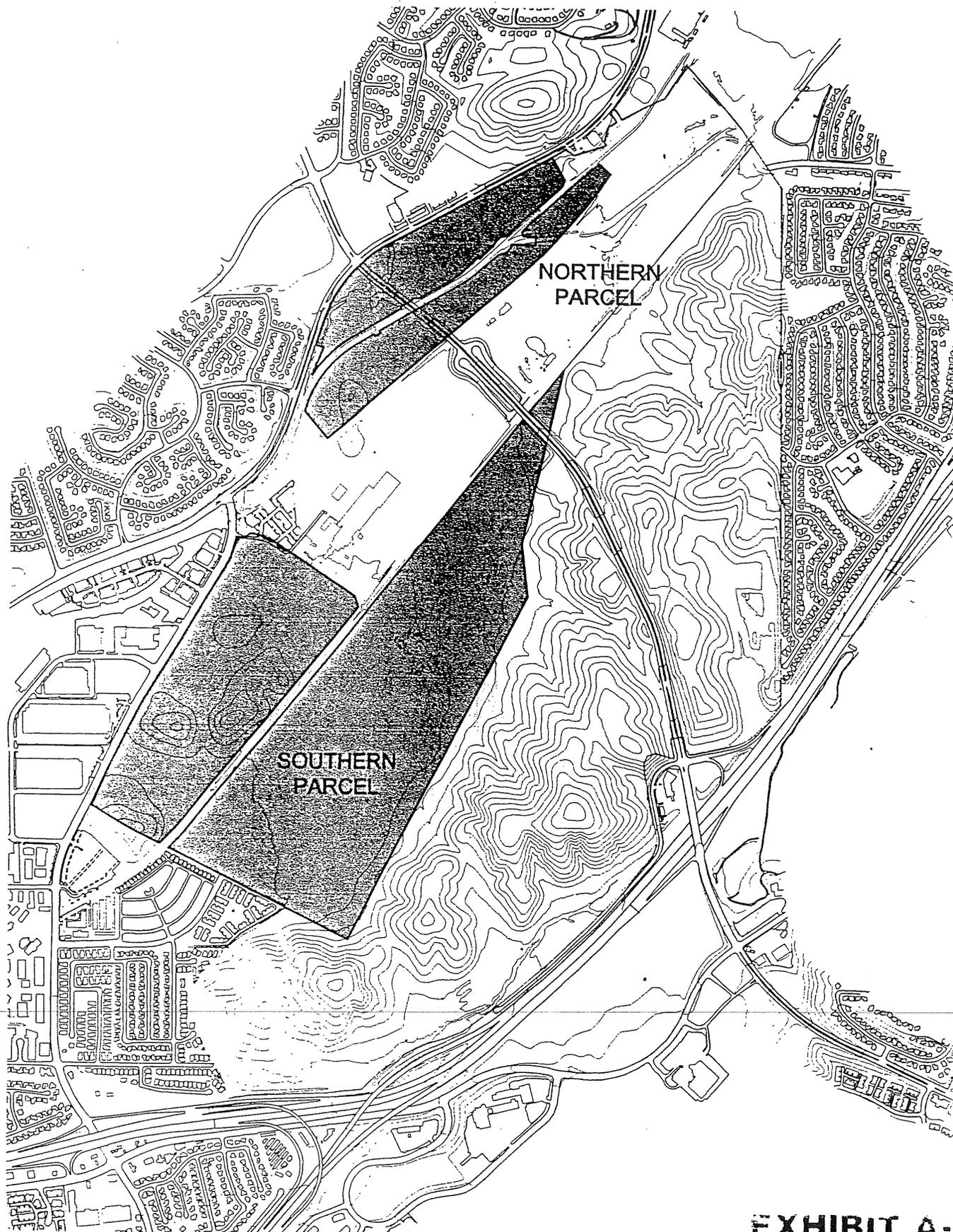
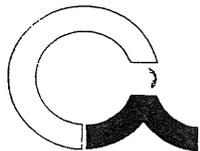


EXHIBIT A-



Project Legal Description

CITY OF INDUSTRY CALIFORNIA

INDUSTRY URBAN DEVELOPMENT AGENCY

4 ACRES



SCALE 0' 400' 800' 1600' 2000'

JOB NO: 11ND0503
DATE: 05/21/99

REVISED ON:



EXHIBIT "B"

INDUSTRY URBAN DEVELOPMENT AGENCY

May 27, 1999

SCOPE OF AGENCY IMPROVEMENTS

The Agency will, at its cost and expense, design and construct the public improvements, located within the public rights of way, reasonably necessary to adequately serve the Project and to provide the mitigation required for the Project to satisfy the requirements of the California Environmental Quality Act ("CEQA"). Said public improvements shall include:

A. Roads

Design and construct streets and all utilities and infrastructure for the following project roadways. (See attached Jurisdiction and Circulation.)

Street improvements will include curb, gutter, and road pavement design and grades and sidewalks. Street lighting, traffic signals, pavement striping, traffic control signage, landscape and irrigation for roadway medians are also included.

Street A – from Grand Ave to west project boundary, including special intersection design at Grand Avenue, all street improvements, utilities and infrastructure.

Street B – From Street "A" to Brea Canyon Road including design and construction of the Union Pacific Rail Road ("UPRR") undercrossing for B Street and intersection modifications at Brea Canyon Road all street improvements, utilities and infrastructure.

Street C – From Street "B" to Old Ranch Road, all street improvements, utilities and infrastructure.

Street D – From Grand Avenue west to the end of the cul de sac and east along the south side of the San Jose Creek, then northerly across San Jose Creek to Valley Boulevard, all street improvements, utilities, and infrastructure, including the bridge over the San Jose Creek.

Old Ranch Road – Modify intersection at Brea Canyon Road, including reconstruction of Brea Canyon Road at the existing intersection, all street improvements, utilities and infrastructure.

Intersection of Brea Canyon Road and Valley Boulevard – Modify intersection to accommodate project related turn movements. This work may include widening the bridge on Brea Canyon Road at San Jose Creek. All street improvements, utilities and infrastructure.

EXHIBIT "B"
(Continued)

include widening the bridge on Brea Canyon Road at San Jose Creek. All street improvements, utilities and infrastructure.

Intersection of Grand Avenue and Valley Boulevard – Modify intersection to allow widening on both streets to accommodate turn movements.

B. Master Hydrology

Prepare a master hydrology report and construct the required improvements for the re-development project site based on full buildout of Project as depicted on the attached proposed project exhibit. Agency will use reasonable efforts to obtain approval for, and construct a box culvert to contain the flow of Snow Creek through the Site to its connection with San Jose Creek. The hydrology report will require approval from the Los Angeles County Food Control District for storm drain connections to San Jose Creek.

C. Storm Drain System

Design and construct a storm drainage system to convey water from the planned public streets described above. The storm drainage system will be designed to carry storm water flows from the planned development areas and adjacent property. Lateral stubs will be extended to the street right of way for each development lot. Design and construct improvements to Snow Creek drainage system. (See attached Storm Drain System.)

D. Sanitary Sewer:

Design and construct sanitary sewer main lines within the project roadways and easements where necessary, to serve each lot within the project development. Plans will include main line connections to existing trunk sewers, and crossings of San Jose Creek, and the railroad right of ways. (See attached Sewer System.)

Design and construct Siphon on the main trunk sewer adjacent to the UPRR right of way to accommodate the planned road undercrossing on Street B.

E. Water

Design and construct potable water lines within Street A, Street B, Street C and Street D. Lines will connect to the existing systems in Grand Avenue, Valley Boulevard and Brea Canyon Road. Service laterals to each lot will be provided, however meter vaults and back flow preventors will not be set. The location of such meter vaults and back flow preventers shall be established by the Developer. (See attached Water System).

EXHIBIT "B"
(Continued)

Install Fire Hydrants as required.

F. Reclaimed Water

Design and construct reclaimed water lines within Street A, Street B, Street C and Street D.

Street A, Street B and Street C water lines will connect to the existing systems in Grand Avenue and Brea Canyon Boulevard. Services laterals to each lot will be provided, however meter vaults and back flow preventers will not be set. The location of such meter vaults and back flow preventers will be established by the Developer. (See attached Reclaimed Water System.)

Street D water lines will connect to the existing systems in Grand Avenue and Valley Boulevard. Services laterals to each lot will be provided, however meter vaults and back flow preventers will not be set (See attached Reclaimed Water System.)

G. Dry Utilities

Design and construct ducts, vaults, junction boxes and related substructure elements for Electrical, Telephone (including fiber optics), and main line Gas systems. Line and ducts will stubbed to the right of way line to provide service to each lot. Such work shall be coordinated with utility companies.

H. Grading

Design and construct mass grading at elevations predetermined by Developer and Agency, to remove existing hill areas north of UPRR right of way. Export material will be transported and placed as compacted fill within the street rights of way south of the UPRR right of way for the construction of public improvements. Any excess material will be transported and placed at a location, designated by Developer, south of the UPRR right of way for further processing by Developer. The existing utility lines crossing such hill areas will be relocated.

I. Grade Separated Rail/Street Crossing

Design and construct grade separated Rail/Street Crossing, construct a shoofly and relocate existing rail lines at UPRR right of way and "B" Street.

J. Rail Within Union Pacific Rail Road Right-of-Way

EXHIBIT "B"
(Continued)

Work with the UPRR to design and construct required rail improvements within the Union Pacific Rail Road Right-of-Way.

K. Additional Work

Any additional public improvements required to satisfy the CEQA mitigation requirements for the Project.

PLEASE RECORD AT REQUEST OF
THE INDUSTRY-URBAN DEVELOPMENT AGENCY
AND WHEN RECORDED
RETURN TO:

Secretary
Industry Urban-Development Agency
15651 East Stafford Street
Industry, California 91744

EXEMPT FROM RECORDER'S FEES
pursuant to Government Code
Sections 6103 and 27383

DISPOSITION AND DEVELOPMENT AGREEMENT

by and between the

INDUSTRY URBAN-DEVELOPMENT AGENCY,
a governmental entity

and

INDUSTRY EAST LAND, LLC
a limited liability company

June 24, 1999

DISPOSITION AND DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into by and between Industry Urban-Development Agency, a redevelopment agency (the "Agency") and Industry East Land, LLC, a limited liability company (the "Developer").

WITNESSETH:

The parties hereto do agree as follows:

Section 1. Purpose of Agreement

The purpose of this Agreement is to effectuate the Redevelopment Plan (hereinafter "Plan") for the Transportation-Distribution-Industrial Project No. 2 Project Area (hereafter "Project Area") which is located entirely within the City of Industry ("City") by providing for the redevelopment of certain real properties, hereafter described, located within the Project Area, in accordance with the Plan.

Section 2. Recitals

This Agreement is made and entered into with respect to the following facts:

- A. The real property to be leased and redeveloped pursuant to this Agreement (the "Site") is specifically described and depicted on Exhibits Numbers 1 and 2; and
- B. This Agreement is entered into for the purpose of the redevelopment of the Site and not for speculation in land holding; and
- C. Developer has agreed to assist in the Agency's efforts to redevelop the Site which is located in the Project Area; and
- D. Redevelopment of the Site is necessary to promote the continuing elimination and prevention of blight in the Project Area; and
- E. That the Site is currently owned by the Agency and is partially improved and partially unimproved, and
- F. That Agency intends to demolish all improvements currently on the Site; and
- G. That Agency has agreed that it will lease the Site for purposes of redevelopment in accordance with the provisions of this Agreement; and
- H. During the term of this Agreement and the Lease of the Site, as part of its development of the Site in phases, the Developer may from time to time subdivide the Site into

separate legal lots ("Development Parcels") in accordance with the Lease of the Site and applicable California law.

I. That Developer and Agency, pursuant this Agreement will cause the redevelopment of the Site as described in the Scope of Developer's Development (Exhibit No. 6) and Scope of Agency Improvements (Exhibit No. 7); and

J. The redevelopment of the Site pursuant to this Agreement is in the vital and best interest of the City and the health, safety, and welfare of its residents, and the Agency. Such redevelopment is in accordance with the public purposes and provisions of applicable state and local laws and the Plan; and

K. The redevelopment of the Site pursuant to this Agreement will assist in the elimination of blight in and adjacent to the Project Area as the addition of new buildings, structures and uses on the Site will enhance the viability of the Project Area, assist in the upgrading of existing industrial space and prevent the creation of blight in the immediate area of the Site; and

L. That the redevelopment of the Site will be of material benefit to the redevelopment of the Project Area and to the benefit of the City and its residents, in that it will provide for the new and expanded businesses resulting in creation of new positions of employment as well as substantial increases in existing tax revenues; and

M. The redevelopment of the Site will implement the purposes and goals set forth in the Plan and will insure that the integrity of the Project Area will not be adversely affected by elements of blight defined as such in applicable law; and

N. This Agreement pertains to and affects the ability of Agency to finance its statutory obligations and for all parties to finance and carry out the purposes of this Agreement and the goals of the Plan and is a Contract within the meaning of Government Code Section 53511.

Section 3. The Redevelopment Plan

The Plan was approved and adopted by the City Council of the City on June 13, 1974, by Ordinance No. 346. The said Plan is incorporated herein by this reference.

Section 4. Parties to the Agreement

A. The Agency. The Agency is a redevelopment agency, exercising governmental functions and powers and is organized and existing under and by virtue of the Community Redevelopment Law of the State of California (Section 33000, et seq., Health and Safety Code; hereafter "Act") and other applicable laws. The principal office of the Agency is located at 15651 East Stafford Street, Industry, California.

B. The Developer. The Developer is a California Limited Liability Company duly organized and existing under the laws of the State of California. The principal office of Developer is at the following address:

Industry East Land, LLC
c/o Majestic Realty Co.
13191 Crossroads Parkway North, Sixth Floor
City of Industry, California 91746-3497
Attn: Edward P. Roski, Jr.

Section 5. Prohibition Against Change in Ownership, Management and Control of Developer

The qualifications and identity of Developer is of particular concern to the Agency. It is because of their respective qualifications and identity that the Agency has entered into this Agreement with the Developer. Therefore, no voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement except as expressly set forth herein.

The rights and limitations of Developer to assign all or any of its rights or duties under this Agreement or convey or encumber the Site shall be the same as the provisions for assignment of rights or duties or encumbrance of the Site as set forth in the Lease.

All of the terms, covenants and conditions of this Agreement shall be binding upon and shall inure to the benefit of the Developer and the permitted successors in interest of the Developer, except as set forth expressly in this Agreement. Whenever the term "Developer" is used herein, such term shall include any and all lawful successor in interest of Developer.

Section 6. The Project

The Project to which this Agreement relates, is the redevelopment of the Site as described on the Scope of Development.

Section 7. Contract Documents

The Contract Documents, which are part of this Agreement, and each of which is incorporated herein by this reference, are as follows:

Exhibit No. 1 Description of Site

Exhibit No. 2 Map of Site

Exhibit No. 3 Developer's Schedule of Development

Exhibit No. 4 Agency's Schedule of Development

Exhibit No. 5 Lease

Exhibit No. 6 Scope of Developer's Development

Exhibit No. 7 Scope of Agency Improvements

Section 8. Term

The term of this Agreement ("Term") shall commence on the Effective Date of this Agreement and shall end on the date that the last Certificate of Completion is issued evidencing that all of the improvements required pursuant to the Developer's Schedule of Development, Exhibit No. 3, have been completed, or on June 1, 2015, whichever is earlier. This Agreement shall cease to be applicable to any specific separate parcel of property within the Site whenever the Agency issues a Certificate of Completion as to that parcel.

Section 9. Developer's Obligations

In addition to the other obligations imposed upon Developer pursuant to this Agreement, Developer shall:

- A. Execute and implement the Lease Agreement; and
- B. Be responsible for paying its share of the cost of the redevelopment of the Site as provided in Exhibit 6 in accordance with the provisions of this Agreement and the Lease.

Section 10. Agency's Obligations

In addition to all of the other obligations imposed on Agency pursuant to this Agreement, Agency shall:

- A. Execute and implement the Lease Agreement; and
- B. Be responsible for paying its share of the cost of the redevelopment of the Site as provided in Exhibit 7 in accordance with the provisions of this Agreement and the Lease.

Section 11. Effective Date Of Agreement; Validation; Compliance With CEQA

A. This Agreement shall not be effective unless and until both of the following events occur, upon the date the last event occurs: (1) a judgment pursuant to Section 860 *et seq.* of the Code of Civil Procedure, is entered validating this Agreement and the applicable appeal periods have expired; and (2) Agency elects to file a Notice of Determination pursuant to the California Environmental Quality Act ("CEQA"), Section 21152 of the California Public Resources Code, reflecting Agency's approval of the project and Agency's compliance with CEQA for this approval. The date the last event occurs shall be the "Effective Date" of this Agreement.

B. This Agreement shall not be a legally binding document unless and until the Agency complies with CEQA, including without limitation the completion and certification of an Environmental Impact Report ("EIR") as specified under CEQA. Unless and until the Agency takes action to approve the project and files said Notice of Determination, this Agreement shall not be a legally binding document, and the Agency shall retain the sole and absolute discretion to take any action it may deem appropriate, including without limitation a decision to approve the project as proposed by Developer, or disapprove the proposed project, or propose a new and

different project, project alternative or project with different or additional mitigation measures. The Agency shall at all times prior to the Effective Date be entitled to take any such action without incurring any cost, damage, liability or expense to the Developer under this Agreement.

C. It is the intention of the Parties that prior to any filing of the Notice of Determination described above, this document shall be regarded as a mere "statement of intent" "which is not a binding agreement" of the type permitted prior to the completion of the environmental process by the court in *City of Vernon v. Board of Harbor Commissioners*, 63 Cal. App. 4th 677, 690, and that this "statement of intent" shall be used to define the proposed "project" to be analyzed in the EIR prepared by the Agency pursuant to CEQA. Developer shall have the right to cancel this Agreement if the Agency fails to file any such Notice of Determination by January 31, 2003, by providing written notice of such cancellation to Agency.

D. Agency shall, at its expense, file the validation action within thirty (30) days of the execution of the Agreement by all parties and shall diligently exercise its best efforts to prosecute such action to a successful conclusion. In the event the final judgment is not entered or the applicable appeal periods have not expired by December 31, 2003, either party may terminate this Agreement pursuant to the provisions hereof.

Section 12. Representations And Warranties by Agency

Agency represents and warrants that the City's General Plan and Zoning Ordinance permit, the contemplated development, construction and operation of the uses described on the Scope of Development on the Site, subject to the Developer obtaining any and all necessary entitlements required pursuant to applicable law, including, without limitation, the City's Municipal Code, and the Plan and further subject to the Developer obtaining any and all entitlements including, but not limited to, those necessary for height, parking, signs and any and all other matters.

Section 13. Site

In accordance with and subject to all terms, covenants and conditions of this Agreement, the Agency and Developer agree hereby to execute and implement the Lease Agreement providing for redevelopment of the Site.

Section 14. Developer And Agency Costs

Developer and Agency shall be obligated to pay for their respective share of the costs of redevelopment of the Site, as set forth in this Agreement and the Lease.

Section 15. Condition of Property

The Developer and Agency responsibilities for the current and future condition of the Site under this Agreement shall be as set forth in the Lease.

Section 16. Lease of Site. Title

Agency agrees that it will execute a lease of the Site in the form attached hereto as Exhibit No. 5, to Developer, as specifically set forth in the Lease.

Section 17. Demolition of Improvements; Removal of Hazardous Materials

Developer and Agency responsibilities for the demolition of improvements and the removal of Hazardous Materials under this Agreement shall be as set forth in the Lease.

Section 18. Scope of Developer's Development (Exhibit No. 6)

Developer shall provide its share of the work need to redevelop the Site during the term of this Agreement, as described in the Scope of Developer's Development, Exhibit No. 6, subject to the approvals of Agency described herein and of the City as required by the Industry Municipal Code, and other applicable laws.

Section 19. Covenant to Maintain Usage of the Site

Developer and any permitted assignee shall use the Site during the term of this Agreement, as set forth under the terms of the Lease.

Section 20. Approvals

Developer or Agency approvals required pursuant to this Agreement shall not be unreasonably withheld. Failure by the Agency or Developer to either approve or disapprove matters for which approval is required within the times established by this Agreement shall be deemed an approval. Any disapproval shall state in writing the reasons for disapproval.

Section 21. Construction

Developer and Agency obligations for the construction of improvements on the Site under this Agreement shall be as set forth in the Lease.

Section 22. Insurance

The Parties shall undertake the insurance obligations contained in the Lease during the term of this Agreement.

Section 23. City and Other Governmental Agency Permits

Before commencement of construction or redevelopment of any buildings, structures or other work of improvement on the Site, each Party undertaking construction on the Site shall, at its own expense, secure or cause to be secured any and all permits which may be required by the City and any other governmental Agency having jurisdiction as to such construction, development or work. The Agency shall provide all proper assistance to the Developer in securing these permits.

Section 24. Rights of Access

A. For the purpose of assuring compliance with this Agreement, representatives of the City and Agency shall have the right of access to the Site, without charge or cost, during normal construction hours during the period of construction of the Project for the purposes of inspection of the work being performed in constructing the improvements.

B. The Developer and the Agency agree to cooperate in placing and maintaining on the Site signs indicating the respective parts of the Developer and the Agency in the Project. The cost of the signs shall be borne equally by the Parties.

Section 25. Local, State and Federal Laws

The Parties shall carry out the provisions of this Agreement in conformity with all applicable local, state and federal laws and regulations.

Section 26. Certificates of Completion

A. Promptly after completion of all construction and development to be completed by the Developer upon any Development Parcel, the Agency shall furnish the Developer with a Certificate of Completion for such Development Parcel upon written request therefor by the Developer. The Agency shall not unreasonably withhold the Certificate of Completion. Such Certificate of Completion shall be a conclusive determination of satisfactory completion of the construction required by this Agreement of Developer upon the applicable Development Parcel and of full compliance with the terms hereof with respect to the applicable Development Parcel, and the Certificate of Completion shall so state.

B. After recordation of the Certificate of Completion for a Development Parcel, any party then leasing or thereafter leasing or otherwise acquiring any interest therein shall not incur any obligation or liability under this Agreement, except that such party shall be bound by any covenants contained in the Lease, which by the terms of the Lease survive this Agreement. Neither the Agency nor any other person, after recordation of the Certificate of Completion, shall have any rights, remedies or controls that it would otherwise have or be entitled to exercise under this Agreement with respect to the applicable Development Parcel, as a result of a default in or breach of this Agreement.

C. A Certificate of Completion shall be in such form as to permit it to be recorded in the Recorder's Office of Los Angeles County.

D. If the Agency refuses or fails to furnish a Certificate of Completion for the Site, after written request from the Developer, the Agency shall, within thirty (30) days of written request therefor, provide the Developer with a written statement of the reasons the Agency refused or failed to furnish a Certificate of Completion. The statement shall also contain Agency's opinion of the actions the Developer must take to obtain a Certificate of Completion. If the Agency shall have failed to provide such written statement within said 30-day period, the Developer shall be deemed entitled to the Certificate of Completion.

E. Such Certificate of Completion is not a “notice of completion” referred to in Section 3093 of the California Civil Code.

Section 27. Covenants for Non-Discrimination

A. The Developer shall perform the covenants set forth in the Lease that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry in the use and occupancy, of the Site. nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the use or occupancy of the Site as set more specifically set forth in the Lease.

B. As set forth in the Lease, the Developer shall refrain from restricting the rental, sale or lease of the Site on the basis of race, color, creed, religion, sex, marital status, handicap, national origin or ancestry of any person

C. The covenants established in the Lease shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Agency, its successors and assigns, the City and any successor in interest to the Site or any part thereof. The covenants shall have the duration set forth in the Lease.

Section 28. Maintenance Covenants

The Developer, and all its successors in interest to the Site, shall be obligated to maintain the Site as set forth in the Lease.

Section 29. Agency Enforcement of Covenants

The Agency shall be entitled to enforce the covenants contained in the Lease under the terms and provisions of the Lease, despite the termination of this Agreement or the filing of any Notice of Completion, for the duration of the term of the covenants as set forth in the Lease. The provisions of this Agreement shall be subordinate to the lien of Developers’ financial institution financing the redevelopment of the Site.

Section 30. Continuation of Covenants

A. Covenants Running with the Lease. Certain Covenants set forth in the Lease shall run for duration of the Lease.

B. Construction Covenants. Covenants relating to construction of improvements on a development parcel shall expire upon the issuance by Agency of a Certificate of Completion as to said development parcel. Covenants in the Lease, relating to the use of the Site and improvements thereon, shall expire as set forth in the Lease.

C. Breach. The Agency, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach.

Section 31. Conflicts of Interest

The Developer warrants that it has not paid or given and will not pay or give any officer, employee or agent of the City or Agency any money or other consideration for obtaining this Agreement.

Section 32. Enforced Delay; Extension of Times of Performance

A. In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where party seeking the extension has acted diligently and delays or defaults are due to events beyond the reasonable control of the party or causes beyond the control or without the fault of the party claiming an extension of time to perform.

B. Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause.

C. Times of performance under this Agreement may also be extended in writing by the mutual agreement of Agency and the Developer.

Section 33. Non-liability of Officials and Employees of the Agency

No elected or appointed officer, agent or employee of the Agency or the City shall be personally liable to the Developer, or any successor in interest, pursuant to the provisions of this Agreement or the Lease Agreement, nor for any default or breach by the Agency or the City.

Section 34. Defaults - General

The procedure for notices of default, procedure for curing defaults, and the procedure for remedies for default under this Agreement shall be the same as those set forth in Section 2.14, 2.15, and 2.18 and the other provisions of the Lease for defaults under the Lease.

Section 35. Termination by the Developer

The Developer may terminate this Agreement and its obligations hereunder, subject to the procedural provisions of this Agreement, if the Agency does not tender possession of Site in the manner and condition contemplated by the Lease Agreement and this Agreement, including the completion of the work specified in Exhibit No. 7, Scope of Agency Improvements, within 10 years from the Effective Date.

Section 36. Termination by the Agency

Agency may elect to terminate this Agreement if Developer fails to complete its obligations as set forth in the Developer's Schedule of Development, Exhibit No. 3, and the Scope of Developer's Development, Exhibit No. 6.

In the event the Lease or any Separate Lease has been terminated as to any development parcel, the Agency may also elect to terminate this Agreement as to such development parcel. The Agency's obligations related to the remaining portions of the Site shall not be affected.

Section 37. Procedure for Termination

In order to terminate this Agreement prior to the execution of the Lease of the Site to Developer, for any of the reasons set forth in this Agreement, above, the party proposing to terminate shall deliver written notice of its intent to do at least fifteen (15) days prior to the proposed date of termination and stating the reasons for termination. The party proposing to terminate the Agreement may withdraw the proposed termination at any time prior to the effective date of such termination.

Section 38. Consequences of Termination

In the event of termination of this Agreement neither party shall have any rights or recourse against the other, except:

- A. In the event of termination of this Agreement by Agency pursuant to Section 36, Agency shall be entitled to recover possession of the Site as provided for under the Lease, except for such portions of the Site which are the subject of Separate Leases.
- B. In the event of termination by Developer pursuant to Section 35, Developer shall be entitled to recover the losses caused by the Agency's failure to perform its obligations under this Agreement.
- C. In the event of termination by either party, both parties shall continue to have the the right to enforce certain covenants in the Lease for the duration of their term as set forth in the Lease as provided in Sections 27, 28, 29 and 30 of this Agreement.

Section 39. Amendments to this Agreement

The Developer and the Agency agree to mutually consider reasonable requests for amendments to this Agreement which may be made by Developer's lending institutions, provided said requests are consistent with this Agreement and would not substantially alter the basic business terms included herein.

Section 40. Notices

Whenever notices are required to be given pursuant to the provisions of this Agreement, the same shall be in written form and shall be served upon the party to whom addressed by personal service as required in judicial proceedings, or by deposit of the same in the custody of the United States Postal Service or its lawful successor in interest, postage prepaid, addressed to the Parties as follows:

AGENCY:

Industry Urban-Development Agency
15651 East Stafford Street
Industry, CA 91744
Attn: Executive Director

DEVELOPER:

Industry East Land, LLC
c/o Majestic Realty Co.
13191 Crossroads Parkway North, Sixth Floor
City of Industry, California 91746-3497
Attn: Edward P. Roski, Jr.
Facsimile: (562) 692-1553

Notices shall be deemed, for all purposes, to have been given on the date of personal service or three (3) consecutive calendar days following the deposit of the same in the United States mail.

Section 41. Binding Effect

The provisions of this Agreement shall be binding upon the Parties hereto and their respective successors in interest.

Section 42. Section Headings

The section headings contained in this Agreement are for convenience and identification only and shall not be deemed to limit or define the contents of the sections to which they relate.

Section 43. No Presumption Re: Drafter

The Parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the Parties and their attorneys, and this Agreement reflects their mutual agreement regarding the same. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this Agreement, and therefore no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

Section 44. Assistance of Counsel

Each party to this Agreement warrants to each other party, as follows:

- A. That each party either had the assistance of counsel or had counsel available to it, in the negotiation for, and execution of, this Agreement, and all related documents; and
- B. That each party has lawfully authorized the execution of this Agreement.

Section 45. No Third Party Beneficiaries; No Agency; No Joint Venture

There are no third party beneficiaries to this Agreement. Only the entities which sign this Agreement are parties to this Agreement. Neither party shall be the agent or partner of the other. This Agreement does not create any joint venture or partnership between the Parties. Each Party is acting for itself alone, and is not acting as the agent, partner or joint venturer of any other person or entity.

Section 46. Severability

This Agreement shall not be deemed severable. If any provision or part hereof is judicially declared invalid, this Agreement shall be void and of no further effect.

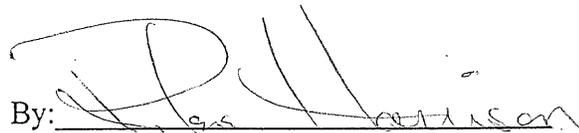
Section 47. Modification

This Agreement shall not be modified except by written agreement of the Parties.

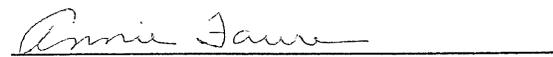
IN WITNESS WHEREOF, the Agency and the Developer have caused this Agreement to be executed as follows.

AGENCY

INDUSTRY URBAN-DEVELOPMENT AGENCY

By: 
Rolene Harrison
Chairman

ATTEST:


Annie Faure
Secretary

DEVELOPER

INDUSTRY EAST LAND, LLC, a
California Limited Liability Corporation

BY: Majestic Realty Co., a California corporation, its Manager

By: 
Its: President

By: 

Its: EXEC V.P.

APPROVED AS TO FORM:

By: Michele R. Vadon
Michele R. Vadon
Counsel to the Agency

By: ROSE D. DANKU
ROSE D. DANKU
Counsel to Developer

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

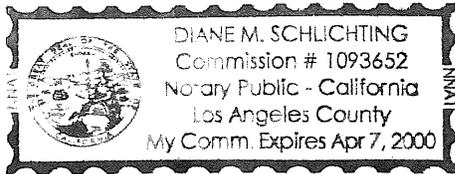
State of California

County of Los Angeles

On June 30, 1999 before me, Diane M. Schlichting, Notary Public,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Rolene Harrison and Annie Faure
Name(s) of Signer(s)

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



WITNESS my hand and official seal.

Diane M. Schlichting
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

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

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

Signer's Name: _____

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

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

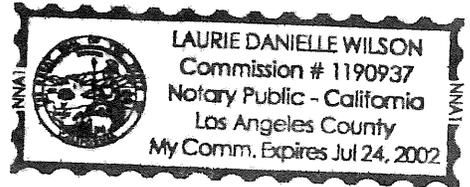
STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

On July 9, 1999, before me, Laurie Danielle Wilson, Notary Republic, personally appeared Edward P. Roski Jr. and J. Todd Anderson, personally known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument, the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Laurie Danielle Wilson

Laurie Danielle Wilson



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

EXHIBIT 1

LEGAL DESCRIPTION

SOUTHERN PARCEL

A parcel of land, in the City of Industry, County of Los Angeles, State of California, bounded northwesterly by Brea Canyon Road, northeasterly by Old Ranch Road, southeasterly by the northwesterly base of the hills lying northwesterly of the 60/57 freeway and southwesterly by the City of Diamond Bar, and being more particularly described as follows:

PARCEL 1 - FNTC PTR 68033C-RD

Those portions of Sections 4, 8 and 9, Township 2 South, Range 9 West, San Bernardino Meridian, County of Los Angeles, State of California, according to the Official Plat of said lands filed in the District Land Office, September 28, 1868, more particularly described as follows:

Beginning at the most Northerly corner of Tract No. 2166, in said County and State, as per map recorded in Book 22 Page 4, of Maps, in the office of the County Recorder of said County; thence along the Northeasterly fine of said Tract and its Southeasterly prolongation South 62° 46' 58 " East 2200.92 feet to a found 2 inch iron pipe making an angle point in the boundary of the land described in deed to Isaac N. Krushaar, recorded February 10, 1955, in Book 46873, Page 70, Official Records of said County, thence Northerly along the boundary described in said deeds, North 27°, 52' 2 " East 4289.22 feet, North 6° 16' 8" West 589.49 and North 13° 15' 47" East 1975.51 feet to a found 2 inch iron pipe in the Southeasterly line of the Los Angeles and Salt Lake Railroad company, right of way 100 feet wide, as shown map recorded in Book 1507, Page 74, of Deeds, in the office of the County Recorder of said County, thence continuing North 13°

P S O M A S

1 15' 47 " East 114.09 feet to the center line of said right of way; thence along the
2 centerline of said right of way South 39° 15' 20" West 3537.47 feet to the found nail and
3 tin marking Engineer's Station 1366 plus 07.4 on said center line of right of way; thence
4 continuing along said centerline South 9° 15' 20 " West 3083.21 feet to the beginning of a
5 tangent curve concave to the Northwest, thence along a radial line of said curve South 56°
6 44' 40 " East 50. 00 feet to the Southeasterly line of said right of way, said last mentioned
7 poi t being also the beginning of a curve concave to the Northwest having a radius of
8 2914.93 feet, and a central angle of 6° 36'; thence Southerly along said curve and said
9 Southeasterly line of right of way 334.93 to the point of beginning.

10
11 EXCEPTING that portion of the above described parcel of land within said Railroad right
12 of way.

13
14 ALSO EXCEPTING all minerals and all mineral rights of every kind and character now
15 known to exist or hereafter discovered, including, without limiting the generality of the
16 foregoing, oil and gas and rights thereto, together with the sole, exclusive and perpetual
17 right to explore for, remove and dispose of said minerals by any means or methods
18 suitable to Grantor, its successors and assigns, but without entering upon or using the
19 surface of the lands hereby conveyed, or any portion of the subsurface of said lands
20 above a plane five hundred feet (500') below the surface of said land, and in such manner
21 as not to damage the surface of said lands or to interfere with the use thereof, as reserved
22 by Upland Industries Corporation, a California corporation, in Deed recorded December
23 24, 1981, as Instrument No. 81-1260114, Official Records.

24
25 **PARCEL 1-A - FNTC PTR 68033C-RD**

26
27
28 An easement for travel, oil, sever, gas and water pipe lines, telephone lines and other
29 utility lines with right of ingress and egress to install, repair and maintain such lines over
30 a strip of land 80 feet in width, said strip of land being described as follows:
31

P S O M A S

1 Those portions of Sections 5, 8 and 9, Township 2 south, Range 9 West, San Bernardino
2 Meridian, in the County of Los Angeles, State of California, according to the Official Plat
3 of said land filed in the District Land Office, September 28, 1858, and that portion of
4 Lot 3 of the subdivision of the land of William R. Rowland and Thomas Rhodes in the
5 Rancho La Puente, in said County and State, as per map recorded in Book 7, Page 6 and
6 7 of Miscellaneous Records, in the office of the County Recorder of said County,
7 described as follows:

8
9 Beginning at the Northerly terminus of that certain course in the Westerly line of said Lot
10 3, shown on said map as having a bearing of North 31° 30' East and a length of 19.77
11 chains on the map of said subdivision of the land of William R. Rowland and Thomas
12 Rhodes, said above described course bearing North 31° 24'45" East for the purpose of this
13 description; thence South 31° 24'45" West along said Westerly line 59.64 feet; thence
14 South 55° 45' 30" East, 1506.83 feet to Northwesterly line of the 100 foot right of way of
15 the Union Pacific (formerly the San Pedro, Los Angeles & Salt Lake), railroad; thence
16 39° 21'05" East 80.32 feet to a line parallel with the above described course having a
17 bearing of South 55° 45' 30" East and a length of 1506.83 feet and distant Northeasterly
18 80 feet, measured at right angles therefrom, thence North 55 ° 45' 30 " seconds West
19 along said parallel line to the Westerly line of said Lot 3; thence Southerly along said
20 Westerly line to the point of beginning.

21

22 **PARCEL 2 - FNTC PTR 68033C-RD**

23

24 Those portions of Section 8 and 9 in Township 2 South, Range 9 West, San Bernardino
25 Meridian, in the City of Industry, according to the Official Plat thereof, together with that
26 portion of Lot 3 of the Subdivision of the Land of William R. Rowland and Thomas
27 Rhodes in the Rancho La Puente, in said county and state, as shown on map recorded in
28 Book 7, Pages 6 and 7 of Miscellaneous Records, in the office of the County Recorder of
29 said County, more particularly described as follows:

30

P S O M A S

1 BEGINNING at the intersection of the Northwesterly line of the right of way of the
2 Union Pacific (formerly San Pedro, Los Angeles and Salt Lake Railroad Company) with
3 the Southerly prolongation of that certain center line course described in the deed to the
4 County of Los Angeles recorded January 29, 1929, as Instrument No. 1710, in Book
5 7444, Page 89, Official Records of said county, as having a bearing and length of "North
6 00° 10' 10" East 245. 01 feet"; thence Northerly along said prolongation and along said
7 center line, as described in said deed, to the Westerly prolongation of the Southerly line
8 of said Lot 3, thence Easterly along said last-mentioned prolongation to the Southwest
9 comer of said Lot 3, thence Northerly along the Westerly line of said Lot 3 to the most
10 Westerly comer of the land described in the deed to Chain-Bert Company, recorded May
11 14, 1957, as Instrument No. 1924 in Book 54494, Page 32 Official Records; thence
12 Southeasterly along the Southwest line of the land described, in said land-mentioned deed
13 to the Northwest line of the 100. 00 foot right of way of the Union Pacific Railroad
14 (formerly the San Pedro, Los Angeles and Salt Lake Railroad); thence Southwesterly
15 along said Northwest line to the point of beginning.

16
17 EXCEPT THEREFROM that portion of said land which lies within Brea Canyon Road
18 (formerly Anaheim-Spadra Road) 60. 00 feet wide, as described in deed to the County of
19 Los Angeles, recorded in Book 90, Page 372 of Deeds, records of said County.

20
21 ALSO EXCEPT THEREFROM that portion of said land which lies southwesterly line of
22 the easement of the Southern California Edison Company, 50 feet wide, as described in
23 deed recorded in Book 4706, Page 125 of Deeds, records of said County.

24
25 ALSO EXCEPT from that portion of said land lying within said Lot 3 "all precious
26 metals and ores thereof", as contained in the deed of partition of the Rancho La Puente
27 between William Workman and John Rowland, recorded in Book 10, Page 39 et seq., of
28 Deeds.

29
30 ALSO EXCEPT THEREFROM all minerals and all mineral rights of every kind and
31 character now known to exist or hereafter discovered, including, without limiting the

P S O M A S

1 generality of the foregoing, oil and gas and rights thereto, together with the sole,
2 exclusive and perpetual right to explore for, remove and dispose of said minerals by any
3 means or methods suitable to Grantor, its successors and assigns, but without entering
4 upon or using the surface of the lands hereby conveyed, or any portion of the subsurface
5 of said lands above a plane five hundred feet (500') below the surface of said lands, and
6 in such manner as not to damage the surface of said lands or to interfere with the use
7 thereof.

8
9 **PARCEL 3.- FNTC PTR 68033C-RD**

10
11 That portion of Sections 8 and 9, in Township 2 South, Range 9 West, San Bernardino
12 Meridian, in the City of Industry, county of Los Angeles, state of California, according to
13 the official plat of said land filed in the district land office on September 28, 1868,
14 together with that portion of lot 3 of the subdivision of the land of William R. Rowland
15 and Thomas Rhodes in the Rancho La Puente, in said city, county and state, as per map
16 recorded in book 7, pages 6 and 7 of miscellaneous records in the office of the county
17 recorder of said county, described as follows:

18
19 Beginning at the Northerly terminus of that certain course in the Westerly line of lot 3,
20 shown on said map recorded in book 7, pages 6 and 7 of miscellaneous records, as having
21 a bearing and length of North 31° 30' East 19.77 chains, which course for the purpose of
22 the description bears North 31° 24' 45" East, thence along the said Westerly line, South
23 31° 24' 45" West 19.59 feet to the center line of an 80 foot easement as said easement is
24 described in the deed to Edward Rothschild, a married man, recorded on April 8, 1955 as
25 instrument no. 1225 in book 47431, page 34 of official records, and the TRUE POINT
26 OF BEGINNING for this description; thence along said center line South 55° 45' 30"
27 East 1512.38 feet to the Northwesterly line of the 100 foot right of way of the Union
28 Pacific (formerly of the San Pedro, Los Angeles and Salt Lake) Railroad, thence along
29 said North westerly line, South 39° 21' 05 " West 1010.45 feet, thence North 50° 38' 55"
30 West 1384.24 feet to the said Westerly line of lot 3, thence thereon, North 31° 24' 45"
31 East 884.23 feet to the TRUE POINT OF BEGINNING.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

Excepting therefrom that portion of said land lying within said lot 3, "all precious metals and ores thereof", as contained in the deed of partition of the Rancho La Puente, between William Workman and John Rowland, recorded in book 10, page 39 et seq., of deeds.

NORTHERN PARCEL

A parcel of land, in the City of Industry, County of Los Angeles, State of California, bounded northwesterly by Valley Boulevard and southeasterly by Southern Pacific Railroad right of way, and being more particularly described as follows:

PARCEL 1 - FNTC PTR 68033D-RD:

Lot 2 partly in the City of Industry, partly in the City of Walnut, and partly in unincorporated territory, as shown on record of survey map filed in Book 78, Pages 1 to 5 inclusive of Record of Surveys, in the office of the County Recorder of said County.

EXCEPT THEREFROM all that portion of said Lot 2 described in deed recorded March 18, 1980 as Instrument No. 80-270344 of Official Records, in the office of said recorder.

ALSO EXCEPT THEREFROM all those portions of said Lot 2, described as Parcels 191A and 191 C in document recorded August 14, 1968 in Book D4100, Page 452 of said Official Records.

ALSO EXCEPT THEREFROM all that portion of said Lot 2 described as Parcel 1A in document recorded November 27, 1974 as Instrument No. 3613 of said Official Records.

ALSO EXCEPT THEREFROM all that portion of said Lot described as Parcel 192 in Book D2138, Page 126 of said Official Records.

P S O M A S

1 ALSO EXCEPT THEREFROM all that portion of said Lot bounded southwesterly by the
2 southeasterly prolongation of that certain course in the generally northwesterly line of
3 said Lot, shown as having a bearing and length of North 55 degrees 07 minutes 22
4 seconds West, 97.56 feet, and bounded southeasterly by the Parcel 192 in Book D2138.,
5 Page 126 of said Official Records.
6
7

8 **PARCEL 2 - FNTC PTR 68033D-RD:**
9
10

11 That portion of Lot 19 of W. R. Rowland's Subdivision, in the City of Industry, as shown
12 on map recorded in Book 42 Pages 79 and 80 of Miscellaneous Records, in the office of
13 the County Recorder of said county, together with those portions of the Rancho La
14 Puente being unnumbered lot, as shown on said map of W R Rowland's Subdivision,
15 adjoining said Lot 19 on the West and on the North, described as a whole as follows:
16

17 Beginning at the Southeasterly terminus of that certain course in the Easterly boundary of
18 the land described in Parcel 31D in the Final Decree of Condemnation entered Los
19 Angeles County Superior Court Case No. 903761, a certified copy of which was recorded
20 May 12, 1972 as Instrument No. 3343, of Official Records of said county, as having a
21 bearing of "South 57° 31' 03" East" ; thence Northeasterly along the Southerly line of said
22 Lot 19 to and along the Southeasterly line of Parcel 2 in said city, county, and state, as
23 shown on record of survey, filed in Book 78, Pages 1 to 5 inclusive of Record of Surveys
24 in said recorder's office, a distance of 773 feet; thence Northwesterly along a line that is
25 at right angles to said Southwesterly line to the intersection with the Easterly line of said
26 Lot 19, said intersection being the true point of beginning; thence continuing
27 Northwesterly along, said line to the Easterly boundary of the land described in Parcel
28 31D of said hereinabove mentioned Final Decree of Condemnation; thence Northeasterly
29 along said Easterly boundary to the Easterly boundary of said unnumbered lot, thence
30 Southerly along the Easterly boundary of said unnumbered lot to and along Easterly line
31 of said Lot 19 to the true point of beginning, being the property described in deed

P S O M A S

1 recorded March 18, 1980 as Instrument No. 80-270348 of Official Records, in the office
2 of said County.

3
4 **PARCEL 3 - FNTC PTR 68033D-RD:**

5
6 That portion of Lot 18 of W R. Rowland's Subdivision of a portion of the Rancho La
7 Puente, in the City of Industry, as per map filed in Book 4Z Pages 79 and 80 of
8 Miscellaneous Records, in the office of the County Recorder of said County and that
9 portion of the Rancho La Puente, being an unnumbered lot adjoining on the South, as
10 shown on the map, described as a whole as follows:

11
12 Beginning at the most Northerly comer of said Lot 18, thence along the Northerly line of
13 said Lot 18, South 75° 23' 50 " West, 378.06 feet, to a point in the Southeasterly line of
14 Valley Boulevard, (formerly Pomona Boulevard) as described in Parcel 1 of the deed to
15 the County of Los Angeles, recorded in Book 16082, Page 243, Official Records, in said
16 office of county recorder; said Southeasterly line being a curve, concave Southeasterly
17 and having a radius of 950 feet; a radial line of said curve from said point bears South 34°
18 54' 13" East, thence Southwesterly along said curve Southeasterly line, through a central
19 angle of 36° 50' 45" an arc distance of 610.93 feet, thence continuing along said
20 Southeasterly line and tangent to said curve, South 18° 15' 00" West to the Northwesterly
21 terminus of that certain course shown as "South 69° 22' 35" East 89.97 feet" in Parcel 31
22 D in the Final Order of Condemnation had in Superior Court Case No. 903761, a certified
23 copy of which recorded May 12, 1972 in Book D5459, Page 492 of said Official
24 Records; thence along the lines of the land described in said Parcel 31 D as follows:

25
26 South 69 °22' 35 East 89.97 feet; South 20° 37' 25" West 170.07 feet; Southwesterly
27 along a tangent curve concave Southeasterly and having a radius of 3355.00 feet, an arc
28 distance of 161.74 feet; tangent to said curve South 17° 51' 41 " West 12.81 feet, having a
29 radius of 1295.00 feet, from a tangent which bears North 35° 17' 49" East, an arc distance
30 of 552.23 feet and tangent North 59° 43' 47" East to the Southeasterly line of said Lot 18;
31 thence Northeasterly thereon to the point of beginning.

P S O M A S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

EXCEPT that portion of said Lot 18, described as follows:

Beginning at the intersection of the Southeasterly boundary line of Rancho La Puente with the centerline of Valley Boulevard (70 feet wide) as said intersection is shown on County Surveyor's Map No. B-2897, filed in the office of the County Engineer of said county, thence South $61^{\circ} 33' 40''$ West along said centerline of Valley Boulevard, a distance of 246.07 feet; to the beginning of a tangent curve, concave Southeasterly and having a radius of 1,500.00 feet as said curve is shown on County Surveyor's Map No. B-14149, Sheet 3, filed in said office of County Engineer, said curve also being the proposed centerline of Valley Boulevard (100 feet wide); thence Southwesterly along said curve through a central angle of $22^{\circ} 36' 50''$ an arc distance of 592.03 feet to a point, a radial line of said curve to said point bears North $51^{\circ} 03' 10''$ West; thence South $51^{\circ} 03' 10''$ East, along said radial line, a distance of 11.45 feet, more or less, to a point on the Southeasterly line of Valley Boulevard (formerly Pomona Boulevard) described in Parcel 1 of a deed to the County of Los Angeles recorded in Book 16082 Page 242 of said Official Records, said point being the true point of beginning, thence Northeasterly along said Southeasterly right of way line of Valley Boulevard, as described in said deed, a curve concave Southeasterly and having a radius of 950 feet, an arc distance of 205.08 feet; to a point on the future centerline of Grand Avenue (100 feet wide), as said centerline is shown on said County Surveyor's Map No. B-2897, a radial line of said curve to said point bears North $39^{\circ} 07' 47''$ West, thence Southeasterly along said future centerline of Grand Avenue, being a curve concave Northeasterly and having a radius of 1,500 feet, through a central angle of $6^{\circ} 46' 23''$, an arc distance of 177.31 feet to a point on said curve, a radial line of said curve to said point bears South $40^{\circ} 16' 49''$ West, thence South $40^{\circ} 16' 49''$ West, along the prolongation of the last mentioned radial line, a distance of 189.08 feet, more or less, to the aforementioned radial line which passes through the true point of beginning; thence North $51^{\circ} 03' 10''$ West, along said aforementioned radial line, a distance of 192.68 feet, more or less, to the true point of beginning.

P S O M A S

1 **PARCEL 4 - FNTC PTR 68033D-RD::**

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

That portion of Lot 18 of W. R. Rowland's Subdivision, in the City of Industry, as per map filed in Book 42 Pages 79 and 80 of Miscellaneous Records, in the office of the County Recorder of said County, described as follows: Beginning at the intersection of the Southeasterly boundary line of Rancho La Puente with the centerline of Valley Boulevard (70 feet wide) as said intersection is shown on County Surveyor's Map No. B-2597, thence South $61^{\circ} 33' 40''$ West along said centerline of Valley Boulevard, a distance of 246.07 feet to the beginning of a tangent curve concave Southerly and having a radius of 1500.00 feet as curve is shown on County Surveyor's Map No. B- 1419, Sheet 3, in the office of the County Engineer of said county, said curve also being the proposed centerline of Valley Boulevard (100 feet wide); thence Southwesterly along said curve through a central angle of $22^{\circ} 36' 50''$ an arc distance of 592.03 feet to a point, a radial to said point bears North $51^{\circ} 03' 10''$ West; thence South $51^{\circ} 03' 10''$ East along said Southeasterly line of the land described in Parcel 1 of a deed to the County of Los Angeles, recorded in Book 16082, Page 242, Official Records of said county; said point also being the true point of beginning, thence Northeasterly along said Southeasterly right-of-way line of Valley Boulevard, as described in said deed, being a curve concave Southeasterly and having a radius of 950.13 feet, a central angle of $12^{\circ} 22' 03''$, an arc distance of 205.08 feet, to a point on the future centerline of Grand Avenue, (100 feet wide) as said centerline is shown on said County Surveyor's Map No. B-2897, a radial to said point bearing North $39^{\circ} 07' 17''$ West, thence Southeasterly along said future centerline of Grand Avenue, being a curve concave Northeasterly and having a radius of 1500 feet, a central angle of $6^{\circ} 46' 23''$ an arc distance of 177.31 feet to a point on said curve, a radial of said last mentioned curve to said point bearing South $40^{\circ} 16' 49''$ West; thence South $40^{\circ} 16' 49''$ West along the prolongation of the last mentioned radial line, a distance of 189.08 feet, more or less, to the aforementioned radial line which passes through the true point of beginning; thence North $51^{\circ} 03' 10''$ West along said aforementioned radial line a distance of 192.68 feet, more or less to the true point of beginning.

P S O M A S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

This Legal Description as described is delineated on the accompanying "PROJECT LEGAL DESCRIPTION" and is made a part hereof for reference purposes.

This legal description is not intended to be used in the conveyance of land in violation of the Subdivision Map Act of the State of California.

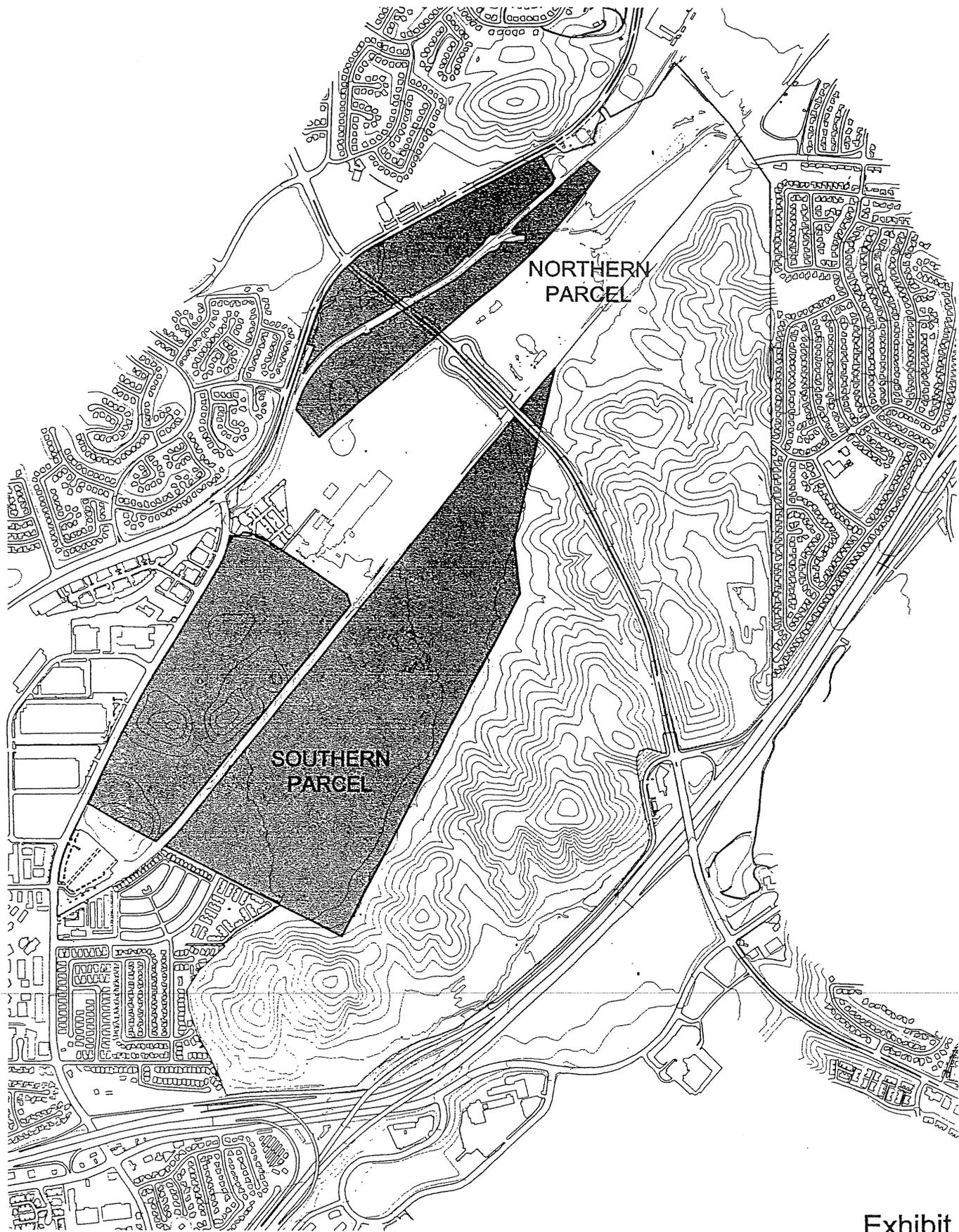
This legal description was compiled under the direction of:

Robert C. Olson

Robert C. Olson, PLS 5490
Psomas

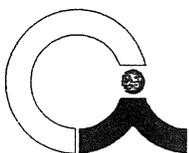
Date: 5.28.99





Exhibit

Plot102 06/01/99 11:34:23 E:\INDUSTRY\SP\planning\20A\191pl-legal.dwg 2



Project Legal Description

CITY OF INDUSTRY CALIFORNIA
 INDUSTRY URBAN DEVELOPMENT AGENCY

4 ACRES 

SCALE 0' 400' 800' 1600' 2000'

JOB NO: 11ND0503
 DATE: 05/21/99 REVISED ON:



LEGEND

| | | |
|---|---------|----------------------|
|  | PHASE 1 | 1,435,500 sf. |
|  | PHASE 2 | 1,304,000 sf. |
|  | PHASE 3 | 1,451,800 sf. |
|  | PHASE 4 | 1,063,000 sf. |
|  | PHASE 5 | 1,405,000 sf. |
| TOTAL | | 6,659,300 sf. |

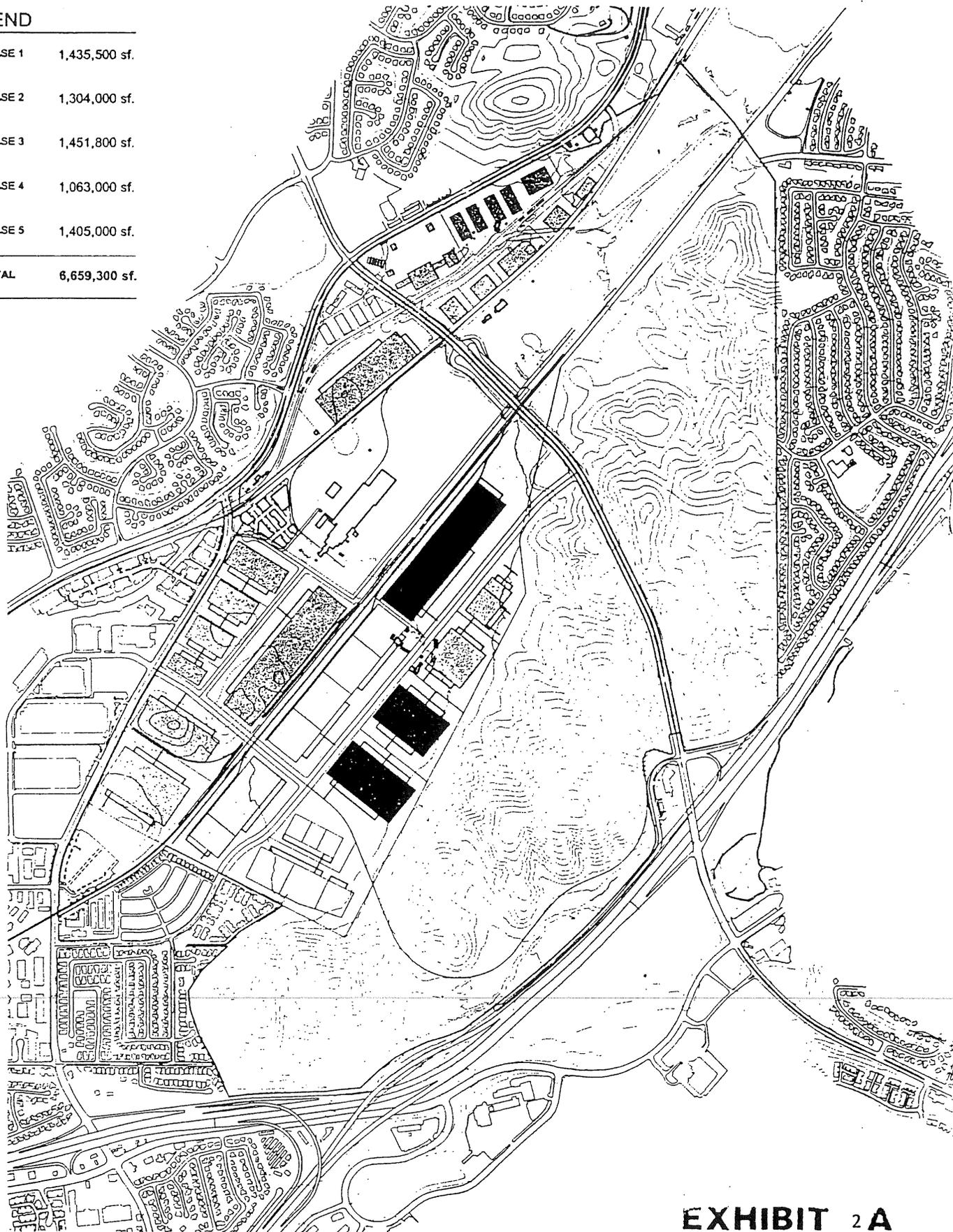
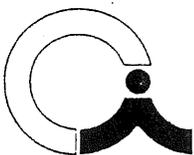


EXHIBIT 2 A



Proposed Project / Record Boundary
 CITY OF INDUSTRY CALIFORNIA
 INDUSTRY URBAN DEVELOPMENT AGENCY

4 ACRES



SCALE 0' 400' 800' 1600' 2000'

JOB NO: 11ND0503
 DATE: 03/17/99

REVISED ON: 03/31/99



EXHIBIT NO. 3

DEVELOPERS SCHEDULE OF DEVELOPMENT

| | | | |
|-------------------------|--------------------|--|----------------------------------|
| | | | |
| | | | |
| INDUSTRY EAST LAND, LLC | | | |
| PROJECTED PHASING | | | |
| 5/27/99 | | | |
| | ESTIMATED BUILDING | | |
| PHASE 1 | SQUARE FOOTAGE | | COMPLETION |
| COMMERCIAL MULTI-TENANT | 34,500 | | |
| MAJOR RETAIL | 80,000 | | |
| INDUSTRIAL/DISTRIBUTION | 1,300,000 | | |
| TOTAL | 1,414,500 | | |
| PHASE 2 | | | |
| LIGHT INDUSTRIAL | 204,000 | | |
| INDUSTRIAL/DISTRIBUTION | 1,100,000 | | |
| TOTAL | 1,304,000 | | |
| PHASE 3 | | | |
| LIGHT INDUSTRIAL | 120,300 | | |
| INDUSTRIAL/DISTRIBUTION | 1,331,500 | | |
| TOTAL | 1,451,800 | | |
| PHASE 4 | | | |
| LIGHT INDUSTRIAL | 248,000 | | |
| INDUSTRIAL/DISTRIBUTION | 815,000 | | |
| TOTAL | 1,063,000 | | |
| PHASE 5 | | | |
| INDUSTRIAL/DISTRIBUTION | 1,405,000 | | |
| TOTAL | 1,405,000 | | |
| GRAND TOTAL | 6,638,300 | | TEN YEARS FROM EFFECTIVE DATE |

| ID | Task Name | Duration | Quarter 8 | | | Quarter 9 | | | Quarter 10 | | | Quarter |
|----|--|----------|-----------|-----|-----|-----------|-----|-----|------------|-----|-----|---------|
| | | | M1 | M23 | M24 | M25 | M26 | M27 | M28 | M29 | M30 | M31 |
| 1 | CONCEPTUAL PLANS & COST ESTIMATES | 20 days | | | | | | | | | | |
| 2 | Railroad Plans & Cost Estimates | 20 days | | | | | | | | | | |
| 3 | DESIGN & PLAN PREPARATION | 280 days | | | | | | | | | | |
| 4 | Preliminary Plans & Cost Estimates | 90 days | | | | | | | | | | |
| 5 | Railroad Plans & Cost Estimates | 90 days | | | | | | | | | | |
| 6 | City Review & Comment | 15 days | | | | | | | | | | |
| 7 | Finalize Preliminary Plans & Cost Estimates | 10 days | | | | | | | | | | |
| 8 | CD's (Includes Review Times) | 190 days | | | | | | | | | | |
| 9 | Roads | 30 days | | | | | | | | | | |
| 10 | Mass / Rough Grading | 60 days | | | | | | | | | | |
| 11 | Sewer | 120 days | | | | | | | | | | |
| 12 | Storm Drain | 120 days | | | | | | | | | | |
| 13 | Water | 120 days | | | | | | | | | | |
| 14 | Reclaimed Water | 120 days | | | | | | | | | | |
| 15 | Street Plans | 120 days | | | | | | | | | | |
| 16 | Bridge Structures | 120 days | | | | | | | | | | |
| 17 | Railroad | 120 days | | | | | | | | | | |
| 18 | Landscape | 90 days | | | | | | | | | | |
| 19 | BID PROCEDURE | 145 days | | | | | | | | | | |
| 20 | Bid & Award Mass / Rough Grading Contract | 35 days | | | | | | | | | | |
| 21 | Bid & Award Wet Utilities & Street Plans Contract | 45 days | | | | | | | | | | |
| 22 | CONSTRUCTION | 290 days | | | | | | | | | | |
| 23 | Grade Phase 1 & 1A | 75 days | | | | | | | | | | |
| 24 | Cut 1A / *B* St Underpass | 75 days | | | | | | | | | | |
| 25 | Place Fill for *A* St & *A* St / Grand Interchange | 40 days | | | | | | | | | | |
| 26 | Place Fill for RR Shoefly Construction | 40 days | | | | | | | | | | |
| 27 | Const *B* St. RR Crossing, Including Shoefly | 180 days | | | | | | | | | | |
| 28 | Constr Sewer in *B* St., *C* St. along RR | 60 days | | | | | | | | | | |
| 29 | Const *B* St. Sewer Siphon | 30 days | | | | | | | | | | |
| 30 | Const Phase 1A Storm Drain | 75 days | | | | | | | | | | |
| 31 | Const DW in *B* St, *C* St, & Old Ranch Road | 60 days | | | | | | | | | | |
| 32 | Const RW in *B* St, *C* St, & Old Ranch Road | 60 days | | | | | | | | | | |
| 33 | Const *B* St, *C* St, Old Ranch Road | 60 days | | | | | | | | | | |
| 34 | Const RR Bridge Structure | 120 days | | | | | | | | | | |
| 35 | Const Ol Ranch Bridge Structure | 120 days | | | | | | | | | | |

structure & street improvement work. 3 working days maximum for plan

is scheduled.

or) has been discussed with and agreed

sses have not been scheduled. Design upon the outcomes of these processes.

construction for Area 1A. Utility Area 1. Design & construction of Area 1 Area 1A



Task: Ind_Sched_1
 Print Date: 5/20/99

Task: [Redacted] Priority: [Redacted]
 Split: [Redacted] M: [Redacted]

EXHIBIT 5

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as "Agreement") entered into this 24th day of June, 1999 by and between the INDUSTRY URBAN-DEVELOPMENT AGENCY, a body corporate and politic (hereinafter referred to as "Lessor") and INDUSTRY EAST LAND, LLC, a limited liability company authorized to do business in the State of California (hereinafter referred to as "Company"):

WITNESSETH:

WHEREAS, Lessor is the owner of certain real property located in the State of California described on Exhibit "A" attached hereto (hereinafter referred to as "Premises"); and

WHEREAS, Company proposes to lease the Premises from Lessor and to develop thereon and operate and manage certain buildings and other improvements as permitted by this Agreement; and

WHEREAS, Company is engaged in the business of planning, constructing, maintaining, leasing financing and operating such projects; and

WHEREAS, on and subject to the terms and conditions contained in this Agreement, Lessor is willing to lease the Premises to Company for such purposes;

NOW, THEREFORE, for and in consideration of the agreements, covenants and conditions herein, Lessor and Company agree as follows:

ARTICLE I

1.1 DEFINITIONS

In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

1.1.1 The term "Approved Budget," whenever used herein, means any written budget prepared by Company and approved by the Lessor's Designated Representative pursuant to the procedure set forth in Section 1.6 entitled BUDGET APPROVAL.

1.1.2 The term "Assignee," whenever used herein, means the purchaser or any heir, successor, or assign of a lender subsequent to a sale or assignment as defined in Section 2.18 entitled FINANCING.

1.1.3 The term "Capital Improvement Expenditures," whenever used herein, means any expenses associated with the Facilities (other than the costs and expenses of their initial construction) which are treated as capital expenditures under generally accepted accounting principles, consistently applied.

1.1.4 The term "Lessor's Designated Representative (hereinafter referred to as 'LDR')," whenever used herein, means the Executive Director of Lessor, or a successor designee acting on behalf of the Lessor.

- 1.1.5 The term "Commence Construction," whenever used herein, means commencing construction of the Commercial Facilities on the Premises by Company causing its construction contractor to obtain occupancy and control of the area and to begin actual site development and construction thereon.
- 1.1.6 The term "Facilities," whenever used herein, means all the buildings, utilities, rail improvements, site development work, parking lots, roadways, landscaping and other improvements constructed by Company on the Premises in accordance with the terms and conditions of this Agreement.
- 1.1.7 The term "Company," whenever used herein, means Industry East Land, LLC, a limited liability company authorized to do business in the State of California, which is entering into this Agreement as the developer and operator of the Facilities on the Premises as described herein.
- 1.1.8 The term "Lessor," whenever used herein, means the Industry Urban-Development Agency, a body corporate and politic, and where this Agreement speaks of "Approval by Lessor," or "Approved by Lessor," such phrases mean approving action by the Industry Urban-Development Agency.
- 1.1.9 The term "CC&Rs," whenever used herein, means any Covenants, Conditions and Restrictions developed by the Company and approved by the LDR for Sublessees and Tenants which will include, but not be limited to, specific guidelines for uses of the Premises.
- 1.1.10 The term "Debt Service," whenever used herein, means the Company's payment of principal, interest and any other sum due and owing (monthly or otherwise) pursuant to the terms and conditions of any Leasehold Mortgage for construction, interim and/or permanent financing of the Facilities, but excluding any penalties, late charges, default interest and other amounts (except principal and interest) payable solely as a result of a breach or default under such Leasehold Mortgage, unless such breach or default is caused in part by the acts or omissions of Lessor, including the failure of Lessor to make Capital Contributions as called for in this Agreement .
- 1.1.11 The term, "Effective Date," whenever used herein, means the date that this Agreement becomes effective and legally binding under the terms of Section 1.2 below.
- 1.1.12 The term "Environmental Laws," whenever used herein, means any one or all of the laws and/or regulations of the Environmental Protection Agency or any other federal, state or local agencies regulating Hazardous Material, including, but not limited to the following as the same are amended from time to time:

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION
AND LIABILITY ACT (42 U.S.C. Section 9601 et seq.)

RESOURCE CONSERVATION AND RECOVERY ACT (42 U.S.C. Section
6901 et seq.)

TOXIC SUBSTANCES CONTROL ACT, as amended (15 U.S.C. Section 2601 et seq.)

SAFE DRINKING WATER ACT (42 U.S.C. Section 300h et seq.)

CLEAN WATER ACT (33 U.S.C. Section 1251 et seq.)

CLEAN AIR ACT (42 U.S.C. Section 7401 et seq.)

and the regulations promulgated thereunder and any other laws, regulations and ordinances (whether enacted by the Federal, State or local government) now in effect or hereinafter enacted that deal with the regulation or protection of the environment (including, but not limited to, the ambient air procedures and records detailing chlorofluorocarbons [CFC]), ambient air, ground water, surface water and land use, including sub-strata land.

- 1.1.13 The term "Hazardous Material," whenever used herein, means the definitions of hazardous substance, hazardous material, toxic substance, regulated substance or solid waste as defined within the following:

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (42 U.S.C. Section 9601 et seq.)

RESOURCE CONSERVATION AND RECOVERY ACT (42 U.S.C. Section 6901 et seq.)

HAZARDOUS MATERIALS TRANSPORTATION ACT (49 U.S.C. Section 1801 et seq.) and all present or future regulations promulgated thereto.

DEPARTMENT OF TRANSPORTATION TABLE (49 C.F.R. Section 172.101) and amendments thereto

ENVIRONMENTAL PROTECTION AGENCY (40 C.F.R. Part 302 and amendments thereto)

All substances, materials and wastes that are, or that become, regulated under, or that are classified as hazardous or toxic under any environmental law, whether such laws are Federal, State or local.

- 1.1.14 The term "Leasehold Mortgagee", wherever used herein, means any lender of Company holding the beneficial interest in any Leasehold Mortgage and which Leasehold Mortgagee is a bank, savings and loan, insurance company, pension trust, real estate investment trust, mortgage company, or other institutional lender unaffiliated with the Company.

- 1.1.15 The term "Leasehold Mortgage", wherever used herein means any mortgage or deed of trust which is in favor of a Leasehold Mortgagee encumbering the Company's interest

in this Agreement, the leasehold estate created hereunder and/or the Facilities from time to time located on the Premises and which has been incurred for, and the proceeds of which are used for, the purpose of financing the construction of the Facilities and the payment of other Project Costs or refinancing an existing Leasehold Mortgage. The proceeds of any refinancing, to the extent not used to pay off the Leasehold Mortgage being refinanced, shall be used for the purpose of: (i) repairing, constructing or reconstructing the Facilities; (ii) held in reserve for such purposes; (iii) the payment of other Project Costs; (iv) used for the repayment of Equity Contributions and interest thereon or (v) used for such other purposes as Lessor and Company may, in writing, agree. No Leasehold Mortgage shall encumber any interest in any real property other than Company's leasehold interest under this Agreement and the Facilities.

- 1.1.16 The term "Management Fee," whenever used herein, means the payment, as a Project Cost, to Company or any property manager it selects for the administration and management of the Premises and the Facilities. Such fee shall be three percent (3%) of Total Revenue received by Company from Tenants and Sublessees each month during the term of this Agreement. The Management Fee shall be paid to Company or its property manager on a monthly or other basis selected by Company, as funds are available from Total Revenue to pay the Management Fee, before any payments of Rent or repayment of Equity Contributions.
- 1.1.17 The term "Maintenance and Operations expense," whenever used herein, means the expense for maintenance, operation, administration and repair of the Premises and the Facilities, including, but not limited to, repair, maintenance or replacement of the plumbing, heating, ventilating and air conditioning systems, electrical systems, lighting facilities, fire protection systems, utility installations, fixtures, walls, foundations, roof, ceilings, floors, structural systems, doors, glass, skylights, landscaping and irrigating systems, driveways, parking lots, fences, retaining walls, signs, sidewalks, and the cost of all janitorial service, trash disposal, water, gas, electricity, and other utilities, together with any taxes thereon.
- 1.1.18 The term "Net Revenue," whenever used herein, means the amount of cash available after deducting from Total Revenue in the following order of priority: (a) Debt Service; (b) all Project Costs incurred during such calendar year of the term of this Agreement; (c) reasonable reserves for future Maintenance and Operations expense, future Capital Improvement expense or any reserve required by any Leasehold Mortgagee and (d) the repayment of Equity Contributions and interest thereon.
- 1.1.19 The term "Participating Parties" or "Parties," whenever used herein, means Company as lessee and Industry Urban-Development Agency as Lessor (hereinafter jointly referred to as "Parties"), their successors and assigns.
- 1.1.20 The term "Premises," whenever used herein, means that area described on Exhibit "A". Final legal descriptions of the Premises will be attached to the Memorandum of Lease described in Section 1.2.4.
- 1.1.21 Except as otherwise provided in this Agreement, the term "Project Cost," whenever used herein, means all necessary costs incurred by Company (excluding Rent) prior to

or after the date hereof in connection with the subdividing, designing, constructing, owning, leasing, financing or managing the Premises or the Facilities and other improvements constructed on the Premises by Company, or its successors and assigns.

Except as otherwise provided in this Agreement, Project Cost shall include (without duplication), but not be limited to, the following: (a) all architectural and engineering expense, (b) all plan check fees, building permit fees, school fees, drainage fees and all other governmental, railroad and utility fees, licenses and permit cost, (c) all costs of environmental impact reports, traffic studies, biological studies and all other reports and studies required by governmental agencies, railroads or utility companies, (d) all costs to subdivide and re-subdivide the Premises, (e) all costs incurred by Company in constructing the Facilities or other permitted improvements on the Premises, (f) all Capital Improvement Expense, (g) all Maintenance and Operations expense, (h) all Management Fees, (i) except as provided in Section 2.12.2.10, all costs incurred for uninsured losses, earthquake, flood or other casualty, or repairs or replacements to the Premises and the Facilities or other improvements and the unreimbursed portion of any insured losses, (j) except as provided in Article III, all costs of complying with Environmental Laws, (k) all insurance premiums for insurance required hereunder and property taxes, (l) all leasing commissions and all other marketing and advertising expense, (m) all legal and accounting fees, (n) all loan fees, points, appraisal fees and other costs associated with the obtaining of Leasehold Mortgages, (o) all interest on Leasehold Mortgages and (p) all other expenses related to the use, maintenance, leasing, financing and operation of the Premises and the Facilities. Project Costs shall only include costs, expenses and other amounts to the extent the same are reasonable and competitive in amount. Without limiting the preceding sentence, any costs, expenses or other amounts specified in an Approved Budget or otherwise approved in writing by LDR shall be deemed a reasonable and competitive amount. Further, Project Cost shall not include any cost, expense or other amount which is included within any other cost, expense or amount which is permitted by this Agreement to be deducted from Total Revenue in calculating Net Revenue, the intention of the Parties being that no cost, expense or other amount which is so permitted to be deducted from Total Revenue be deducted therefrom more than once.

- 1.1.22 The term "Sublease," whenever used herein, means the documents signed by a Sublessee or Tenant of Company for the leasing of a portion of the Premises or space in the Facilities.
- 1.1.23 The term "Sublessee" or "Tenant," whenever used herein, means any individual, corporation, limited liability company, trust, business, firm or other entity that leases or otherwise occupies or uses all or any portion of the Premises or the Facilities under a lease, rental agreement or other arrangement with Company.
- 1.1.24 The term "Release," whenever used herein, means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping of any Hazardous Material in violation of Environmental Laws.
- 1.1.25 The term "Total Revenue," whenever used herein, means the total amount of all rents, charges, fees and/or other income derived or received, directly or indirectly, by Company from the use, operation and/or leasing of all or part of the Premises or the

Facilities, including, without limitation, all rents, charges, fees and/or other income and amounts received from Sublessees or Tenants of all or any part of the Premises or the Facilities during each full or partial calendar year of the term of this Agreement and the net proceeds received by Company as a result of a Total Taking, Partial Taking or Temporary Taking from an eminent domain proceeding referred to in Section 2.19. Insurance proceeds are excluded from Total Revenue as they are covered by other provisions of this Agreement.

1.1.26 The term "Equity Contribution" whenever used herein, means any funds provided by Company, Lessor or any Leasehold Mortgagee in accordance with the provisions of Section 1.7.1.1 or Section 1.7.1.2 hereof.

1.1.26 The term "Rent" whenever used herein, means fifty percent (50%) of Net Revenue during each calendar year of the term of this Agreement.

1.2 TERM AND CONDITIONS PRECEDENT

1.2.1 The term of this Agreement shall commence on the date, if and when, the Lessor elects to file a Notice of Determination pursuant to the California Environmental Quality Act ("CEQA"), Section 21152 of the California Public Resources Code, reflecting Lessor's approval of the project and Lessor's compliance with CEQA for this approval. This date of filing of a Notice of Determination shall be the "Effective Date" for this Lease Agreement. This Lease Agreement shall not be a legally binding document unless and until the Lessor complies with CEQA, including without limitation the completion and certification of an Environmental Impact Report ("EIR") as specified under CEQA. Unless and until the Lessor takes action to approve the project and files said Notice of Determination, this Agreement shall not be a legally binding document, and the Lessor shall retain the sole and absolute discretion to take any action it may deem appropriate, including without limitation a decision to approve the project as proposed by Company, or disapprove the proposed project, or propose a new and different project, project alternative or project with different or additional mitigation measures. The Lessor shall at all times prior to the Effective Date be entitled to take any such action without incurring any cost, damage, liability or expense to the Lessee under this Agreement. It is the intention of the Parties that prior to any filing of the Notice of Determination described above, this document shall be regarded as a mere "statement of intent" "which is not a binding agreement" of the type permitted prior to the completion of the environmental process by the court in City of Vernon v. Board of Harbor Commissioners, 63 Cal. App. 4th 677, 690, and that this "statement of intent" shall be used to define the proposed "project" to be analyzed in the EIR prepared by the Lessor pursuant to CEQA. Company shall have the right to cancel this Agreement if the Lessor fails to file any such Notice of Determination by January 31, 2003, by providing written notice of such cancellation to Lessor.

1.2.2 The term of this Agreement will expire upon the earlier of: (a) sixty five (65) years from the recording of a Notice of Completion on the first building constructed by company on the Premises or (b) sixty eight (68) years from the Effective Date.

- 1.2.3 On or within one hundred twenty (120) days following the Effective Date, Lessor and Company agree to execute a memorandum of this Agreement evidencing the existence of this Agreement, the ownership of the Facilities by Company, the rights of Company in the Premises, the fact that this Agreement contains a right of first refusal to purchase the Premises and setting forth the Effective Date and Termination Date of this Agreement. When the first Notice of Completion is recorded, Company and Lessor shall execute and record an amended memorandum of this Agreement setting forth the exact Termination Date.
- 1.2.4 On or within one hundred twenty (120) days following the Effective Date, Company will be entitled to receive, as a Project Cost, an ALTA leasehold policy of title insurance issued by a title company selected by Company, with liability in an amount reasonably determined by Company and insuring Company's interests hereunder. Such leasehold policy will be subject only to exceptions permitted by Company. By June 1, 1999, Lessor shall deliver a preliminary title reports covering the Premises, as well as copies of the underlying document listed as exceptions to title is such report, to Company. If Company objects to any exceptions, it will give written notice of such objections (the "Notice of Objections") to Lessor within such one hundred twenty (120) days after receipt of the preliminary report and the underlying documents. Company's failure to give a Notice of Objections within such One Hundred Twenty (120) day period shall be conclusively deemed to be Company's acceptance of all exceptions. Within thirty (30) days following receipt of a Notice of Objections, Lessor, at its option, may cure, or agree to cure prior to the commencement of the term, some or all of the exceptions that are the subject of the Notice of Objections. If at the end of such thirty (30) day period, Lessor has not cured, or agreed to cure prior to the commencement of the term, any or all of such exceptions, Company may elect by written notice given within fifteen (15) days thereafter to terminate this Lease (the "Termination Notice"). Company's failure to give the Termination Notice within such fifteen (15) day period shall be conclusively deemed to be Company's election to accept such leasehold policy subject to all then uncured exceptions. Upon any termination of this Agreement pursuant to the provisions of this Section, the parties shall be released from all further liabilities and obligations under this Agreement, except for such as have accrued prior to the date of such termination. Notwithstanding the foregoing, Lessor agrees to remove, prior to the commencement of the term of this Lease, all loans secured by deeds of trust or mortgages encumbering the Premises as well as any leases or rental agreements encumbering all or any portion of the Premises. Lessor agrees not to create or permit the creation of any additional exceptions to title, after the date of the preliminary title report, without the written consent of Company.

As Facilities are constructed on the Premises, Company shall be entitled to obtain, as a Project Cost, additional ALTA leasehold title insurance with liability in an amount reasonably determined by Company and insuring Company's interests and the interest of any Leasehold Mortgagee hereunder.

- 1.2.5 Any amendments to this Agreement will not be effective as against any Leasehold Mortgagee unless Company has obtained the written consent of such Leasehold Mortgagee.

1.3 PREMISES

- 1.3.1 Lessor does hereby demise and let unto Company and Company does hereby take from Lessor that certain real property (hereinafter referred to as "Premises") as follows:

The land described on Exhibit "A" which is attached hereto and made a part hereof, together with all improvements located thereon (which improvements are owned by Company) together with all appurtenances, rights, privileges and easements appertaining thereto.

- 1.3.2 Lessor shall cause the work described on Exhibit "B" to be performed in accordance with the provisions of Exhibit "B" which is attached hereto and made a part hereof. Lessor shall commence such work within thirty (30) days after the Effective Date and shall complete such work as soon as reasonably possible, subject to extensions due to force majeure events as provided in Section 4.1. Lessor shall use commercially reasonable efforts to coordinate the timing of such work with Company's development of the Premises. All such work shall be at Lessor's sole cost and expense and shall not be considered an Equity Contribution by Lessor.

1.4 USE OF PREMISES

- 1.4.1 Upon performance of the agreements, provisions and conditions contained in this Agreement, Company will have the use of the Premises for the redevelopment of the Premises and construction and operation of Facilities and for any other business activities related thereto and for retail, warehouse, industrial, office and any other use permitted by applicable zoning regulations and applicable provisions of the Transportation-Distribution Industrial Project No. 2 adopted by Ordinance No. 316 "the Plan" and for no other purposes, unless approved in writing by the LDR. So long as no default has occurred and is continuing hereunder, Lessor covenants peaceful and quiet enjoyment of the Premises by Company. Lessor covenants and warrants that the Premises are not now affected by any covenants, restrictions, easements or agreements which prohibit the construction, operation and maintenance upon the Premises of commercial structures with appurtenant parking, nor do the same prevent access to and from the Premises and the roadways adjoining the Premises.
- 1.4.2 Company acknowledges that the Rent payable to Lessor under this Agreement is directly dependent upon the generation by Company of Net Revenue, and that the failure by Company to use commercially reasonable efforts to maximize Net Revenue will have a direct and adverse effect upon Lessor's economic return under this Agreement. Therefore, as a material inducement to Lessor to enter into this Agreement, Company agrees that it will at all times construct, manage, lease and operate all Facilities in a manner and through the use of commercially reasonable efforts so as to maximize Net Revenue throughout the term of this Agreement.

1.5 DEVELOPMENT AND SUBLEASING

- 1.5.1 Company will develop the Premises and construct the Facilities substantially in accordance with plans and specifications prepared by Company in accordance with

applicable governmental statutes, ordinances, provisions of the Plan, rules and regulations, including those of the City of Industry and the Industry Urban-Development Agency.

1.5.2 Company may enter into subleases with Sublessees or Tenants on terms and conditions that are satisfactory to Company, provided such subleases are on sublease forms that have been approved by the LDR. LDR must approve or disapprove any sublease forms within 15 days of submittal by Company. Failure of the LDR to give written notice of disapproval, stating the specific objections to any such form, within the time specified shall be deemed approval.

1.5.2.1 Company may negotiate changes to such approved forms which are typically given to Sublessees or Tenants in similar transactions without the consent of Lessor. In the event there are substantive changes or exceptions to the standard forms of sublease arrangements which are not typically given to Sublessees or Tenants in similar transactions, the Company must obtain the written approval of LDR, which approval will not be unreasonably withheld. LDR must approve or disapprove any such requested change within 2 business days of submittal by Company. Failure of the LDR to give written notice of disapproval, stating the specific reason for disapproving the requested change within the time specified shall be deemed approval.

1.5.2.2 All Subleases must be for purposes as permitted in Section 1.4, entitled USE OF PREMISES, of this Agreement and shall expressly provide that they are subject and subordinate to all provisions of this Agreement.

1.5.2.3 Except pursuant to Subleases as provided in this Section 1.5, Company shall not suffer or permit the use or occupancy of all or any portion of the Premises by any person or entity.

1.5.2.4 Rental interruption insurance or rental abatement insurance (as the case may be) shall be maintained (if available) by Company or Sublessee's or Tenants' providing for the payment of at least six (6) months' rent, taxes, insurance and maintenance expenses payable by Sublessees or Tenants under its Sublease.

1.5.3 If requested by Lessor, the Company will provide Lessor with a copy of any rules, regulations or other standards of operation developed by Company and distributed to Sublessees and Tenants.

1.6 BUDGET APPROVAL

1.6.1 Prior to the construction of any new building on the Premises, Company shall submit to Lessor copies of a written construction budget for such new building. Each such budget will show all projected Project Costs related to the design, construction, financing and leasing of such new building.

1.6.1.1 Within fifteen (15) days of receipt of the proposed budget, the LDR will review and approve or disapprove the proposed budget submitted by the Company. If the LDR does not respond in writing within fifteen (15) days, the budget shall be deemed to be the Approved Budget.

1.6.1.1.1 If disapproved, the LDR will inform Company in writing of its disapproval describing the disapproved provisions of the proposed budget or requesting further clarification of the budget elements. Company will respond within fourteen (14) days with verification of the budget elements or with a modified written budget that is reasonably satisfactory to the LDR. The Participating Parties agree to negotiate in good faith to resolve any conflicting issues that may arise. If the LDR fails to timely respond, the proposed budget will be deemed approved and will become an Approved Budget.

1.6.1.1.1.1 If, however, the Participating Parties cannot agree upon the provisions of the proposed budget and/or the elements contained in the proposed budget, or, if following approval of the Approved Budget, disputes arise concerning the Approved Budget which the Parties are unable to resolve through good faith negotiation, a neutral third party with at least ten 10 years experience in real estate developments similar to those constructed or proposed to be constructed on the Premises will be selected by the LDR to arbitrate the disputed terms.

1.6.1.1.1.2 If, however, the Company does not accept the neutral third party selected by the LDR, Company will be allowed to select a second neutral party with similar experience. The two selected parties will then select a third neutral party with at least ten 10 years experience in real estate developments similar to those constructed or proposed to be constructed on the Premises who will arbitrate the disputed terms.

1.6.1.1.1.3 The LDR and Company agree to be bound by the decisions reached by the selected arbitrator(s). The Participating Parties will cause the arbitrator(s) to make a determination within fourteen (14) days following submittal.

1.6.1.1.1.4 The Participating Parties agree that each will bear its own costs and expenses incurred for attorney's fees and all other preparation and presentation costs for the arbitration process. If only one arbitrator is selected, the Participating Parties will equally share the cost of such arbitrator. If three arbitrators are used, each Party will bear the cost of the arbitrator selected by it and the Participating Parties will equally share the cost of any third arbitrator.

1.6.1.2 The agreed upon budget will be deemed the Approved Budget for the proposed building.

1.6.2 Company will be entitled to expend funds in accordance with the Approved Budget for the construction of the proposed building. The cost of constructing any such building shall be a Project Cost. In the event Company is over-budget on a particular line item, Company may reallocate excess funds from one line item to another line item to cover any short falls in any line item. Any expenses not covered by the Approved Budget which increase the total cost of constructing such building by more than ten percent (10%) are subject to the reasonable written approval of LDR. Any Equity Contribution required to cover any such additional Project Cost shall be the responsibility of Company.

1.7 RENTALS AND EQUITY CONTRIBUTIONS

Rentals due under this Agreement and Equity Contributions for the construction and operation of the Facilities will be as follows:

1.7.1 Equity Contributions.

1.7.1.1 The Parties anticipate that from time to time during the term of this Agreement, the Company will obtain financing for the development of the Premises and the Facilities and other Project Costs in accordance with the terms and conditions of Section 2.18 entitled FINANCING. Any funds required for the completion of the initial development of the Premises and construction of the Facilities, in excess of the financing obtained by Company, shall be provided by Company as an Equity Contribution.

1.7.1.2 Any additional capital required for the operation or maintenance of the Premises and the Facilities or other Project Costs following completion of construction of the Facilities on any separate legal parcel of the Premises and any capital required to repay any Leasehold Mortgages thereon, shall be contributed fifty percent (50%) by Company and fifty percent (50%) by Lessor within thirty (30) days of the receipt of demand by Company for such capital, which demand shall be accompanied by information and evidence, in reasonable detail, substantiating the amount and reasons for such demand. If

any party fails to make such Equity Contribution, the other party may make such Equity Contribution for the delinquent party.

1.7.1.3 In the event of default by Company and the subsequent foreclosure and sale of the leasehold interest to another party, or in the event of a deed in lieu of foreclosure, the total unpaid balance of the Leasehold Mortgage at the date of the foreclosure sale or recording of the deed in lieu of foreclosure, including all costs of foreclosure, shall be considered an Equity Contribution of the Leasehold Mortgagee or purchaser at foreclosure, as the case may be, as of the date of such foreclosure sale or the date of recording the deed in lieu of foreclosure.

1.7.1.4 Any portion of Total Revenue remaining after payment by Company of Debt Service and all costs (except Rent) associated with the ownership, operation, financing, maintenance and leasing of the Premises and the Facilities, during each calendar year of the term of this Agreement will be applied to the Parties Equity Contributions until such time as all Equity Contributions are repaid in full together with interest thereon. All Equity Contributions made in accordance with the provisions of Section 1.7.1.1 and all Equity Contributions made in accordance with Section 1.7.1.3 shall be repaid in full prior to the repayment of any Equity Contributions made in accordance with Section 1.7.1.2. All Equity Contributions shall bear interest from the date of contribution until repaid at the greater of ten percent per annum or the maximum rate allowed by law.

1.7.1.5 The Participating Parties will acknowledge the date any equity contribution is paid in full by written notice from the Company and acknowledgment by the LDR.

1.7.2 Rent.

1.7.2.1 Fifty percent (50%) of all Net Revenue, if any, during each calendar year or partial calendar year during the term of this Agreement shall be paid to Lessor as Rent for the Premises.

1.7.3 Rent shall be paid to Lessor in monthly installments on or before the twenty-fifth (25th) day following the end of each calendar month. Such payments shall be accompanied by a written statement setting forth in detail the sources and amount of Total Revenue received for the preceding month and allowable deductions for the Net Revenue calculation. A check for the Lessor's fifty percent (50%) share of Net Revenue will be submitted with such statement. Except as otherwise provided in this Agreement, all Rent shall be paid without deduction, offset or abatement.

1.7.4 Company will make all payments to the Lessor at 15651 East Stafford Street, City of Industry, California 91744 or to such other place as Lessor may direct Company in writing.

- 1.7.5 In addition to, and without limiting, any other right or remedy which Lessor may have under this Agreement or at law or in equity, in the event any required payment is not made by Company to Lessor as required and remains unpaid for a period of thirty (30) days or more, the Lessor will be entitled to, and Company will pay to the Lessor, interest at the greater of ten percent (10%) per annum or the maximum amount allowed by law on all amounts unpaid and which remain unpaid thirty (30) days past the due date.
- 1.7.6 On or prior to April 30, annually during the term of this Agreement and within one hundred twenty (120) days after the expiration of the term of this Agreement, Company will provide Lessor with a statement showing in detail the sources and amount of Total Revenue received for the entire preceding calendar year. Such statement shall be prepared by the Company's chief financial officer in accordance with sound accounting principles and practices and shall contain a written opinion of such officer as to whether the Total Revenue calculations and distribution of Net Revenue and Rent has been made in accordance with the provisions of this Agreement. Should such statements show that the amount of Rent paid during the period of review was less than that which was due, such statement shall be accompanied by Company's payment of the additional amount to Lessor. Should such statement show that Company paid Lessor more than was due, after review and verification by LDR, a credit will be issued to be applied against future monthly installments of Rent, except that if such should be the case at the end of the last month of this Agreement, Lessor will refund the overpayment to Company.

1.8. RECORDS AND AUDIT

- 1.8.1 Throughout the term of this Agreement, Company shall keep and maintain, in accordance with sound accounting principles and practices, accurate and complete books, records and accounts of Total Revenue and all items constituting deductions for purposes of calculating Net Revenue. Within ten days of request by Lessor, Company agrees to provide for inspection and copying by the Lessor or its designated representatives, at a location in the metropolitan area of Los Angeles County, California, such books, records, and accounts for the then current and three (3) immediately preceding calendar years. Such inspection shall take place Monday through Friday, 9:00 AM to 5:00 PM, holidays excluded.
- 1.8.2 Lessor will, at any time, have the right to cause an audit of the Company's operation of the Premises and of Total Revenue and all items constituting deductions for purposes of calculating Net Revenue, for the then current or three (3) immediately preceding calendar years. Such audit shall be made by a Certified Public Accountant of Lessor's selection. If such audit discloses that the calculation of Net Revenue previously provided to Lessor by Company is understated (either intentionally or unintentionally) by a greater margin than one percent (1%) of Company's Total Revenue for the period of review, then Company will immediately pay to Lessor the cost of such audit; otherwise the cost of the audit will be paid by Lessor. In all events, Company shall pay to Lessor the additional payments shown to be payable to Lessor by Company.

1.9 IMPROVEMENTS, MAINTENANCE AND REPAIR BY LESSOR

1.9.1 Except as provided in Exhibit "B" and Section 3.1.2 dealing with contamination of the Premises, Lessor has no direct responsibility or obligation for any maintenance, repair or replacement of the Premises or improvements.

1.10 CONSTRUCTION OF IMPROVEMENTS BY COMPANY

1.10.1 Company will, construct and install the Facilities including, grading, fencing, paving, lighting, driveways, roads, railroad facilities, utilities, parking lots, drainage, buildings and other improvements.

1.10.2 In the event Company has not commenced the construction of Facilities or submitted a proposal for the construction of Facilities on a parcel of the Premises within 10 years after the Effective Date, Lessor shall have the right to terminate this Agreement as to any such undeveloped parcel of the Premises. Lessor shall give Company and any Leasehold Mortgagee encumbering any such undeveloped parcel of the Premises ninety days prior written notice and the right to submit a proposal for the development of any such parcel or commence construction thereon before exercising its right to terminate. In the event a proposal for the development of such undeveloped parcel is submitted within said ninety days, Lessor shall not have said right to terminate. Lessor agrees not to exercise its right to terminate as to any such undeveloped parcel until any Leasehold Mortgagee encumbering such parcel has been given its rights to cure or foreclose as set forth in Section 2.18.

1.10.3 All improvements or alterations by Company will be in accordance with all applicable governmental rules and regulations. Upon completion of any initial or additional improvements during the term hereof, Company will provide as-built drawings of same to the Lessor along with a certification of construction costs for all permanent improvements.

1.10.4 At any time during the term or any extension of this Agreement, Company may, as a Project Cost, add to or alter initially constructed Facilities, subject to all conditions set forth in 1.10.3 above. Any such addition or alteration will be performed in a workmanlike manner in accordance with all applicable governmental regulations and requirements and will not weaken or impair the structural strength or reduce the value of the Premises or improvements thereon.

1.11 MAINTENANCE AND REPAIR

1.11.1 Throughout the term of this Agreement, Company shall maintain, or cause to be maintained, as a Maintenance and Operations expense, the Premises and the Facilities in good condition and repair (including the making of any necessary replacements, both structural and nonstructural), ordinary wear and tear excepted, and in accordance with all applicable laws, rules, regulations and orders of all (i) federal, state, county, municipal, and other governmental agencies and bodies having jurisdiction, (ii) all insurance companies insuring all or any part of the Premises or the Facilities or both. Company's obligation shall include, but not be limited to, all structural and

nonstructural portions of the Premises and the Facilities; all heating, ventilating and air conditioning systems and escalators, parking lots, driveways, driving lanes, sidewalks, walkways, common areas and landscaped areas.

1.11.2 If Company shall fail to perform any of its obligations under this Section 1.11, Lessor may, but shall not be obligated to, give Company written notice specifying such failure in reasonable detail. If Company does not remedy such failure, or does not commence to remedy such failure and thereafter diligently pursue such remedy to completion, within fifteen (15) days following receipt of such notice, Lessor may, but shall not be obligated to, remedy such failure. If Lessor remedies any such failure, all reasonable costs and expenses incurred by Lessor in connection therewith shall be paid to Lessor by Company within ten (10) days following written demand, which shall be accompanied by copies of receipts for all such expenses incurred. Following such payment, the amount paid may be included as a Maintenance and Operations expense.

1.12 APPROVALS TO BE REASONABLY GIVEN

It is understood and agreed that all provisions of this Agreement that require approval by the Lessor or the LDR will receive timely response and such approvals will not be unreasonably withheld. Unless another time limit is otherwise specified in this Agreement, any approval or disapproval must be given within twenty (20) days. If the Lessor or LDR does not respond in writing within twenty (20) days, the item for which Company requests approval shall be deemed approved. If disapproved, the LDR will inform Company in writing of its disapproval and state the reason for such disapproval. The Participating Parties agree to negotiate in good faith to resolve any conflicting issues that may arise. If, however, the Participating Parties cannot agree upon the item that was disapproved, a neutral third party with at least ten (10) years experience in real estate developments similar to those constructed or proposed to be constructed on the Premises will be selected by the LDR to arbitrate the disputed issue. If, however, the Company does not accept the neutral third party selected by the LDR, Company will be allowed to select a second neutral party with similar experience. The two selected parties will then select a third neutral party with at least 10 years experience in real estate developments similar to those constructed or proposed to be constructed on the Premises who will arbitrate the disputed issue. The LDR and Company agree to be bound by the decisions reached by the selected arbitrator. The Participating Parties will cause the arbitrator to make a determination within fourteen (14) days following submittal. The Participating Parties agree that each party will bear its own costs and expenses incurred for attorney's fees, preparation and presentation costs for the arbitration process. The Participating Parties will share the cost of any third arbitrator.

Notwithstanding the foregoing, in the event of an emergency, the Company may take immediate, commercially reasonable action to prevent loss, injury or damage to persons or property or to preserve the Premises and the Facilities without the prior approval of Lessor and any costs reasonably incurred in connection therewith shall be a Project Cost.

ARTICLE II

2.1 ASSIGNMENT

2.1.1 Company will not assign this Agreement or its rights or duties hereunder or any estate created hereunder, in whole or in part, except with the prior written approval of Lessor, which approval will not be withheld unreasonably or delayed; provided, that it shall be reasonable for Lessor to withhold its approval if the assignee presented is not a proper and fit person or entity with financial resources and demonstrated business experience sufficient in Lessor's reasonable business judgment to be capable of performing the obligations hereunder which are the subject of the assignment. Further, any such assignment will be specifically subject to all provisions of this Agreement. Any assignment without the prior written approval of Lessor is Void.

2.1.1.1 Except as provided in Section 2.1.1.3, any voluntary or involuntary transfer of fifty percent (50%) or more of Company's or any permitted successor's or assign's voting common stock, or the transfer of fifty percent (50%) or more of the partnership or membership interest, or the acquisition or transfer of fifty percent (50%) or more of Company's ownership, or the transfer of substantially all of the assets of the Company or any such successor or assign will be deemed an assignment requiring the prior written approval of Lessor.

2.1.1.2 As a condition precedent to any assignment, Company shall provide Lessor reasonable prior written notice of the proposed assignment with such appropriate documentation and other information as Lessor shall reasonably request in order for Lessor to make its decision to grant or withhold approval. If the prior written approval of Lessor is given to any such assignment, the proposed assignee shall, in recordable form, expressly assume all of the terms, covenants and conditions of this Agreement which are the subject of the assignment. Any assignment will not release Company from its obligations under this Agreement arising from events occurring prior to the date of assignment, but shall release Company from all obligations arising after the effective date of the assignment.

2.1.1.3 Any transfers by partners or members of Company or shareholders of partners or members of Company to each other or for estate purposes or upon death will not be considered an assignment hereunder.

2.1.2 The foregoing provisions relating to assignment shall not be applicable to a Leasehold Mortgage hypothecating or encumbering Company's interest in this Agreement and the leasehold estate created thereby and the Facilities located on the Premises and further shall not be applicable to any sale by judicial foreclosure or pursuant to a power of sale by any Leasehold Mortgagee or to any transfer in lieu of such sale, or to any sales or transfers by any Leasehold Mortgagee (or any affiliate, parent or subsidiary of any Leasehold Mortgagee that acquires title to the Company's interest in this Agreement and the leasehold estate created thereby and the Facilities as a result of a sale by judicial foreclosure or pursuant to a power of sale or any transfer in lieu of such sale), subsequent to a sale by judicial foreclosure or pursuant to a power of sale or subsequent to any transfer in lieu of such sale. Any further assignments shall be subject to the provisions of Section 2.1, 2.1.1.1, 2.1.1.2 and 2.1.1.3.

2.2 SUBLEASING

Company will not sublease, sublet or rent to, or permit any persons, firms or corporations to occupy any part of the Premises or the Facilities without having complied with the following:

2.2.1 Company may enter into any Subleases which comply with Section 1.5 entitled DEVELOPMENT AND SUBLEASING. A copy of any such executed Sublease will be provided to the LDR. Any arrangements for the leasing of space which are not in conformance with Section 1.5 entitled DEVELOPMENT AND SUBLEASING shall not be entered into without the prior written approval of the LDR.

2.3 ATTORNMENMENT

2.3.1 All Subleases entered into by the Company will be subject to all terms and conditions of this Agreement. If Company defaults under this Agreement, all Sublessees will recognize Lessor as the successor to the Company under their respective Subleases, and will render performance thereunder to Lessor as if the Sublease were executed directly between Lessor and the Sublessees; provided, however, Lessor agrees that so long as a Sublessee is not in default under its Sublease, Lessor will provide quiet enjoyment to such Sublessee and Lessor agrees to be bound by all of the terms and conditions of each such Sublease.

2.3.2 All Subleases entered into by the Company will contain the following provision:

If, by reason of a default on the part of Company in the performance of the terms and provisions of the underlying Agreement, the underlying Agreement and the leasehold estate of Company thereunder is terminated by summary proceedings or otherwise in accordance with the terms of the underlying Agreement, Sublessee will attorn to Lessor and recognize Lessor as lessor under this Sublease; provided, however, Lessor agrees that so long as Sublessee is not in default, Lessor agrees to provide quiet enjoyment to Sublessee and to be bound by all the terms and conditions of this Sublease.

2.3.3 In the event this Agreement is terminated for any reason, all Sublessees will be liable to Lessor for their payment of rents and fees and will be subject to all the provisions and terms contained in their Subleases.

2.4 SUCCESSORS AND ASSIGNS

Subject to the provisions of this Article II, this Agreement shall inure to the benefit of and be binding upon the legal representatives, successors and assigns of the Parties.

2.5 CONTROL OF PERSONNEL

Company will, in and about the Premises, exercise reasonable control over the conduct, demeanor and appearance of its employees, agents and representatives and the conduct of its contractors and suppliers. The provisions of this Section 2.5 shall in no way limit the liability of the Company with respect to the negligence, acts or omissions of its employees, agents,

representatives, contractors and suppliers, nor shall such provisions limit any obligations of indemnity on the part of the Company under this Agreement.

2.6 SIGNS

Company and its Sublessees and Tenants shall have the right to install, erect and operate signs upon the Premises so long as such signs are installed, erected, operated and maintained in compliance with all applicable laws and ordinances.

2.7 ENTRY AND INSPECTION OF PREMISES

2.7.1 Lessor, its authorized officers, employees, agents, contractors, subcontractors or other representatives will have the right to enter upon all portions of the Premises and the Facilities constituting public areas when the same are open to the public, and shall have the right to enter upon all other portions of the Premises and the Facilities during normal business hours, for the purpose of inspecting the Premises and the Facilities, determining whether Company is in compliance with the terms and provisions of this Agreement, and for fulfilling Lessor's obligations and exercising Lessor's rights hereunder; provided however, that such entry will be in such manner as to not unreasonably interfere with the operations or reasonable security requirements of Company or its Sublessees. Except in the event of an emergency, Lessor shall provide Company at least two (2) business days prior written notice of its intention to enter upon the non-public areas of the Premises or the Facilities for such purposes, and, if Company so elects, Lessor shall be accompanied by a representative of Company during such entry.

2.7.2 No such entry upon the Premises by or on behalf of Lessor will cause or constitute a termination of this Agreement nor be deemed to constitute an interference with the possession thereof nor constitute a revocation of or interference with any of Company's rights in respect thereof for exclusive use of the Premises.

2.7.3 The rights of entry for inspection and other purposes as contemplated by the parties to this Agreement, pursuant to this Section, are for the sole benefit of the parties. No benefit to any third party is contemplated or intended.

2.8 INTENTION OF PARTIES

This Agreement is intended solely for the benefit of Lessor and Company and is not intended to benefit, either directly or indirectly, any third party or member(s) of the public at large. Any work done or inspection of the Premises by Lessor is solely for the benefit of Lessor and Company.

2.9 LIENS

Subject to the rights to contest set forth in Section 2.10 entitled Taxes and Assessments, Company will cause to be removed any and all tax liens and liens arising out of or because of any construction or installation performed by or on behalf of Company or any of its contractors or subcontractors upon the Premises or arising out of or because of the performance of any

work or labor to it or them at the Premises or the furnishing of any materials to it or them for use at the Premises. Should any such lien be made or filed, Company will bond against or discharge the same within thirty (30) days after written request by LDR. The cost of bonding against or discharging any liens relating to construction or installation of the Facilities shall be a Project Cost.

2.10 TAXES AND ASSESSMENTS

Throughout the term of this Agreement, Company shall pay before delinquency, as a Project Cost, all real and personal property taxes and assessments, including, without limitation, all city, county, school district and other taxes and general and special assessments, levied upon or assessed against the Premises, any Facilities now or hereafter located thereon, the leasehold estate, any personal property of Company located on or in the Premises or any Facilities, or arising in respect of the occupancy, use or possession of the Premises or the Facilities located thereon and which are assessed or become due during the term of this Agreement. All such taxes for the first and last years of the term hereof shall be equitably prorated between the parties. Company shall have the right, in Company's or Lessor's name, to contest the validity of any tax or assessment by appropriate proceedings timely instituted and diligently prosecuted.

Lessor, if requested by Company, shall cooperate with Company in any such proceedings; provided, that all costs and expenses (including attorneys' fees and costs) incurred by Lessor in connection therewith shall be paid by Company as a Project Cost. Company shall not be responsible for any of Lessor's franchise, inheritance, income, succession, transfer or other tax levied on the Lessor's rights in and to the Premises or Lessor's right to receive income from the Premises or under this Agreement. Company will keep current municipal, state or local licenses or permits required for the conduct of its business.

2.11 INDEMNITY

During the term of this Agreement, Company agrees to indemnify and hold Lessor forever harmless from and against all claim, liability, loss, demand, judgments or other expense (including, but not limited to, defense costs, expenses and reasonable attorney fees) imposed upon Lessor by reason of injuries or death of persons (including wrongful death) and damages to property caused during and because of Company's use or occupancy of the Premises or any actions or non-actions of Company, its officers, employees, agents, or other representatives, including movement of vehicles, provided, however, that (without limiting Lessor's right to coverage under any applicable insurance policies) such indemnity will not apply as to any negligent or intentional act or omission of Lessor, its employees, agents or representatives.

During the term of this Agreement, Lessor agrees to indemnify and hold Company harmless from and against all claim, liability, loss, demand, judgments or other expense (including, but not limited to, defense costs, expenses and reasonable attorneys fees) imposed upon Company by reason of injuries or death of persons (including wrongful death) and damages to property caused by Lessors use or occupancy of the Premises or any actions or non-actions of Lessor, its officers, employees, agents, contractors or other representatives, including movement of vehicles, provided, however, that (without limiting Company's right to coverage under applicable insurance policies) such indemnity will not apply to any negligent or intentional act or omission of Company, its employees, agents or representatives.

2.12 INSURANCE AND BONDS

2.12.1 Bonds

2.12.1.1 No bonds will be required for any Facilities constructed by Commerce Construction Co. Otherwise, Company, as a Project Cost, will require its general contractor on any construction contract in excess of two million dollars to furnish bonds covering the faithful performance of the construction of the improvements or installation of equipment, payment of all obligations arising thereunder to take effect upon completion of the project. Bonds may be secured through the contractor's usual sources provided the surety is authorized and licensed to do business in the State of California. Company will be allowed to name any Leasehold Mortgagee as an additional obligee under any such bond.

2.12.1.2 Prior to execution of a construction contract with a contractor required to furnish bonds, and not later than ten (10) calendar days after notification of award, Company will require such contractor to furnish contract bonds to LDR as follows:

- a. Labor and material payment bond in the amount of one hundred percent (100%) of the contract price.
- b. Payment and performance bond in the amount of one hundred percent (100%) of the contract price.

LDR may, if considered appropriate in its sole judgment, waive the requirements of this Section 2.12.1.2 upon written request by Company.

2.12.1.3 The bonds referred to in Section 2.12.1.1 and 2.12.1.2 above will be written on payment and performance bond and labor and material payment bond forms generally used for similar projects in Southern California and approved by LDR.

2.12.1.4 Company will require its contractor to require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of his power of attorney.

2.12.2 Insurance

2.12.2.1 Before any construction contractor (including Commerce Construction Co.) Commences Construction of any Facilities or any equipment installation on or about the Premises, the construction contractor shall procure and maintain insurance for such construction and installation protecting both Company and Lessor, as well as the construction contractor. Such insurance will provide coverage and limits as are

commercially reasonable in the industry. Such insurance will include, but is not limited to:

General Liability on an "occurrence" basis only
Automobile Liability
Builder's Risk equal to the maximum contract cost of the project.

- 2.12.2.2 Company's (or its contractor's) insurance will be primary as respects Lessor and Company, their officers, employees and authorized agents. Any other coverage carried by or available to Lessor, its officers, employees and authorized agents will be excess over the insurance required of the Company or its contractor and shall not contribute with it.
- 2.12.2.3 Company and its contractors will maintain worker's compensation insurance in the amounts and form as required by California law. Certificates evidencing the valid, effective insurance policies will be provided to LDR.
- 2.12.2.4 Company will keep insured with responsible insurance underwriters the Facilities and any improvements from time to time constructed by it upon and within the Premises to the extent of not less than the full replacement value of such improvements from time to time (without deduction for depreciation) using an industry standard all risk form of protection. Company will use commercially reasonable efforts to cause its Sublessees or Tenants to keep insured with responsible insurance underwriters any improvements constructed by such Sublessees or Tenants to the same extent.
- 2.12.2.5 Company will obtain and keep in full force and effect a policy(s) of general liability insurance on an "occurrence" basis only and not "claims made." The coverage must be provided either on an ISO Commercial General Liability form, or an Accord Comprehensive General Liability form, or equivalent, approved by the LDR and Company. Any exceptions to coverages must be fully disclosed on the required Certificate. If other than these forms are submitted as evidence of compliance, complete copies of such policy forms will be submitted to LDR within ten (10) days after notice to Company. Policies must include, but need not be limited to, coverages for bodily injury, property damage, personal injury, Broad Form property damage, premises and operations, severability of interest, products and completed operations, contractual and independent contractors with no exclusions of coverage for liability resulting from the hazards of explosion, collapse, and underground property damage.

Company will maintain limits of no less than five million dollars (\$5,000,000) combined single limit per occurrence for bodily injury (including death), personal injury and property damage.

2.12.2.6 Company will furnish Automobile Liability coverage for claims for damage because of bodily injury or death of any person, or property damage arising out of the ownership, maintenance or use of any motor vehicles whether owned, hired or non-owned. Company will maintain limits of no less than five million dollars (\$5,000,000) combined single limit "per accident" for bodily injury and property damage.

2.12.2.7 All required insurance coverage as stated in Section 2.12.2 will be a Project Cost and evidenced by a current Certificate(s) of Insurance. Such Certificates will include, but will not be limited to, the following:

2.12.2.7.1 All Certificates for each insurance policy are to be signed by a person authorized by that insurer and licensed by the State of California.

2.12.2.7.2 Each insurance company's rating as shown in the latest Best's Key Rating Guide will be fully disclosed and entered on the required Certificates of Insurance. If the insurance company providing the coverage has a Best rating of less than A+, the adequacy of the insurance supplied by Company (or its contractor), including the rating and financial health of each insurance company providing coverage, is subject to the approval by the LDR. Such approval will not be unreasonably withheld.

2.12.2.7.3 Company (or its contractor) will furnish renewal Certificates for the required insurance during the period of coverage required by this Agreement. Company (or its contractor) will furnish renewal Certificates for the same minimum coverages as required in this Agreement.

~~2.12.2.7.4~~ Lessor, its officers and employees shall be covered as additional insureds with respect to liability arising out of the activities by or on behalf of the named insured in connection with this Agreement. All property insurance policies will contain a waiver of subrogation clause in favor of Lessor.

2.12.2.7.5 Each insurance policy supplied by the Company (or its contractor) must be endorsed to provide that the amount and type of coverage afforded to the Lessor by the terms of this Agreement will not be suspended,

voided, canceled or reduced in coverage or in limits except after thirty (30) days' prior written notice by mail to Company, Lessor and any Leasehold Mortgagee.

2.12.2.7.6 Any deductible, as it relates to coverage provided under this Agreement, will be fully disclosed on the Certificates of Insurance. Any deductible provided will be reasonable and customary for the type of risk.

2.12.2.7.7 If aggregate limits are imposed on the insurance coverage, then the amounts of such limits must be not less than five million dollars (\$5,000,000) per occurrence or per accident. All aggregates must be fully disclosed and the amount entered on the required certificate of insurance. Company's insurer must notify the LDR of any erosion of the aggregate limits. The "per occurrence" limits of insurance required herein must be maintained in full, irrespective of any erosion of aggregate. A modification of the aggregation limitation may be permitted if it is deemed necessary and approved by the LDR and Company.

2.12.2.8 If the Company fails to maintain any of the insurance coverages required herein, then the Lessor, after 10 days prior notice to Company, may purchase replacement insurance or pay the premiums that are due on existing policies in order that the required coverages may be maintained. The Company is responsible for any expenses paid by the Lessor to maintain such insurance and Lessor may collect the same from the Company.

2.12.2.9 The insurance requirements specified herein do not relieve the Company (or its contractor) of its responsibility or limit the amount of its liability to the Lessor or other persons and the Company is encouraged to purchase such additional insurance as it deems necessary.

2.12.2.10 Company (or its contractor) is responsible for and must remedy all damage or loss to any property, including property of Lessor, caused in whole or in part by the Company or its contractor, any subcontractor or anyone employed, directed or supervised by the Company; provided, however neither Company nor any Leasehold Mortgagee shall be liable for any uninsured or underinsured loss relating to the Premises or the Facilities, unless such loss is a result of Company's failure to obtain the insurance it is required to maintain under this Agreement, in which event Company shall be liable for such loss and such loss shall not be a Project Cost. Company is responsible for

initiating, maintaining, and supervising all safety precautions and programs in connection with this Agreement.

- 2.12.2.11 Company and Lessor agree and acknowledge that any Leasehold Mortgagee shall be named as an additional insured under any insurance policy relating to the Premises, the Facilities or otherwise required under this Agreement. Company agrees to provide any Leasehold Mortgagee with appropriate certificates of insurance relating to all policies.
- 2.12.2.12 Company, at its option, may satisfy its obligations hereunder to insure within the coverage of any so-called blanket policy or policies of insurance which it now or hereafter may carry, by appropriate amendment, rider, endorsement or otherwise; provided, however, that the interests of Lessor shall thereupon be as fully protected by such blanket policy or policies as they would be if this option to so insure by blanket policy were not permitted.
- 2.12.2.13 Waiver of Subrogation. Without affecting any other rights or remedies, Company and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable thereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Company, as the case may be, so long as the insurance is not invalidated thereby.

2.13 DAMAGE AND DESTRUCTION

In the event that any Facilities located on the Premises are damaged or destroyed, and the net proceeds of insurance are sufficient to cover the Company's estimated cost of rebuilding (or if Company failed to maintain insurance it is required to maintain under this Agreement and the proceeds of such insurance, had it been maintained, would have been sufficient to cover the Company's estimated cost of rebuilding), Company shall repair and rebuild the said Facilities, and this Agreement shall continue in full force and effect, and Company shall commence and continue such repair or rebuilding with reasonable diligence and shall complete such repair and rebuilding within a reasonable time after the same is commenced; provided, however, that any delay in the completion of the said repairs resulting from fire or other casualty, strikes, shortages of material or labor, governmental laws, rules and regulations, the elements or matters beyond the reasonable control of Company, shall extend such reasonable time within which Company may complete said repairs or rebuilding by the period of such delay. The net proceeds of any insurance, to the extent that such proceeds are received by Lessor or any Leasehold Mortgagee, less any expenses of recovery thereof (including attorneys' fees), shall be made available to Company to be applied to the cost and expense of repair or rebuilding the damage or destruction insured against, subject to reasonable conditions and payable on the usual architect's certificates, but Lessor or any Leasehold Mortgagee holding said insurance

proceeds may withhold an amount reasonably necessary to insure completion of such repairs or rebuilding (not to exceed ten percent (10%) of such proceeds) until completion and the expiration of the period within which mechanics' or materialmen's liens may be filed and until receipt of satisfactory evidence that no liens exist.

In the event the Company maintains the insurance it is required to maintain under this Agreement and the proceeds of insurance are not sufficient to cover the Company's estimated cost of rebuilding, or in the event the damage or destruction occurs during the last 10 years of the lease term, Company will have the option to terminate this Agreement, subject to the rights of any Leasehold Mortgagee, which option will be exercisable by written notice to Lessor within forth five (45) days after the occurrence of such event. Company will only have such option to terminate this Agreement as to the specific legal parcel or parcels upon which the Facilities are damaged or destroyed. Any such termination by Company shall require the prior written consent of any Leasehold Mortgagee. In the event the Company elects to terminate this Agreement based upon such damage, destruction, or substantial loss, the Company will be liable for and will pay for all cleanup or demolition of the Premises necessary to make the Premises ready for repair, replacement, restoration or rebuilding: (a) if the Company or its employees or agents caused such damage, destruction or substantial loss to occur, (b) to the extent of any insurance proceeds payable with respect to such damage, destruction or substantial loss, or (c) to the extent of any insurance proceeds which would have been payable with respect to such damage, destruction or substantial loss had Company maintained the insurance it is required to maintain under this Agreement. In the event Company does not exercise such option then Company will promptly repair, replace, restore or rebuild said improvements.

2.14 DEFAULT BY COMPANY

2.14.1 Default by Company

Subject to the provisions of Section 2.16 and Section 2.18, Company will be considered in default as Lessee under this Agreement in the event of any one or more of the following occurrences:

- 2.14.1.1 Company fails to pay the rent or any other money payments required by this Agreement when the same are due and the continuance of such failure for a period of thirty (30) days after written notice thereof from the LDR to Company or Company fails to maintain any insurance required to be maintained by it under this Agreement and such failure continues for a period of fifteen (15) days after written notice thereof from the LDR to Company.
- 2.14.1.2 Company fails to perform any other covenant contained in this Agreement and such failure continues for a period of sixty (60) days after written notice thereof from the LDR to Company; provided, however, that if a nonmonetary default cannot be cured with reasonable diligence within such sixty (60) day period, then Lessor shall not have the right to terminate this Agreement or pursue any other remedy against Company, as long as Company commences the curing of such

default within said sixty (60) day period and thereafter proceeds with the curing of such default to completion with reasonable diligence, with allowance for delays due to the action or failure to act of governmental authorities, strikes, acts of God or other matters beyond the reasonable control of Company.

2.14.1.3 Company voluntarily abandons the Premises for a period of sixty (60) days following written notice from the LDR to Company.

2.14.2 Cure

Subject to the mortgagee protection provisions set forth in this Agreement, Company will be considered in default of this Agreement if Company fails to fulfill any of the terms, covenants, or conditions set forth in this Agreement following the expiration of the cure period and written notice set forth in Sections 2.14.1 and 2.14.3.

2.14.3 Termination For Default By Company

Subject to the lender protection provisions of Section 2.18, if default is made by Company as described in Section 2.14.1 hereinabove, and such default is not cured as provided in Sections 2.14.1 and 2.14.2, Lessor shall provide Company with an additional written notice thereof and if such failure Lessor shall be entitled to pursue any and all rights and remedies which it may have under this Agreement or at law or in equity, including, without limitation, the right to terminate this Agreement. All of such rights and remedies shall be cumulative and not alternative.

2.14.3.1 If Lessor elects to terminate this Agreement, it will in no way prejudice the right of action for rental arrearages owed by Company.

2.14.3.2 Redelivery and disposal of improvements will be as described in Section 2.17, entitled SURRENDER AT END OF TERM.

2.15 DEFAULT BY LESSOR

2.15.1 Default By Lessor

Lessor will be considered in default of this Agreement if Lessor fails to fulfill any of the terms, covenants or conditions set forth in this Agreement if such failure shall continue for a period of more than sixty (60) days after delivery by Company of a written notice of such default.

2.15.2 Cure

If the default cannot be cured with reasonable diligence within such Sixty (60) day period, then Company shall not have the right to terminate this Agreement or pursue any other remedy against Lessor, as long as Lessor commences the curing of such default within said sixty (60) day period and thereafter proceeds with the curing of such default to completion with reasonable diligence, with allowance for delays due to the

action or failure to act of governmental authorities, strikes, acts of God or other matters beyond the reasonable control of Lessor.

2.15.3 Remedies

Subject to the mortgagee protection provisions set forth in this Agreement, if default is made by Lessor as described in Section 2.15.1 hereinabove, and is not cured as provided in Section 2.15.2 hereinabove, Company shall provide Lessor with an additional written notice thereof and if such failure to cure continues for an additional period of sixty (60) days, Company shall be entitled to pursue any and all rights and remedies which it may have under this Agreement or at law or in equity, including, without limitation, the right to terminate this Agreement. All of such rights and remedies shall be cumulative and not alternative. Redelivery and disposal of improvements will be as described in Section 2.17, entitled SURRENDER AT END OF TERM.

2.16 WAIVERS AND ACCEPTANCE OF FEES

- 2.16.1 No waiver of default by either party hereto of any of the terms, covenants or conditions hereof to be performed, kept or observed will be construed to be or act as a waiver of any subsequent default of any of the terms, covenants, conditions herein contained to be performed, kept and observed.
- 2.16.2 No acceptance of fees or other money payments in whole or in part for any period or periods during or after default of any of the terms, conditions or covenants to be performed, kept or observed by the Company will be deemed a waiver on the part of the Lessor of any right or remedy which it may have under this Agreement or at law or in equity.
- 2.16.3 No acceptance of fees or other money payments in whole or in part for any period or periods during or after default of any of the terms, conditions or covenants to be performed, kept or observed by the Lessor will be deemed a waiver on the part of the Company of any right or remedy which it may have under this Agreement or at law or in equity.

2.17 SURRENDER AT END OF TERM

- 2.17.1 Subject to the mortgagee protection provisions set forth in Section 2.18 and subject to the rights of Sublessee's, Company covenants that at the termination of this Agreement, howsoever caused, it will quit and surrender the Company's right, title and interest in the Premises in good repair and condition, excepting reasonable wear and tear, acts of God, the public enemy or the action of the elements.
- 2.17.2 All Facilities located on the Premises at the expiration or sooner termination of the term of this Agreement, howsoever caused, shall, without payment or compensation of any kind to Company, then become Lessor's property, in fee simple, free and clear of all claims, liens and encumbrances to or against them by Company, any Leasehold Mortgagee, any Sublessee or Tenant, or any other third party claiming by or through Company. Subject to the mortgagee protection provisions set forth in Section 2.18 and subject to the rights of Sublessee's, upon termination of this Agreement howsoever

caused, Company shall have the right to remove from the Premises, within sixty (60) days following the Termination Date, all equipment, trade fixtures and personal property belonging to Company or Sublessee's, provided Company or its Sublessees repair any damage caused by such removal.

For purposes of this Subsection 2.17.2, the words "equipment, trade fixtures and personal property" will include, but not be limited to, (i) signs (electrical or otherwise), (ii) all equipment used in connection with the conduct of Company's or its Sublessees business whether or not such equipment is attached to the Premises or the Facilities, (iii) any other mechanical device, and (iv) all other miscellaneous equipment, furnishings and fixtures installed on or placed on or about the Premises and used in connection with Company's or its Sublessees business thereon; provided, however, that such words shall not include elevators, escalators, plumbing systems, electrical systems, life safety systems, boilers, heating, ventilating and air conditioning systems, floor and wall coverings, ceiling lights, built-in shelving and cabinets, doors, windows, outside walls and fencing, and landscaping. All equipment, trade fixtures and personal property that is not removed within sixty (60) days following the Termination Date, shall become the property of Lessor.

2.17.3 Without limiting the provisions of this Section 2.17, Company agrees that upon the expiration or sooner termination of this Agreement, howsoever caused, it will execute, acknowledge and deliver to Lessor within thirty (30) days after demand from Lessor, all such documents and instruments as shall be reasonably necessary to evidence and confirm the transfer of ownership of the Facilities from Company to Lessor, "as-is" in their existing condition without any further consideration required from Lessor.

2.18 FINANCING

2.18.1 Notwithstanding anything to the contrary contained in this Agreement, Company will have the right at such time or times as Company desires and without Lessor's consent, to hypothecate Company's interest in all or part of this Agreement, the Premises and the Facilities with one or more Leasehold Mortgages. Such Leasehold Mortgages may contain such terms and conditions as are acceptable to Company and Company will have the right, without the consent of Lessor, at any time during the term hereof to execute and deliver to any or all of its Leasehold Mortgagees any documents which will operate as collateral security for any loan or loans made, even if such document or documents result in a form or type of conveyance or assignment of the leasehold interest demised hereunder. It is hereby agreed that Company or any such Leasehold Mortgagees will have the right to immediately record such document or document(s) with an appropriate public official or officials. Company agrees that copies of all such documents of conveyance or assignment as contained in this Section 2.18 will be provided to the LDR forthwith. Lessor agrees to cooperate in executing any documents reasonably requested of Lessor by Company or the Leasehold Mortgagee in connection with any such Leasehold Mortgage; PROVIDED, HOWEVER, UNDER NO CIRCUMSTANCES SHALL LESSOR BE OBLIGATED TO SUBORDINATE ITS FEE INTEREST IN THE PREMISES TO ANY LEASEHOLD MORTGAGE, AND, NOTWITHSTANDING ANY TERM OR PROVISION OF ANY SUCH LEASEHOLD MORTGAGE OR THIS AGREEMENT TO THE CONTRARY,

UNDER NO CIRCUMSTANCES SHALL ANY SUCH LEASEHOLD MORTGAGE CONSTITUTE AN INDEBTEDNESS OR OBLIGATION OF LESSOR NOR SHALL LESSOR BE LIABLE IN ANY WAY FOR THE PAYMENT OF ANY PORTION OF THE INDEBTEDNESS EVIDENCED BY SUCH LEASEHOLD MORTGAGE OR FOR THE PAYMENT OR PERFORMANCE OF ANY OTHER OBLIGATION THEREUNDER OR SECURED THEREBY.

- 2.18.2 Lessor will deliver to any such Leasehold Mortgagee written notice of any default of Company under the terms of this Agreement and said notice will specify the nature of the default. Before terminating this Agreement, Lessor will allow such Leasehold Mortgagee to cure or commence to cure any default of Company in accordance with the provisions of this Agreement. The time period to cure any default of Company will commence when said notice is delivered to Leasehold Mortgagee and Leasehold Mortgagee shall have the same lengths of time to cure the specified default as are permitted Company in Section 2.14. In the event Company fails to timely cure a default after receipt of written notice and expiration of any applicable cure period, Lessor agrees to provide any Leasehold Mortgagee with a second written notice and provide such Leasehold Mortgagee with an additional thirty (30) day cure period. Lessor will not have the right to exercise any remedies under this Agreement so long as a Leasehold Mortgagee is diligently prosecuting to complete a cure of any default. If such default is of a nature which is incapable of being cured by Leasehold Mortgagee, Lessor agrees not to exercise its remedies arising from such default if (i) Leasehold Mortgagee notifies Lessor in writing within such thirty (30) day cure period that Leasehold Mortgagee intends to foreclose its mortgage and Leasehold Mortgagee commences and diligently pursues such foreclosure; and (ii) Leasehold Mortgagee makes all payments due by Company under this Agreement through the date of foreclosure.
- 2.18.3 Any default by the Company in the payment of money as required under the terms of this Agreement may be cured by the Leasehold Mortgagee in accordance with the terms of Sections 2.14 and 2.18.2 of this Agreement, and Lessor will accept any such payment or cure from such Leasehold Mortgagee during the term of the Leasehold Mortgage.
- 2.18.3.1 Should the Company default under the terms of this Agreement and should the default be such that it cannot be cured by the payment of money, Lessor will accept payments of rent from such Leasehold Mortgagee and this Agreement will not terminate, but will remain in full force and effect, pending Leasehold Mortgagee's cure of such default within the time periods described herein or resort to foreclosure or sale proceedings under its deed of trust or other security instruments.
- 2.18.4 If any default has been cured by a Leasehold Mortgagee or Assignee, Lessor agrees that upon completion of any foreclosure proceedings or sale under the deed of trust or other security instrument securing the loan, or upon delivery of a deed in lieu of foreclosure, the Leasehold Mortgagee or purchaser at such sale or any heir, successor, or assign of Leasehold Mortgagee (Assignee) subsequent to such sale will be

recognized by Lessor as the lessee under the terms of this Agreement for all purposes for the remaining term hereof. The leasehold interest of the Leasehold Mortgagee or such Assignee will not be adversely affected or terminated by reason of any nonmonetary default occurring prior to the completion of such proceedings or sale, provided such default has been promptly remedied (to the extent it is capable of being remedied by Leasehold Mortgagee), or if such default requires possession to cure, provided such Leasehold Mortgagee, Assignee or purchaser promptly commences to cure upon taking possession of the Premises.

2.18.5 Such Leasehold Mortgagee will not become personally liable under the terms and obligations of this Agreement unless and until it assumes the obligations and is recognized by Lessor as lessee under this Agreement and will be liable only so long as such Leasehold Mortgagee or Assignee maintains ownership of the leasehold interest or estate and recourse to such Leasehold Mortgagee or Assignee shall be limited solely to Leasehold Mortgagee's or Assignee's interest in the Premises.

2.18.6 At any time during the term of this Lease, within ten (10) days after a written request by the Company or any Leasehold Mortgagee, Lessor, through Lessor's Designated Representative, will execute, acknowledge and deliver to the Company or such person or entity as the Company designates, a certificate stating:

- (a) that this Agreement is the only Agreement between Lessor and Company concerning the Premises and is unmodified and in full force and effect in accordance with its terms (or if there have been modifications, that this Agreement is in force and effect as modified, and identifying the modification agreements, or if this Agreement is not in full force and effect, that it is not);
- (b) the commencement and expiration dates of this Agreement and the date to which rental has been paid to Lessor under this Agreement;
- (c) whether or not, to the knowledge of the Lessor, there is an existing default by Company in the payment of Rent or any other sum of money under this Agreement, and whether or not there is any other existing default by either party under this Agreement with respect to which a notice of default has been served, and if there is such a default specifying its nature and extent;
- (d) whether or not, to the knowledge of Lessor, there are any set-offs, defenses or counter-claims against enforcement of the obligations to be performed by Lessor or Company under this Agreement; and,
- (e) such other reasonable information relating to this Agreement that a Leasehold Mortgagee or assignee may request.

2.18.7 All notices of default required to be delivered to a Leasehold Mortgagee under this Agreement will be sent to any Leasehold Mortgagee by overnight courier service or certified mail, return receipt requested. No such notice shall be valid or effective as against the Leasehold Mortgagee until and unless actually received by the Leasehold Mortgagee as evidenced by the courier service's delivery records or the return receipt.

- 2.18.8 In the event this Agreement is terminated for any reason prior to the end of the term (it being the intent that the Agreement will remain in full force and effect if Leasehold Mortgagee performs), Lessor shall enter into a new Agreement with Leasehold Mortgagee holding a first priority interest covering the Premises, provided that the Leasehold Mortgagee (i) requests such new Agreement by written notice to Lessor within sixty (60) days after termination, and (ii) cures all prior defaults of Company that are capable of being cured by Leasehold Mortgagee. The new Agreement shall be for the remainder of the term, effective at the date of such termination, at the same rent and on the same covenants, agreements, conditions, provisions, restrictions and limitations contained in this Agreement. The new Agreement shall have the same title priority as this Agreement and shall be subject only to the exceptions to title having priority over this Agreement or such additional exceptions to which such Leasehold Mortgagee has consented in writing. In the event the Lessor and such Leasehold Mortgagee enter into any such new Agreement, title to all the Facilities located upon the Premises as of the date of such new Agreement shall automatically vest in such Leasehold Mortgagee. If requested by such Leasehold Mortgagee, Lessor agrees to execute and deliver to Leasehold Mortgagee within 10 days after request therefore, a quitclaim deed in recordable form conveying title to such Facilities to such Leasehold Mortgagee. Lessor also agrees to assign to such Leasehold Mortgagee all Subleases with Tenants whose Subleases attach to Lessor upon the termination of this Agreement.
- 2.18.9 Lessor shall cooperate in amending this Agreement from time to time to add any provision which may reasonably be requested by any Leasehold Mortgagee or proposed lender for the purpose of implementing the mortgagee protection provisions contained in this Agreement and allowing such Leasehold Mortgagee reasonable means to protect or preserve the lien of its loan and the value of its security. Lessor agrees to execute and deliver (and to acknowledge if necessary for recording purposes) any agreement necessary to effect any such amendment; provided, however, that any such amendment shall not in any way affect or change the term of this Agreement or the Rent or other amounts payable to Lessor under this Agreement, subordinate the fee interest of Lessor in the real property underlying the Premises, nor otherwise in any material respect adversely affect any rights of Lessor under this Agreement.
- 2.18.10 The bankruptcy or insolvency of Company will not operate or permit the Lessor to terminate this Agreement as long as all Rent or other monetary payments required to be paid by Company continue to be paid and other required obligations are performed in accordance with the terms of this Agreement.
- 2.18.11 To the extent any of the terms of this Agreement are inconsistent with the terms of this Section regarding mortgagee protection provisions, the mortgagee protection provisions will control.
- 2.18.12 Every Leasehold Mortgage shall contain a provision that copies of all notices of default by Company thereunder must be sent to Lessor. In the event of any default by Company under any Leasehold Mortgage, the Lessor reserves the right to make any payments due to the Leasehold Mortgagee before the Leasehold Mortgagee resorts to any foreclosure or sale proceedings under its deed of trust or other security instrument.

2.18.12.1 Following any foreclosure or deed in lieu of foreclosure the leasehold estate created by this Agreement and the Facilities may be transferred or assigned as provided in Section 2.1.2.

2.18.13 Any mortgage placed by the Lessor on the fee title to the Premises shall be subordinate to this Agreement (and any replacement to this Agreement), any separate lease entered into in accordance with Section 4.9 and all Subleases.

2.18.14 Prior to any termination of this Agreement by Lessor, any Leasehold Mortgagee shall be allowed sufficient time to complete any foreclosure action, including time for delays due to official restraint (including by law, process or injunction issued by a court), so long as such Leasehold Mortgagee is making payments required by this Agreement which can be reasonably determined prior to acquiring the Company's interest under this Agreement. Leasehold Mortgagee shall have the right to terminate foreclosure proceedings at any time if Company has cured all defaults under any loan from Leasehold Mortgagee. However, no such termination of foreclosure proceedings shall prevent Lessor from pursuing, or continuing to pursue, its rights and remedies under this Agreement against Company for any uncured defaults under this Agreement.

2.18.15 So long as any Leasehold Mortgage is in effect, there shall be no merger of the leasehold estate created by this Agreement into the fee simple estate in the Premises without the prior written consent of the Leasehold Mortgagee.

2.18.16 Any Leasehold Mortgagee shall have the right to participate in any settlement or adjustment of losses under insurance policies maintained by Company under this Agreement. Such Leasehold Mortgagee shall be named as a loss payee or additional insured, as applicable, in accordance with any loan documents executed by Company, under the insurance policies required under this Agreement. Company shall use commercially reasonable efforts to obtain provisions in Leasehold Mortgages providing that any proceeds of insurance shall first be used for the purposes provided for in this Agreement before any portion thereof is applied to repay any indebtedness under such Leasehold Mortgage.

2.19 EMINENT DOMAIN

2.19.1 In the event of any acquisition of or damage to all or any part of the Premises or any interest therein by eminent domain, whether by condemnation proceeding or transfer in avoidance of an exercise of the power of eminent domain or otherwise during the term of this Agreement, the rights and obligations of the parties with respect to such appropriation shall be as provided in this Section. As used herein:

- a. "Taking" shall mean any taking or damage, including severance damage, by eminent domain or by inverse condemnation or for any public or quasi-public use under any statute. The transfer of title may be either a transfer resulting from the recording of a final order in condemnation or a voluntary transfer or conveyance in lieu of an exercise of eminent domain or while condemnation proceedings are pending. The taking shall be deemed to take place on the

earlier of (i) the date actual physical possession is taken by the condemnor or (ii) the date on which the title passes to the condemnor.

- b. "Total Taking" shall mean the taking of fee title to all of the Premises or so much of the Premises that the portions of the Premises not so taken are, in the reasonable judgment of Company, not reasonably suited for the uses of the Premises that have been previously made by Company. A Temporary Taking, defined below, may be treated as a Total Taking if it meets the test set forth above.
- c. "Partial Taking" shall mean any taking of fee title that is not a Total Taking.
- d. "Temporary Taking" shall mean the taking for temporary use of all or any portion of the Premises for a period ending on or before the expiration of the term.
- e. "Award" shall mean all compensation paid for the taking whether pursuant to a judgment or by agreement or otherwise.
- f. "Notice of Intended Taking" shall mean any notice or notification on which a reasonably prudent man would rely and which he would interpret as expressing an existing intention of taking as distinguished from a mere preliminary inquiry or proposal and shall include without limitation the service of a condemnation summons and complaint on either Lessor or Company or the receipt by either Lessor or Company from a condemning agency or entity of a written notice of intent to take containing a description or map of the taking reasonably defining the extent thereof.

2.19.2 Upon receipt of any of the following by either Party hereto, such Party shall promptly deliver a copy thereof, endorsed with the date received, to the other and any Leasehold Mortgagee which has given its name and address to such Party for such purpose.

- a. Notice of Intended Taking;
- b. Service of any legal process relating to the condemnation of all or any part of the Premises;
- c. Notice in connection with any proceedings or negotiations with respect to any such condemnation; and
- d. Notice of intent or willingness to make or negotiate a private purchase, sale or other transfer in lieu of condemnation.

2.19.3 Lessor, Company and any Leasehold Mortgagee that would be affected by such taking, shall each have the right to represent its respective interest in each proceeding or negotiation with respect to any taking or intended taking and to make full proof of its claims. No agreements, settlement, sale or transfer to or with the condemning authority shall be made without the prior written consent of Lessor, Company and

Leasehold Mortgagee, which consent shall not be unreasonably withheld. Each of the parties hereto agrees to execute and deliver to the other any instruments that may be required to effectuate or facilitate any of the provisions of this Section where such execution or delivery will not adversely affect the right of such party to receive just compensation for any loss sustained in such negotiation or proceeding.

- 2.19.4 In the event of a Total Taking, this Agreement and all interests, rights, liabilities and obligations of the Parties hereunder shall terminate as of the date of Taking, except for liabilities and obligations arising out of events occurring prior to the date of termination.

In the event of a Taking of fee title to less than all of the Premises which Company reasonably believes to be a Total Taking, Company may, by written notice to Lessor approved by all Leasehold Mortgagees, within one hundred twenty (120) days after Company receives Notice of Intended Taking thereof, elect to treat such taking as a Total Taking. If Company fails to make such timely election, such Taking shall be deemed to be a Partial Taking for all intents and purposes.

Any taking determined to be a Total Taking in accordance with the foregoing paragraph shall be treated as a Total Taking if (i) Company delivers possession of the Premises to Lessor within one hundred twenty (120) days after Company shall have delivered written notice to Lessor electing to treat such taking as a Total Taking and (ii) Company has complied with all of the provisions hereof relating to the apportionment of the awards.

In a Total Taking, all sums, including damages and interest, awarded for the fee or the leasehold or both shall be distributed in the following order of priority:

- a. First, to Leasehold Mortgagees to the extent of the then balance due on all Leasehold Mortgages;
- b. Second, to Lessor an amount equal to the then present value of the reversionary interest of Lessor in the real property underlying the Premises at the Expiration of this Agreement;
- c. Third, subject to Section 1.1.25, the balance of the Award to Company.

All sums awarded for the leasehold or the fee shall (i) be delivered to Lessor and Company (or to Leasehold Mortgagee), respectively, if such award has been apportioned between Lessor and Company by such condemning authority, or (ii) deposited promptly with Leasehold Mortgagee (or in the event that there is no lender of record, with an escrow agent selected by Company in the reasonable exercise of its discretion), if only a single award is made, and distributed and disbursed as set forth above. Sums being held by the escrow agent pending disbursement shall be deposited in a federally insured interest bearing account and, upon distribution, each party having a right to any of the sums being disbursed shall be entitled to receive the interest attributable to its share of said sums.

2.19.5 In the event of a Partial Taking, this Agreement shall remain in full force and effect as to the portion of the Premises remaining.

On a Partial Taking, all sums, including damages and interest, awarded for the fee or the leasehold or both shall be distributed in the following order of priority:

- a. First, to Company an amount equal to the cost of making all repairs and restorations to any Facilities on the Premises affected by such taking to the extent necessary to restore the same to a complete architectural and economically viable or functioning units (to the extent permitted, however, taking into consideration the amount of land remaining after such taking or purchase);
- b. Second, to any Leasehold Mortgagee to the extent that the security if its Leasehold Mortgage has been impaired as a result of the Partial Taking or as required by its loan documents, whichever is greater;
- c. Third, to Lessor an amount equal to the then present value of the reversionary interest of Lessor in the real property underlying the Premises at the Expiration of this Agreement in that portion of the real property underlying the Premises that is taken in such Partial taking;
- d. Fourth, subject to Section 1.1.25, the balance of the Award to Company.

All sums awarded for the leasehold or the fee shall (i) be delivered to Lessor and Company (or to Leasehold Mortgagee), respectively, if such award has been apportioned between Lessor and Company by such condemning authority, or (ii) deposited promptly with Leasehold Mortgagee (or in the event that there is no lender of record, with an escrow agent selected by Company in the reasonable exercise of its discretion), if only a single award is made, and distributed and disbursed as set forth above. Sums being held by the escrow agent pending disbursement shall be deposited in a federally insured interest bearing account and, upon disbursement, each party having a right to any of the sums being disbursed shall be entitled to receive the interest attributable to its share of said sums.

2.19.6 In the event of a Temporary Taking, this Agreement shall remain in full force and effect, neither the rents reserved hereunder nor the term hereof shall be reduced or affected in any way, and, subject to Section 1.1.25, Company shall be entitled to any award for the use or estate taken, subject to the requirements of any Leasehold Mortgagee.

2.19.7 Unless the respective values are determined by the court in the eminent domain proceeding, the values of the interests for which Lessor and Company are entitled to compensation in the event of a Total or Partial Taking shall be determined by the mutual written agreement of Lessor and Company. If Lessor and Company are unable to agree on the value of said interests within thirty (30) days after the deposit of the sums awarded with the escrow agent, then within thirty (30) days after the expiration of that period, each such party shall submit its good faith estimate of the value of said

interests as of the date of the taking. If the higher of said estimates is not more than 105% of the lower of such estimates, the value shall be the average of the submitted estimates. If otherwise, then within ten (10) days the question shall be submitted to arbitration pursuant to the rules of the American Arbitration Association.

ARTICLE III

3.1 ENVIRONMENTAL POLICY

3.1.1 Violation Of Environmental Laws

During the term of this Agreement, Company will not cause or permit any Hazardous Material to be used, generated, manufactured, produced, stored, brought upon, or released on, under or about the Premises, or transported to and from the Premises, by Company, its Sublessees and Tenants, or their respective agents, employees, contractors, invitees or a third party in violation of the Environmental Laws.

3.1.1.1 LDR will have access to the Premises to inspect same to insure that Company is using the Premises in accordance with Environmental Laws.

3.1.1.2 Company, at the LDR's reasonable request, as a Project Cost, will conduct such testing and analysis as necessary to ascertain whether Company is using the Premises in compliance with environmental requirements. Any such tests will be conducted by qualified independent experts chosen by Company and subject to LDR's reasonable written approval. Copies of such reports from any such testing will be provided to LDR.

3.1.1.3 Company will promptly provide copies of all notices, reports, claims, demands or actions concerning any environmental concern or release or threatened release of Hazardous Materials to Lessor.

3.1.2 Contamination Of Premises

3.1.2.1 If the illegal use of any Hazardous Material on, under or about the Premises by Company, its agents, employees or contractors results in any contamination of the Premises, in violation of an Environmental Law, Company will promptly take all actions as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises. Company will take all steps necessary to remedy and remove any such Hazardous Materials as are necessary to protect the public health and safety and the environment from actual harm and to bring the Premises into compliance with all environmental requirements. If any such contamination is a result of the gross negligence of Company or its employees or if Company or its employees intentionally contaminate the Premises, all costs incurred to bring the Premises into compliance with environmental laws shall be at Company's cost and expense and not as a Project Cost. If any such contamination is a

result of the actions of agents, contractors, third parties or the actions of Company that were not intended to contaminate the Premises, all costs incurred to bring the Premises into compliance with environmental laws shall be a Project Cost.

3.1.2.2 Lessor will be solely responsible for any environmental condition existing on or about the Premises prior to the commencement of the term of this Agreement or any environmental conditions caused by Lessor, its agents, employees, contractors or invitees during the term. Lessor will promptly take all actions, at its cost and expense, as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises. Lessor will take all steps necessary to remedy and remove any such Hazardous Materials as are necessary to protect the public health and safety and the environment from actual harm and to bring the Premises into compliance with all environmental requirements.

3.1.2.3 If the illegal use of any Hazardous Material on, under or about the Premises by Sublessees and Tenants, their respective agents, employees, contractors, servants or invitees results in any contamination of the Premises, in violation of an Environmental Law, Company will promptly take all actions, as a Project Cost, as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises. Company will take all steps necessary to remedy and remove any such Hazardous Materials as are necessary to protect the public health and safety and the environment from actual harm and to bring the Premises into compliance with all environmental requirements. All amounts recovered (whether by way of settlement of a claim, judgment, indemnity or otherwise) by Company from any such Sublessee, Tenant, agent, employee, contractor, servant or invitee in connection with the foregoing matters shall be included in Total Revenue for the full or partial calendar year of the term of this Agreement in which recovered (Company's reasonable costs of recovery shall be deducted as a Project Cost), or if recovered following the expiration or termination of the term of this Agreement, fifty percent (50%) of such recovery (after deducting from such recovery the Company's reasonable costs of recovery not theretofore included in Project Costs) shall be promptly paid over to Lessor.

3.1.3 Compliance With All Governmental Authorities

During the term of this Agreement, Company will promptly make all submissions required of Company and comply with all requirements of the appropriate governmental authority under all Environmental Laws. During the term of this Agreement, Lessor will promptly make all submissions required of Lessor to, and comply with, all requirements of the appropriate governmental authority under all Environmental Laws.

3.1.3.1 Should any governmental agency having authority over such matters determine that a site characterization, site assessment, and/or cleanup plan be prepared or that a cleanup should be undertaken because of any spills or discharges of hazardous materials at the Premises by Company, its

agents, employees or contractors which occur during the term of this Agreement, then Company shall prepare and submit the required plans and financial assurances, and carry out the approved plans. If any such spills or discharges are a result of the gross negligence of Company or its employees or if Company or its employees intentionally spilled or discharged hazardous materials at the Premises, all costs incurred to prepare and submit the required plans and carry out the approved plans shall be at Company's cost and expense and not as a Project Cost. If any such spills or discharges are a result of the actions of agents, contractors, third parties or the actions of Company that were not intended to spill or discharge hazardous materials at the Premises, all costs incurred to prepare and submit the required plans and carry out the approved plans shall be a Project Cost.

3.1.3.2 Company hereby agrees to indemnify Lessor from all costs incurred in connection with any investigation of site conditions or any cleanup, remediation, removal or restoration work required by any Federal, State or local governmental agency or political subdivision because of an environmental condition on, under or about the Premises that is caused by Company, its Sublessees, their agents, employees, contractors or invitees. If any such environmental condition is a result of the gross negligence of Company or its employees or if Company or its employees intentionally caused such environmental condition, all costs incurred to bring the Premises into compliance with environmental laws shall be at Company's cost and expense and not as a Project Cost. If any such environmental condition is a result of the actions of Sublessees, agents, contractors, third parties or the actions of Company that were not intended to contaminate the Premises, all costs incurred to bring the Premises into compliance with environmental laws shall be a Project Cost. Lessor hereby agrees to indemnify Company from all costs incurred in connection with any investigation of site conditions or any cleanup, remediation, removal or restoration work required by any Federal, State or local governmental agency or political subdivision because of an environmental condition on, under or about the Premises that existed prior to the Effective Date of this Agreement or was caused by Lessor, its agents, employees, contractors or invitees during the term.

3.1.3.3 Should any governmental agency having authority over such matters determine that a site characterization, site assessment, and/or cleanup plan be prepared or that a cleanup should be undertaken because of any spills or discharges of hazardous materials at the Premises by Sublessees and Tenants, and their respective agents, employees, contractors or invitees which occur during the term of this Agreement, then Company shall (as a Project Cost) prepare and submit the required plans and financial assurances, and carry out the approved plans. Company will promptly provide all information requested by Lessor to determine the applicability of the Environmental Laws to the Premises, or to respond to any governmental investigation or to respond to any claim of liability by third parties which is related to such environmental contamination. All amounts recovered (whether by way of settlement of a claim, judgment, indemnity or otherwise) by Company from any such Sublessee, Tenant, agent, employee, contractor, servant or invitee in connection with the foregoing matters shall be included in Total Revenue for the full or partial calendar year of the term of this Agreement in which recovered (Company's reasonable costs of recovery shall be deducted as a Project Cost), or if recovered following the expiration or termination of the term of this Agreement, fifty percent (50%) of such recovery (after deducting from such recovery the Company's reasonable costs of recovery not theretofore included in Project Costs) shall be promptly paid over to Lessor.

ARTICLE IV

4.1 FORCE MAJEURE

Neither Lessor, Company or any Leasehold Mortgagee will be deemed to be in breach of this Agreement by reason of failure to perform any of its obligations hereunder if, while and to the extent that such failure is due to strikes, boycotts, labor disputes, embargoes, shortages of materials, acts of God, acts of the public enemy, acts of governmental authority, unusual weather conditions, floods, riots, rebellion or sabotage. However, the provisions of this Section will not apply to, nor excuse any failure by Company to pay Rents, fees or any other money payments required under the provisions, covenants or agreements contained in this Agreement.

4.2 QUIET ENJOYMENT

Lessor agrees that, on payment of the Rents and fees and performance of the covenants, conditions and agreements on the part of Company to be performed hereunder, Company will have the right to peaceably occupy and enjoy the Premises.

4.3 NOTICES

All notices, requests, consents and approvals under this Agreement will be given only by personal delivery, certified mail return receipt requested, overnight courier service or facsimile. The same shall be deemed to have been given: (i) if personally delivered, upon receipt, (ii) if by certified mail, upon the date indicated on the return receipt, (iii) if by overnight courier service, upon the date delivered as shown by the records of the courier, and (iv) if by facsimile, at the time of electronic confirmation of successful transmission.

Notices intended for the Lessor will be addressed to:

Industry Urban-Development Agency
15651 East Stafford Street
City of Industry, California 91744
Attn: Executive Director
Facsimile: (626) 961-6795

or to such other address as may be designated by the Lessor by written notice to Company.

Notices intended for the Company will be addressed to:

Industry East Land, LLC
c/o Majestic Realty Co.
13191 Crossroads Parkway North
City of Industry, California 91746
Attn: Edward P. Roski, Jr.
Facsimile: (562) 692-1553

or to such other address as may be designated by the Company by written notice to Lessor.

4.4 HEADINGS, TITLES OR CAPTIONS

Article, section or paragraph headings, titles or captions are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or extent of any provision of this Agreement.

4.5 INVALID PROVISIONS

It is expressly understood and agreed by and between the parties hereto that in the event any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of such covenant, condition or provision will in no way affect any other covenant, condition or provision herein contained; provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either Lessor or Company in their respective rights and obligations contained in the valid covenants, conditions or provisions of this Agreement.

4.6 STATE OF CALIFORNIA LAW

This Agreement will be interpreted under and governed by the internal laws of the State of California, without regard to principles of conflicts of law.

4.7 ENTIRE AGREEMENT

This document represents the entire agreement between the parties hereto and it cannot be effectively modified or canceled by mutual agreement or in any manner, nor may any term or provisions of this Agreement be waived, except by an instrument in writing approved by Lessor and executed by duly authorized officials, officers or agents of the Parties.

4.8 SUBDIVISION OF THE PREMISES AND RIGHT TO SEPARATE LEASES

- 4.8.1 The parties hereto acknowledge and agree that the Premises will be developed by Company with Facilities, in phases, over a number of years. During the term of this Agreement, Company may, from time to time, as a Project Cost, to subdivide the Premises to create such separate legal parcels as Company reasonably deems desirable for the development of the Premises and to cause subdivision maps covering the Premises, or any portion thereof, to be prepared and processed through the appropriate governmental agencies, executed by Company and Lessor, and filed for record in accordance with all laws and ordinances applicable thereto. Subject to the foregoing, at any time, and from time to time during the term of this Agreement, Lessor agrees to, within 15 days after the written request of Company, execute and deliver such instruments as may be appropriate, necessary, or required for: (i) the grant or dedication of any easement, right of way or other property right to any public entity or service corporation for ingress, egress, road or utility purposes and reasonably required for the subdivision or development of the Premises, or (ii) the obtaining of governmental approvals, consents, zoning changes, conditional uses, variances, subdivision maps or the like, or for the purpose of providing adequate utility services to the Premises, or permitting Company to construct the

Facilities or other improvements on the Premises or make any alteration or addition to the Facilities.

4.8.2 The parties further acknowledge and agree that as a result of such phased development, Company will be obtaining construction, interim and permanent financing for the development of various portions of the Premises and the Facilities at different times during the Term of this Agreement. In order to facilitate such phased development and to facilitate separate financing for various phases thereof, the parties hereby agree that the Company shall have the right, at any time, and from time to time, during the term of this Agreement, or any extension thereof, to have any portion of the Premises removed from the legal description of the Premises and to have the Lessor and Company enter into a new separate lease covering the portion of the Premises so removed from this Agreement.

4.8.2.1 All such new leases shall be for the remainder of the Term of this Agreement and shall be on the same terms and conditions as this Agreement, including, without limitation, the right of first refusal as set forth herein. If requested by Company, Lessor agrees to grant any easements reasonably required for access, road or utility purposes between the Premises remaining subject to this Agreement and the portion of the Premises which becomes subject to any such new lease.

4.8.2.2 At any time Company desires a separate lease, Company shall prepare an amendment to this Agreement deleting the portion of the Premises to be covered by the separate lease and shall also prepare such separate lease and submit both documents to Lessor for execution. Lessor agrees to execute such amendment and separate lease within twenty (20) days after Company submits such documents. Concurrently with the execution of each such amendment and separate lease, the Parties shall execute a memorandum in recordable form evidencing the existence of such separate lease, the portion of the Premises subject to such separate lease, the effective date and termination date of such separate lease and the fact that there is a right of first refusal to purchase the Premises. Concurrently with the execution of such amendment and separate lease, the parties shall also execute a memorandum in recordable form evidencing the existence of such amendment to this Agreement. Any such separate lease shall have the same title priority as this Agreement and shall be subject only to the exceptions to title having priority over this Agreement or such additional exceptions to which Company has consented in writing. In the event the parties enter into any such separate lease, title to all Facilities located upon the Premises subject to such separate lease shall automatically vest in Company as of the effective date of such separate lease. If requested by Company, Lessor agrees to execute and deliver to Company within 10 days after request therefore, a quitclaim deed in recordable form conveying title to such Facilities on the premises subject to the separate lease to Company. Lessor also agrees to assign to Company all Subleases with Tenants whose Subleases attach to Lessor upon the termination of this Agreement and creation of such separate lease.

4.9 RIGHT OF FIRST REFUSAL TO PURCHASE

At all times during the term of this Agreement and any extensions or renewals thereof, should Lessor receive a bona fide offer from any third party to purchase all or any portion of the Premises, which offer Lessor desires to accept, Lessor shall, before accepting such offer,

provide Company with a full and complete copy of such offer and shall first offer in writing to sell the portion of the Premises which is the subject of such offer to Company on the same terms and conditions as set forth in said offer. Upon receipt of any such notice and copy of such offer from Lessor, Company shall have thirty (30) days thereafter within which to accept the same. Should Company fail to accept any such offer within said thirty (30) day period, Lessor shall be free to sell said portion of the Premises to the original offeror upon the same terms and conditions offered to Company without further notice to Company. Should Lessor after having made such offer to Company as above described, fail to sell said portion of the Premises upon the same terms and conditions offered to Company, Lessor shall give Company notice and the first right to purchase in the manner set forth above of any further or different offers received by Lessor for the purchase of said portion of the Premises and shall first offer to sell the same to Company upon the same terms and conditions before accepting any such further or different offer. The right of first refusal set forth herein is a continuing right of first refusal to purchase and shall apply to all subsequent bona fide offers from third parties after a sale by Lessor, or its successors, to a party other than Company.

4.10 UTILITIES

To the extent not paid by Sublessees, Company shall, as a Project Cost, pay for all water, gas, heat, light, power, telephone service, trash disposal and other utilities and services supplied to the Premises and the Facilities located thereon, together with any taxes thereon.

4.11 OWNERSHIP OF IMPROVEMENTS

All improvements constructed on the Premises by Company (including, without limitation, the Facilities) at any time and from time to time, will be owned by Company during the term of this Agreement. If requested by Company, any Leasehold Mortgagee or title insurance company, Lessor agrees to execute and deliver to Company within ten 10 days after request therefor, a quitclaim deed in recordable form conveying or confirming title to all such improvements in Company. All such buildings and improvements constructed upon the Premises by Company are and shall remain real property and may not be severed from this Agreement or the leasehold estate created hereby.

4.12 LEASING COMMISSIONS

In the event Company retains the services of Majestic Realty Co. or any affiliate of Company to Sublease the Premises and the Facilities, the leasing commissions paid to Majestic Realty Co. or any such affiliate, as a Project Cost, shall not exceed the scheduled commissions for similar services charged by the major brokerage companies operating in the County of Los Angeles, California.

4.13 COVENANTS FOR NON-DISCRIMINATION

The Company covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, age, handicap, national origin or ancestry in the use and occupancy of the Premises, nor shall the Company itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation

with reference to the use or occupancy of the Premises.

4.13.1 The Company shall refrain from restricting the rental or lease of the Premises on the basis of race, color, creed, religion, sex, marital status, handicap, national origin or ancestry of any person. All such leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

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

"There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, handicap, ancestry or national origin in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased."

2. In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, marital status, handicap, ancestry or national origin, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants or vendees of the premises."

4.13.2 The covenants established in this Section shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Lessor, its successors and assigns, the City of Industry and any successor in interest to the fee ownership of the Premises or any part thereof. The covenants, contained in this Section shall remain in effect from the term of this Agreement.

IN WITNESS WHEREOF, Lessor and Company have executed these presents the day and year first above written.

ATTEST:

INDUSTRY URBAN-DEVELOPMENT AGENCY

BY: _____
Annie Faure, Secretary

BY: _____
Rolene Harrison, Chairman

INDUSTRY EAST LAND, LLC, a
California Limited Liability Corporation

WITNESS:

BY: Majestic Realty Co., a California corporation, its
Manager

APPROVED AS TO FORM:
_____, Agency Legal Counsel

By: _____

Its: _____

BY:

By: _____

Its: _____

EXHIBIT A**LEGAL DESCRIPTION****SOUTHERN PARCEL**

1
2
3
4
5
6 A parcel of land, in the City of Industry, County of Los Angeles, State of California,
7 bounded northwesterly by Brea Canyon Road, northeasterly by Old Ranch Road,
8 southeasterly by the northwesterly base of the hills lying northwesterly of the 60/57
9 freeway and southwesterly by the City of Diamond Bar, and being more particularly
10 described as follows:

PARCEL 1 - FNTC PTR 68033C-RD

11
12
13
14
15 Those portions of Sections 4, 8 and 9, Township 2 South, Range 9 West, San Bernardino
16 Meridian, County of Los Angeles, State of California, according to the Official Plat of
17 said lands filed in the District Land Office, September 28, 1868, more particularly
18 described as follows:

19
20 Beginning at the most Northerly corner of Tract No. 2166, in said County and State, as
21 per map recorded in Book 22 Page 4, of Maps, in the office of the County Recorder of
22 said County; thence along the Northeasterly fine of said Tract and its Southeasterly
23 prolongation South $62^{\circ} 46' 58''$ East 2200.92 feet to a found 2 inch iron pipe making an
24 angle point in the boundary of the land described in deed to Isaac N. Krushaar, recorded
25 February 10, 1955, in Book 46873, Page 70, Official Records of said County, thence
26 Northerly along the boundary described in said deeds, North $27^{\circ}, 52' 2''$ East 4289.22
27 feet, North $6^{\circ} 16' 8''$ West 589.49 and North $13^{\circ} 15' 47''$ East 1975.51 feet to a found 2
28 inch iron pipe in the Southeasterly line of the Los Angeles and Salt Lake Railroad
29 company, right of way 100 feet wide, as shown map recorded in Book 1507, Page 74, of
30 Deeds, in the office of the County Recorder of said County, thence continuing North 13°

P S O M A S

1 15' 47 " East 114.09 feet to the center line of said right of way; thence along the
2 centerline of said right of way South 39° 15' 20" West 3537.47 feet to the found nail and
3 tin marking Engineer's Station 1366 plus 07.4 on said center line of right of way; thence
4 continuing along said centerline South 9° 15' 20 " West 3083.21 feet to the beginning of a
5 tangent curve concave to the Northwest, thence along a radial line of said curve South 56°
6 44' 40 " East 50. 00 feet to the Southeasterly line of said right of way, said last mentioned
7 poi t being also the beginning of a curve concave to the Northwest having a radius of
8 2914.93 feet, and a central angle of 6° 36'; thence Southerly along said curve and said
9 Southeasterly line of right of way 334.93 to the point of beginning.

10
11 EXCEPTING that portion of the above described parcel of land within said Railroad right
12 of way.

13
14 ALSO EXCEPTING all minerals and all mineral rights of every kind and character now
15 known to exist or hereafter discovered, including, without limiting the generality of the
16 foregoing, oil and gas and rights thereto, together with the sole, exclusive and perpetual
17 right to explore for, remove and dispose of said minerals by any means or methods
18 suitable to Grantor, its successors and assigns, but without entering upon or using the
19 surface of the lands hereby conveyed, or any portion of the subsurface of said lands
20 above a plane five hundred feet (500') below the surface of said land, and in such manner
21 as not to damage the surface of said lands or to interfere with the use thereof, as reserved
22 by Upland Industries Corporation, a California corporation, in Deed recorded December
23 24, 1981, as Instrument No. 81-1260114, Official Records.

24
25 **PARCEL 1-A - FNTC PTR 68033C-RD**

26
27
28 An easement for travel, oil, sever, gas and water pipe lines, telephone lines and other
29 utility lines with right of ingress and egress to install, repair and maintain such lines over
30 a strip of land 80 feet in width, said strip of land being described as follows:

31

P S O M A S

1 Those portions of Sections 5, 8 and 9, Township 2 south, Range 9 West, San Bernardino
2 Meridian, in the County of Los Angeles, State of California, according to the Official Plat
3 of said land filed in the District Land Office, September 28, 1858, and that portion of
4 Lot 3 of the subdivision of the land of William R. Rowland and Thomas Rhodes in the
5 Rancho La Puente, in said County and State, as per map recorded in Book 7, Page 6 and
6 7 of Miscellaneous Records, in the office of the County Recorder of said County,
7 described as follows:

8
9 Beginning at the Northerly terminus of that certain course in the Westerly line of said Lot
10 3, shown on said map as having a bearing of North 31° 30' East and a length of 19.77
11 chains on the map of said subdivision of the land of William R. Rowland and Thomas
12 Rhodes, said above described course bearing North 31° 24'45" East for the purpose of this
13 description; thence South 31° 24'45" West along said Westerly line 59.64 feet; thence
14 South 55° 45' 30" East, 1506.83 feet to Northwesterly line of the 100 foot right of way of
15 the Union Pacific (formerly the San Pedro, Los Angeles & Salt Lake), railroad; thence
16 39° 21'05" East 80.32 feet to a line parallel with the above described course having a
17 bearing of South 55° 45' 30" East and a length of 1506.83 feet and distant Northeasterly
18 80 feet, measured at right angles therefrom, thence North 55 ° 45' 30 " seconds West
19 along said parallel line to the Westerly line of said Lot 3; thence Southerly along said
20 Westerly line to the point of beginning.

21

22 **PARCEL 2 - FNTC PTR 68033C-RD**

23

24 Those portions of Section 8 and 9 in Township 2 South, Range 9 West, San Bernardino
25 Meridian, in the City of Industry, according to the Official Plat thereof, together with that
26 portion of Lot 3 of the Subdivision of the Land of William R. Rowland and Thomas
27 Rhodes in the Rancho La Puente, in said county and state, as shown on map recorded in
28 Book 7, Pages 6 and 7 of Miscellaneous Records, in the office of the County Recorder of
29 said County, more particularly described as follows:

30

P S O M A S

1 BEGINNING at the intersection of the Northwesterly line of the right of way of the
2 Union Pacific (formerly San Pedro, Los Angeles and Salt Lake Railroad Company) with
3 the Southerly prolongation of that certain center line course described in the deed to the
4 County of Los Angeles recorded January 29, 1929, as Instrument No. 1710, in Book
5 7444, Page 89, Official Records of said county, as having a bearing and length of "North
6 00° 10' 10" East 245. 01 feet"; thence Northerly along said prolongation and along said
7 center line, as described in said deed, to the Westerly prolongation of the Southerly line
8 of said Lot 3, thence Easterly along said last-mentioned prolongation to the Southwest
9 comer of said Lot 3, thence Northerly along the Westerly line of said Lot 3 to the most
10 Westerly comer of the land described in the deed to Chain-Bert Company, recorded May
11 14, 1957, as Instrument No. 1924 in Book 54494, Page 32 Official Records; thence
12 Southeasterly along the Southwest line of the land described, in said land-mentioned deed
13 to the Northwest line of the 100. 00 foot right of way of the Union Pacific Railroad
14 (formerly the San Pedro, Los Angeles and Salt Lake Railroad); thence Southwesterly
15 along said Northwest line to the point of beginning.

16
17 EXCEPT THEREFROM that portion of said land which lies within Brea Canyon Road
18 (formerly Anaheim-Spadra Road) 60. 00 feet wide, as described in deed to the County of
19 Los Angeles, recorded in Book 90, Page 372 of Deeds, records of said County.

20
21 ALSO EXCEPT THEREFROM that portion of said land which lies southwesterly line of
22 the easement of the Southern California Edison Company, 50 feet wide, as described in
23 deed recorded in Book 4706, Page 125 of Deeds, records of said County.

24
25 ALSO EXCEPT from that portion of said land lying within said Lot 3 "all precious
26 metals and ores thereof", as contained in the deed of partition of the Rancho La Puente
27 between William Workman and John Rowland, recorded in Book 10, Page 39 et seq., of
28 Deeds.

29
30 ALSO EXCEPT THEREFROM all minerals and all mineral rights of every kind and
31 character now known to exist or hereafter discovered, including, without limiting the

P S O M A S

1 generality of the foregoing, oil and gas and rights thereto, together with the sole,
2 exclusive and perpetual right to explore for, remove and dispose of said minerals by any
3 means or methods suitable to Grantor, its successors and assigns, but without entering
4 upon or using the surface of the lands hereby conveyed, or any portion of the subsurface
5 of said lands above a plane five hundred feet (500') below the surface of said lands, and
6 in such manner as not to damage the surface of said lands or to interfere with the use
7 thereof.

8
9 **PARCEL 3.- FNTC PTR 68033C-RD**

10
11 That portion of Sections 8 and 9, in Township 2 South, Range 9 West, San Bernardino
12 Meridian, in the City of Industry, county of Los Angeles, state of California, according to
13 the official plat of said land filed in the district land office on September 28, 1868,
14 together with that portion of lot 3 of the subdivision of the land of William R. Rowland
15 and Thomas Rhodes in the Rancho La Puente, in said city, county and state, as per map
16 recorded in book 7, pages 6 and 7 of miscellaneous records in the office of the county
17 recorder of said county; described as follows:.

18
19 Beginning at the Northerly terminus of that certain course in the Westerly line of lot 3,
20 shown on said map recorded in book 7, pages 6 and 7 of miscellaneous records, as having
21 a bearing and length of North 31° 30' East 19.77 chains, which course for the purpose of
22 the description bears North 31° 24' 45" East, thence along the said Westerly line, South
23 31° 24' 45" West 19.59 feet to the center line of an 80 foot easement as said easement is
24 described in the deed to Edward Rothschild, a married man, recorded on April 8, 1955 as
25 instrument no. 1225 in book 47431, page 34 of official records, and the TRUE POINT
26 OF BEGINNING for this description; thence along said center line South 55° 45' 30"
27 East 1512.38 feet to the Northwesterly line of the 100 foot right of way of the Union
28 Pacific (formerly of the San Pedro, Los Angeles and Salt Lake) Railroad, thence along
29 said North westerly line, South 39° 21' 05 " West 1010.45 feet, thence North 50° 38' 55"
30 West 1384.24 feet to the said Westerly line of lot 3, thence thereon, North 31° 24' 45"
31 East 884.23 feet to the TRUE POINT OF BEGINNING.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

Excepting therefrom that portion of said land lying within said lot 3, "all precious metals and ores thereof", as contained in the deed of partition of the Rancho La Puente, between William Workman and John Rowland, recorded in book 10, page 39 et seq., of deeds.

NORTHERN PARCEL

A parcel of land, in the City of Industry, County of Los Angeles, State of California, bounded northwesterly by Valley Boulevard and southeasterly by Southern Pacific Railroad right of way, and being more particularly described as follows:

PARCEL 1 - FNTC PTR 68033D-RD:

Lot 2 partly in the City of Industry, partly in the City of Walnut, and partly in unincorporated territory, as shown on record of survey map filed in Book 78, Pages 1 to 5 inclusive of Record of Surveys, in the office of the County Recorder of said County.

EXCEPT THEREFROM all that portion of said Lot 2 described in deed recorded March 18, 1980 as Instrument No. 80-270344 of Official Records, in the office of said recorder.

ALSO EXCEPT THEREFROM all those portions of said Lot 2, described as Parcels 191A and 191 C in document recorded August 14, 1968 in Book D4100, Page 452 of said Official Records.

ALSO EXCEPT THEREFROM all that portion of said Lot 2 described as Parcel 1A in document recorded November 27, 1974 as Instrument No. 3613 of said Official Records.

ALSO EXCEPT THEREFROM all that portion of said Lot described as Parcel 192 in Book D2138, Page 126 of said Official Records.

P S O M A S

1 ALSO EXCEPT THEREFROM all that portion of said Lot bounded southwesterly by the
2 southeasterly prolongation of that certain course in the generally northwesterly line of
3 said Lot, shown as having a bearing and length of North 55 degrees 07 minutes 22
4 seconds West, 97.56 feet, and bounded southeasterly by the Parcel 192 in Book D2138,,
5 Page 126 of said Official Records.

6

7

8 **PARCEL 2 - FNTC PTR 68033D-RD:**

9

10

11 That portion of Lot 19 of W. R. Rowland's Subdivision, in the City of Industry, as shown
12 on map recorded in Book 42 Pages 79 and 80 of Miscellaneous Records, in the office of
13 the County Recorder of said county, together with those portions of the Rancho La
14 Puente being unnumbered lot, as shown on said map of W R Rowland's Subdivision,
15 adjoining said Lot 19 on the West and on the North, described as a whole as follows:

16

17 Beginning at the Southeasterly terminus of that certain course in the Easterly boundary of
18 the land described in Parcel 31D in the Final Decree of Condemnation entered Los
19 Angeles County Superior Court Case No. 903761, a certified copy of which was recorded
20 May 12, 1972 as Instrument No. 3343, of Official Records of said county, as having a
21 bearing of "South 57° 31' 03" East" ; thence Northeasterly along the Southerly line of said
22 Lot 19 to and along the Southeasterly line of Parcel 2 in said city, county, and state, as
23 shown on record of survey, filed in Book 78, Pages 1 to 5 inclusive of Record of Surveys
24 in said recorder's office, a distance of 773 feet; thence Northwesterly along a line that is
25 at right angles to said Southwesterly line to the intersection with the Easterly line of said
26 Lot 19, said intersection being the true point of beginning; thence continuing
27 Northwesterly along, said line to the Easterly boundary of the land described in Parcel
28 31D of said hereinabove mentioned Final Decree of Condemnation; thence Northeasterly
29 along said Easterly boundary to the Easterly boundary of said unnumbered lot, thence
30 Southerly along the Easterly boundary of said unnumbered lot to and along Easterly line
31 of said Lot 19 to the true point of beginning, being the property described in deed

1 recorded March 18, 1980 as Instrument No. 80-270348 of Official Records, in the office
2 of said County.

3
4 **PARCEL 3 - FNTRC PTR 68033D-RD:**

5
6 That portion of Lot 18 of W R. Rowland's Subdivision of a portion of the Rancho La
7 Puente, in the City of Industry, as per map filed in Book 4Z Pages 79 and 80 of
8 Miscellaneous Records, in the office of the County Recorder of said County and that
9 portion of the Rancho La Puente, being an unnumbered lot adjoining on the South, as
10 shown on the map, described as a whole as follows:

11
12 Beginning at the most Northerly comer of said Lot 18, thence along the Northerly line of
13 said Lot 18, South 75° 23' 50 " West, 378.06 feet, to a point in the Southeasterly line of
14 Valley Boulevard, (formerly Pomona Boulevard) as described in Parcel 1 of the deed to
15 the County of Los Angeles, recorded in Book 16082, Page 243, Official Records, in said
16 office of county recorder; said Southeasterly line being a curve, concave Southeasterly
17 and having a radius of 950 feet, a radial line of said curve from said point bears South 34°
18 54' 13" East, thence Southwesterly along said curve Southeasterly line, through a central
19 angle of 36° 50' 45" an arc distance of 610.93 feet, thence continuing along said
20 Southeasterly line and tangent to said curve, South 18° 15' 00" West to the Northwesterly
21 terminus of that certain course shown as "South 69° 22' 35" East 89.97 feet" in Parcel 31
22 D in the Final Order of Condemnation had in Superior Court Case No. 903761, a certified
23 copy of which recorded May 12, 1972 in Book D5459, Page 492 of said Official
24 Records; thence along the lines of the land described in said Parcel 31 D as follows:

25
26 South 69 °22' 35 East 89.97 feet; South 20° 37' 25" West 170.07 feet; Southwesterly
27 along a tangent curve concave Southeasterly and having a radius of 3355.00 feet, an arc
28 distance of 161.74 feet; tangent to said curve South 17° 51' 41 " West 12.81 feet, having a
29 radius of 1295.00 feet, from a tangent which bears North 35° 17' 49" East, an arc distance
30 of 552.23 feet and tangent North 59° 43' 47" East to the Southeasterly line of said Lot 18;
31 thence Northeasterly thereon to the point of beginning.

P S O M A S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

EXCEPT that portion of said Lot 18, described as follows:

Beginning at the intersection of the Southeasterly boundary line of Rancho La Puente with the centerline of Valley Boulevard (70 feet wide) as said intersection is shown on County Surveyor's Map No. B-2897, filed in the office of the County Engineer of said county, thence South $61^{\circ} 33' 40''$ West along said centerline of Valley Boulevard, a distance of 246.07 feet; to the beginning of a tangent curve, concave Southeasterly and having a radius of 1,500.00 feet as said curve is shown on County Surveyor's Map No. B-14149, Sheet 3, filed in said office of County Engineer, said curve also being the proposed centerline of Valley Boulevard (100 feet wide); thence Southwesterly along said curve through a central angle of $22^{\circ} 36' 50''$ an arc distance of 592.03 feet to a point, a radial line of said curve to said point bears North $51^{\circ} 03' 10''$ West; thence South $51^{\circ} 03' 10''$ East; along said radial line, a distance of 11.45 feet, more or less, to a point on the Southeasterly line of Valley Boulevard (formerly Pomona Boulevard) described in Parcel 1 of a deed to the County of Los Angeles recorded in Book 16082 Page 242 of said Official Records, said point being the true point of beginning, thence Northeasterly along said Southeasterly right of way line of Valley Boulevard, as described in said deed, a curve concave Southeasterly and having a radius of 950 feet, an arc distance of 205.08 feet; to a point on the future centerline of Grand Avenue (100 feet wide), as said centerline is shown on said County Surveyor's Map No. B-2897, a radial line of said curve to said point bears North $39^{\circ} 07' 47''$ West, thence Southeasterly along said future centerline of Grand Avenue, being a curve concave Northeasterly and having a radius of 1,500 feet, through a central angle of $6^{\circ} 46' 23''$, an arc distance of 177.31 feet to a point on said curve, a radial line of said curve to said point bears South $40^{\circ} 16' 49''$ West, thence South $40^{\circ} 16' 49''$ West, along the prolongation of the last mentioned radial line, a distance of 189.08 feet, more or less, to the aforementioned radial line which passes through the true point of beginning; thence North $51^{\circ} 03' 10''$ West, along said aforementioned radial line, a distance of 192.68 feet, more or less, to the true point of beginning.

P S O M A S

1 **PARCEL 4 - FNTC PTR 68033D-RD::**

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

That portion of Lot 18 of W. R. Rowland's Subdivision, in the City of Industry, as per map filed in Book 42 Pages 79 and 80 of Miscellaneous Records, in the office of the County Recorder of said County, described as follows: Beginning at the intersection of the Southeasterly boundary line of Rancho La Puente with the centerline of Valley Boulevard (70 feet wide) as said intersection is shown on County Surveyor's Map No. B-2597, thence South 61° 33' 40" West along said centerline of Valley Boulevard, a distance of 246.07 feet to the beginning of a tangent curve concave Southerly and having a radius of 1500.00 feet as curve is shown on County Surveyor's Map No. B- 1419, Sheet 3, in the office of the County Engineer of said county, said curve also being the proposed centerline of Valley Boulevard (100 feet wide); thence Southwesterly along said curve through a central angle of 22° 36' 50 " an arc distance of 592.03 feet to a point, a radial to said point bears North 51° 03' 10" West; thence South 51° 03' 10" East along said Southeasterly line of the land described in Parcel 1 of a deed to the County of Los Angeles, recorded in Book 16082, Page 242, Official Records of said county; said point also being the true point of beginning, thence Northeasterly along said Southeasterly right-of-way line of Valley Boulevard, as described in said deed, being a curve concave Southeasterly and having a radius of 950.13 feet, a central angle of 12° 22' 03", an arc distance of 205.08 feet, to a point on the future centerline of Grand Avenue, (100 feet wide) as said centerline is shown on said County Surveyor's Map No. B-2897, a radial to said point bearing North 39° 07' 17" West, thence Southeasterly along said future centerline of Grand Avenue, being a curve concave Northeasterly and having a radius of 1500 feet, a central angle of 6° 46' 23" an arc distance of 177.31 feet to a point on said curve, a radial of said last mentioned curve to said point bearing South 40° 16' 49" West; thence South 40° 16' 49 " West along the prolongation of the last mentioned radial line, a distance of 189.08 feet, more or less, to the aforementioned radial line which passes through the true point of beginning; thence North 51° 03' 10" West along said aforementioned radial line a distance of 192.68 feet, more or less to the true point of beginning.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

This Legal Description as described is delineated on the accompanying "PROJECT LEGAL DESCRIPTION" and is made a part hereof for reference purposes.

This legal description is not intended to be used in the conveyance of land in violation of the Subdivision Map Act of the State of California.

This legal description was compiled under the direction of:



Robert C. Olson, PLS 5490

Psomas

Date: 5.28.99



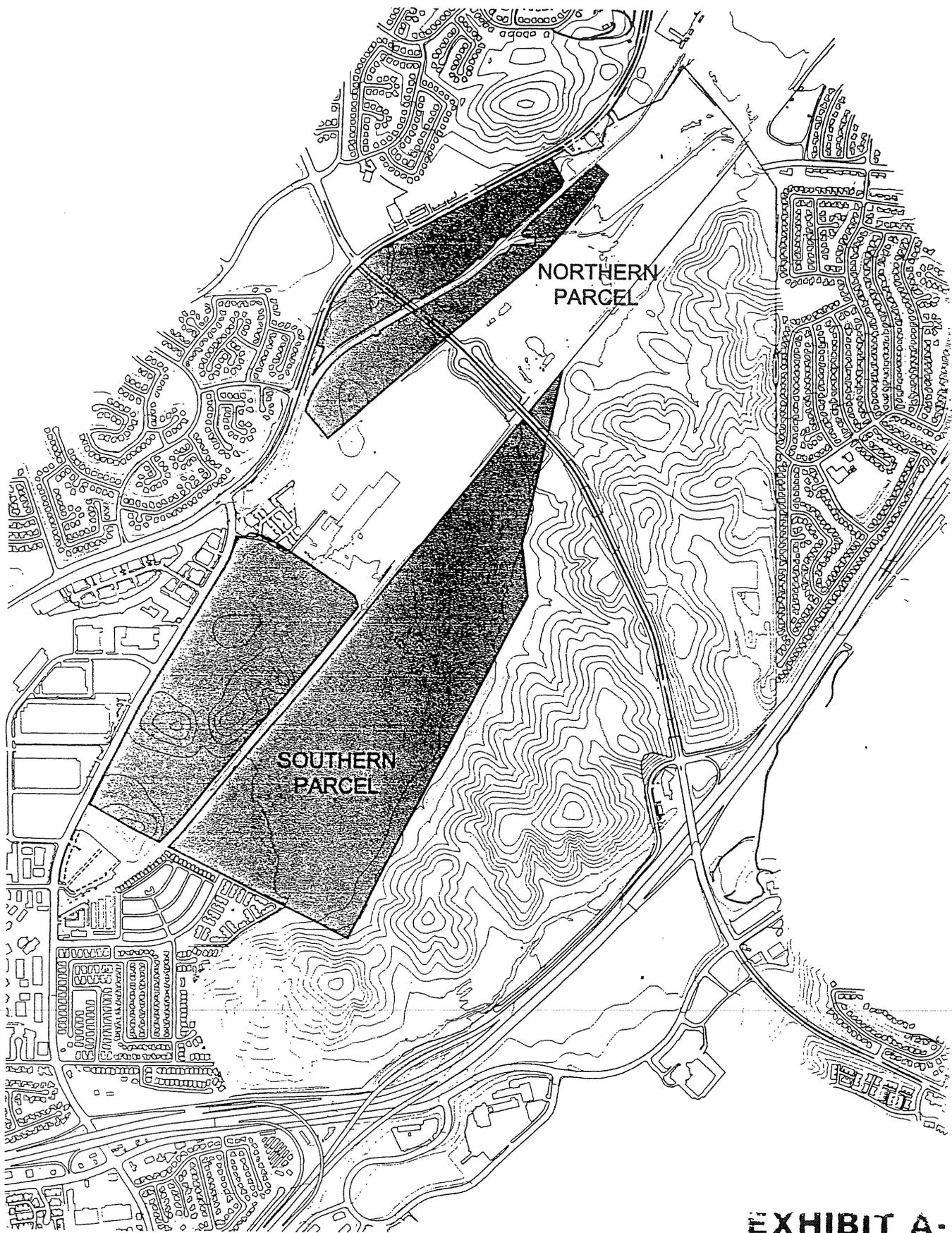
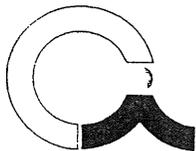


EXHIBIT A-



Project Legal Description

CITY OF INDUSTRY CALIFORNIA

INDUSTRY URBAN DEVELOPMENT AGENCY

4 ACRES



SCALE 0' 400' 800' 1600' 2000'

JOB NO: 1IND0503
DATE: 05/21/99

REVISED ON:



EXHIBIT "B"

INDUSTRY URBAN DEVELOPMENT AGENCY

May 27, 1999

SCOPE OF AGENCY IMPROVEMENTS

The Agency will, at its cost and expense, design and construct the public improvements, located within the public rights of way, reasonably necessary to adequately serve the Project and to provide the mitigation required for the Project to satisfy the requirements of the California Environmental Quality Act ("CEQA"). Said public improvements shall include:

A. Roads

Design and construct streets and all utilities and infrastructure for the following project roadways. (See attached Jurisdiction and Circulation.)

Street improvements will include curb, gutter, and road pavement design and grades and sidewalks. Street lighting, traffic signals, pavement striping, traffic control signage, landscape and irrigation for roadway medians are also included.

Street A – from Grand Ave to west project boundary, including special intersection design at Grand Avenue, all street improvements, utilities and infrastructure.

Street B – From Street "A" to Brea Canyon Road including design and construction of the Union Pacific Rail Road ("UPRR") undercrossing for B Street and intersection modifications at Brea Canyon Road all street improvements, utilities and infrastructure.

Street C – From Street "B" to Old Ranch Road, all street improvements, utilities and infrastructure.

Street D – From Grand Avenue west to the end of the cul de sac and east along the south side of the San Jose Creek, then northerly across San Jose Creek to Valley Boulevard, all street improvements, utilities, and infrastructure, including the bridge over the San Jose Creek.

Old Ranch Road – Modify intersection at Brea Canyon Road, including reconstruction of Brea Canyon Road at the existing intersection, all street improvements, utilities and infrastructure.

Intersection of Brea Canyon Road and Valley Boulevard – Modify intersection to accommodate project related turn movements. This work may include widening the bridge on Brea Canyon Road at San Jose Creek. All street improvements, utilities and infrastructure.

EXHIBIT "B"
(Continued)

include widening the bridge on Brea Canyon Road at San Jose Creek. All street improvements, utilities and infrastructure.

Intersection of Grand Avenue and Valley Boulevard – Modify intersection to allow widening on both streets to accommodate turn movements.

B. Master Hydrology

Prepare a master hydrology report and construct the required improvements for the re-development project site based on full buildout of Project as depicted on the attached proposed project exhibit. Agency will use reasonable efforts to obtain approval for, and construct a box culvert to contain the flow of Snow Creek through the Site to its connection with San Jose Creek. The hydrology report will require approval from the Los Angeles County Food Control District for storm drain connections to San Jose Creek.

C. Storm Drain System

Design and construct a storm drainage system to convey water from the planned public streets described above. The storm drainage system will be designed to carry storm water flows from the planned development areas and adjacent property. Lateral stubs will be extended to the street right of way for each development lot. Design and construct improvements to Snow Creek drainage system. (See attached Storm Drain System.)

D. Sanitary Sewer:

Design and construct sanitary sewer main lines within the project roadways and easements where necessary, to serve each lot within the project development. Plans will include main line connections to existing trunk sewers, and crossings of San Jose Creek, and the railroad right of ways. (See attached Sewer System.)

Design and construct Siphon on the main trunk sewer adjacent to the UPRR right of way to accommodate the planned road undercrossing on Street B.

E. Water

Design and construct potable water lines within Street A, Street B, Street C and Street D. Lines will connect to the existing systems in Grand Avenue, Valley Boulevard and Brea Canyon Road. Service laterals to each lot will be provided, however meter vaults and back flow preventors will not be set. The location of such meter vaults and back flow preventers shall be established by the Developer. (See attached Water System).

EXHIBIT "B"
(Continued)

Install Fire Hydrants as required.

F. Reclaimed Water

Design and construct reclaimed water lines within Street A, Street B, Street C and Street D.

Street A, Street B and Street C water lines will connect to the existing systems in Grand Avenue and Brea Canyon Boulevard. Services laterals to each lot will be provided, however meter vaults and back flow preventers will not be set. The location of such meter vaults and back flow preventers will be established by the Developer. (See attached Reclaimed Water System.)

Street D water lines will connect to the existing systems in Grand Avenue and Valley Boulevard. Services laterals to each lot will be provided, however meter vaults and back flow preventers will not be set (See attached Reclaimed Water System.)

G. Dry Utilities

Design and construct ducts, vaults, junction boxes and related substructure elements for Electrical, Telephone (including fiber optics), and main line Gas systems. Line and ducts will stubbed to the right of way line to provide service to each lot. Such work shall be coordinated with utility companies.

H. Grading

Design and construct mass grading at elevations predetermined by Developer and Agency, to remove existing hill areas north of UPRR right of way. Export material will be transported and placed as compacted fill within the street rights of way south of the UPRR right of way for the construction of public improvements. Any excess material will be transported and placed at a location, designated by Developer, south of the UPRR right of way for further processing by Developer. The existing utility lines crossing such hill areas will be relocated.

I. Grade Separated Rail/Street Crossing

Design and construct grade separated Rail/Street Crossing, construct a shoofly and relocate existing rail lines at UPRR right of way and "B" Street.

J. Rail Within Union Pacific Rail Road Right-of-Way

EXHIBIT "B"
(Continued)

Work with the UPRR to design and construct required rail improvements within the Union Pacific Rail Road Right-of-Way.

K. Additional Work

Any additional public improvements required to satisfy the CEQA mitigation requirements for the Project.

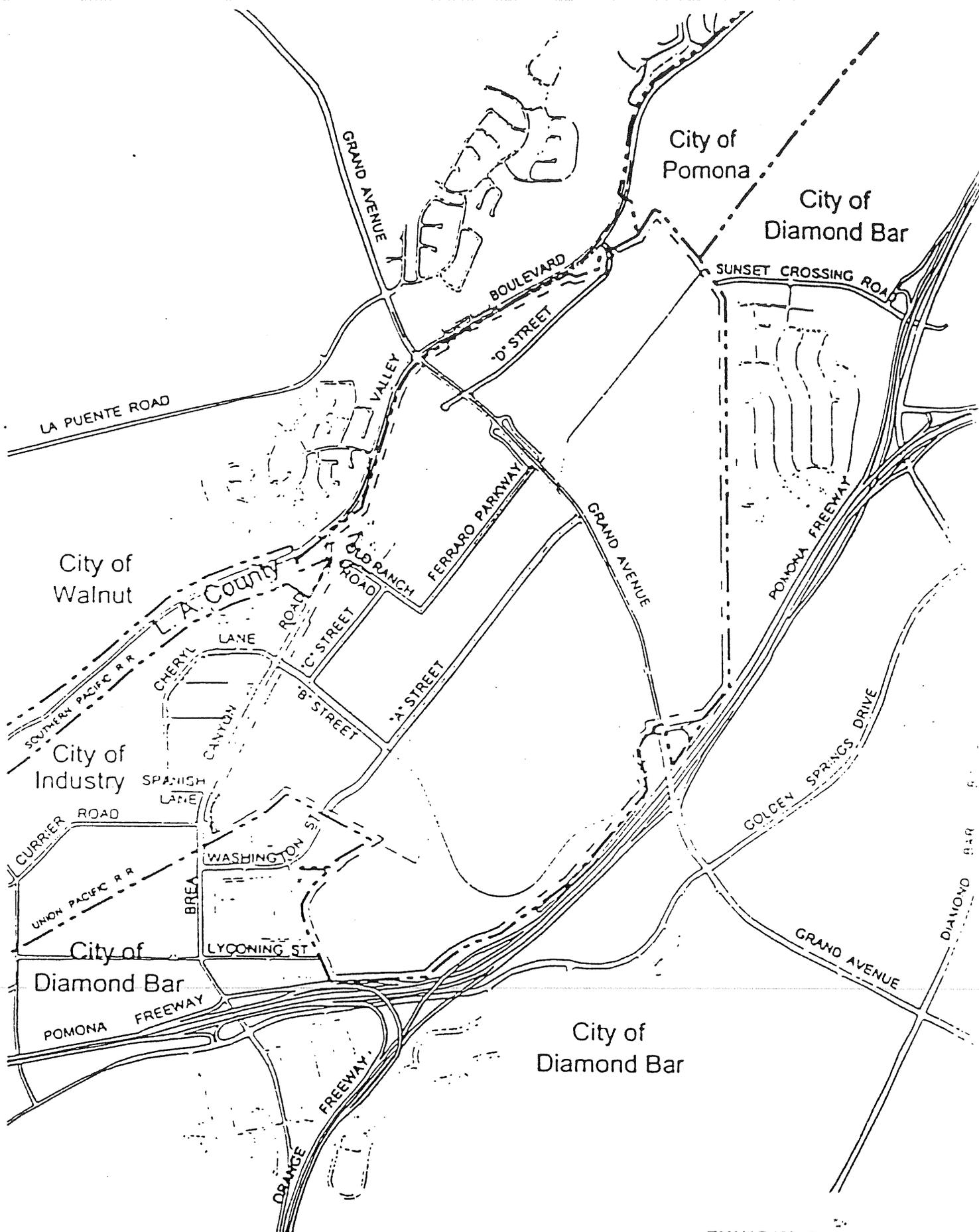


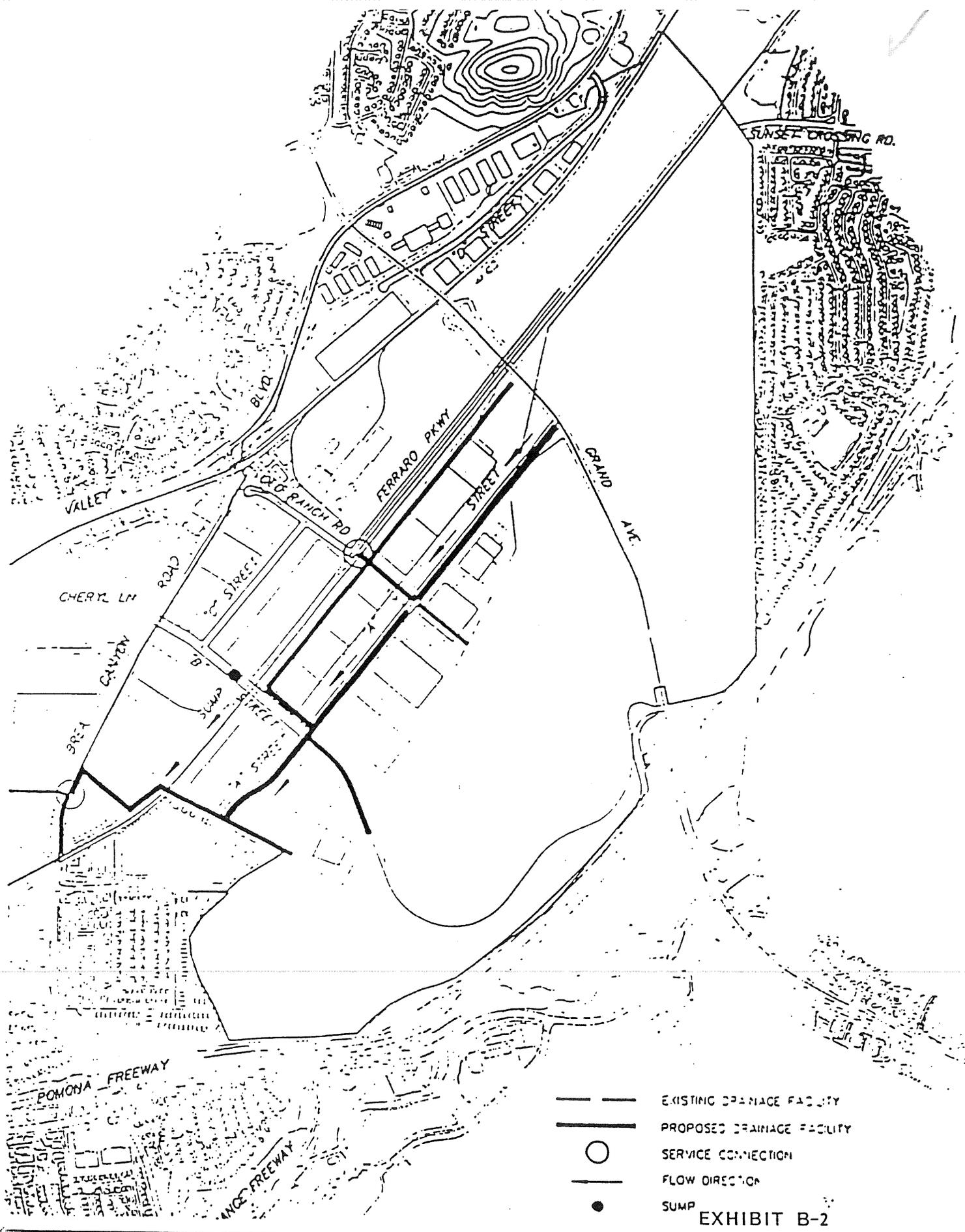
EXHIBIT B-1



Jurisdiction and Circulation Plan

CITY OF INDUSTRY CALIFORNIA





-  EXISTING DRAINAGE FACILITY
-  PROPOSED DRAINAGE FACILITY
-  SERVICE CONNECTION
-  FLOW DIRECTION
-  SUMP

EXHIBIT B-2



Drainage System
 CITY OF INDUSTRY CALIFORNIA
 INDUSTRY URBAN CENTER

4 ACRES 

SCALE 0' 400' 800' 1600' 2000'





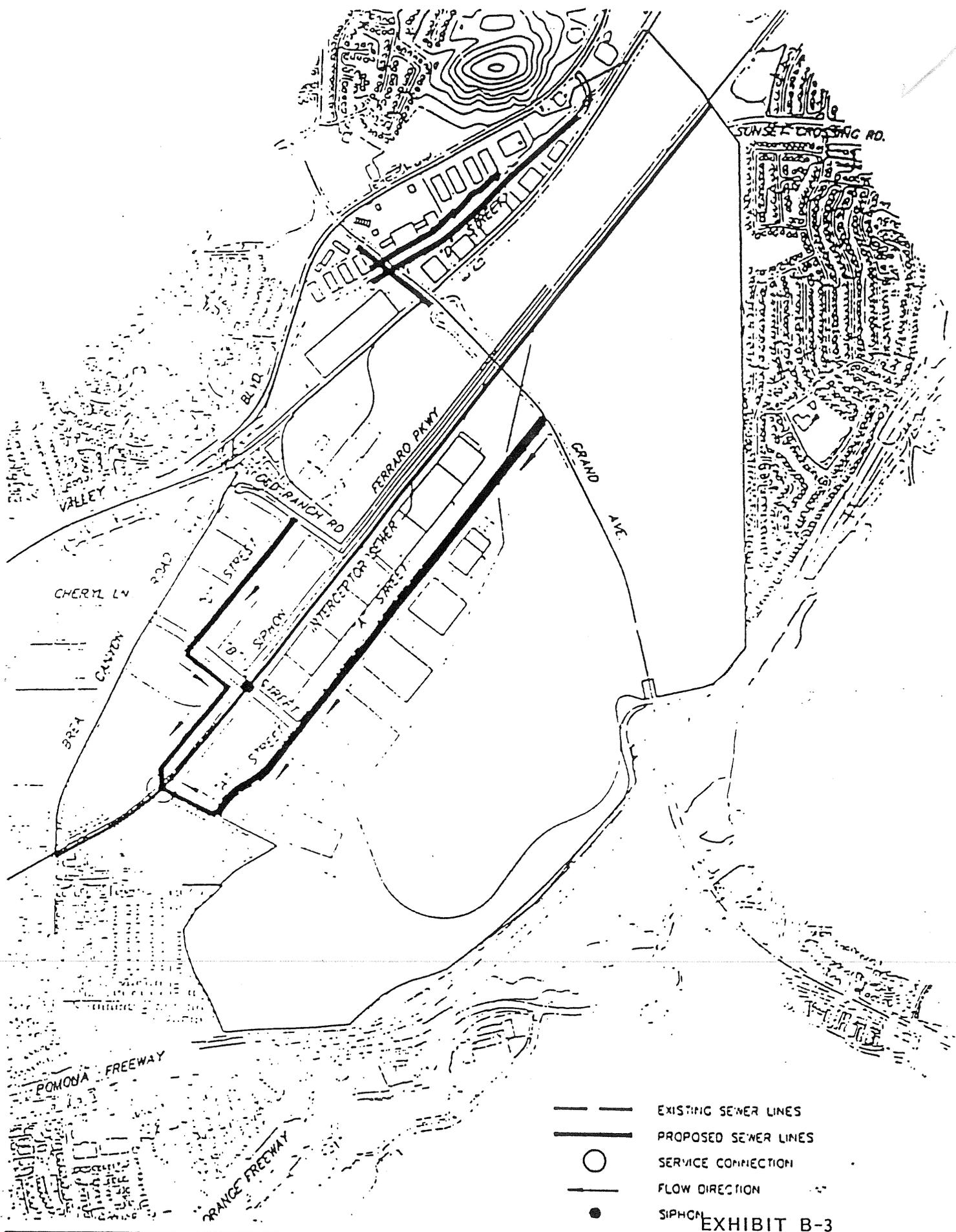


EXHIBIT B-3

- EXISTING SEWER LINES
- PROPOSED SEWER LINES
- SERVICE CONNECTION
- FLOW DIRECTION
- SIPHON

Plotted 04/20/79 by J. C. ...



Sewer System
 CITY OF INDUSTRY CALIFORNIA

4 ACRES 

SCALE of 400' 800' 1600' 3200' 



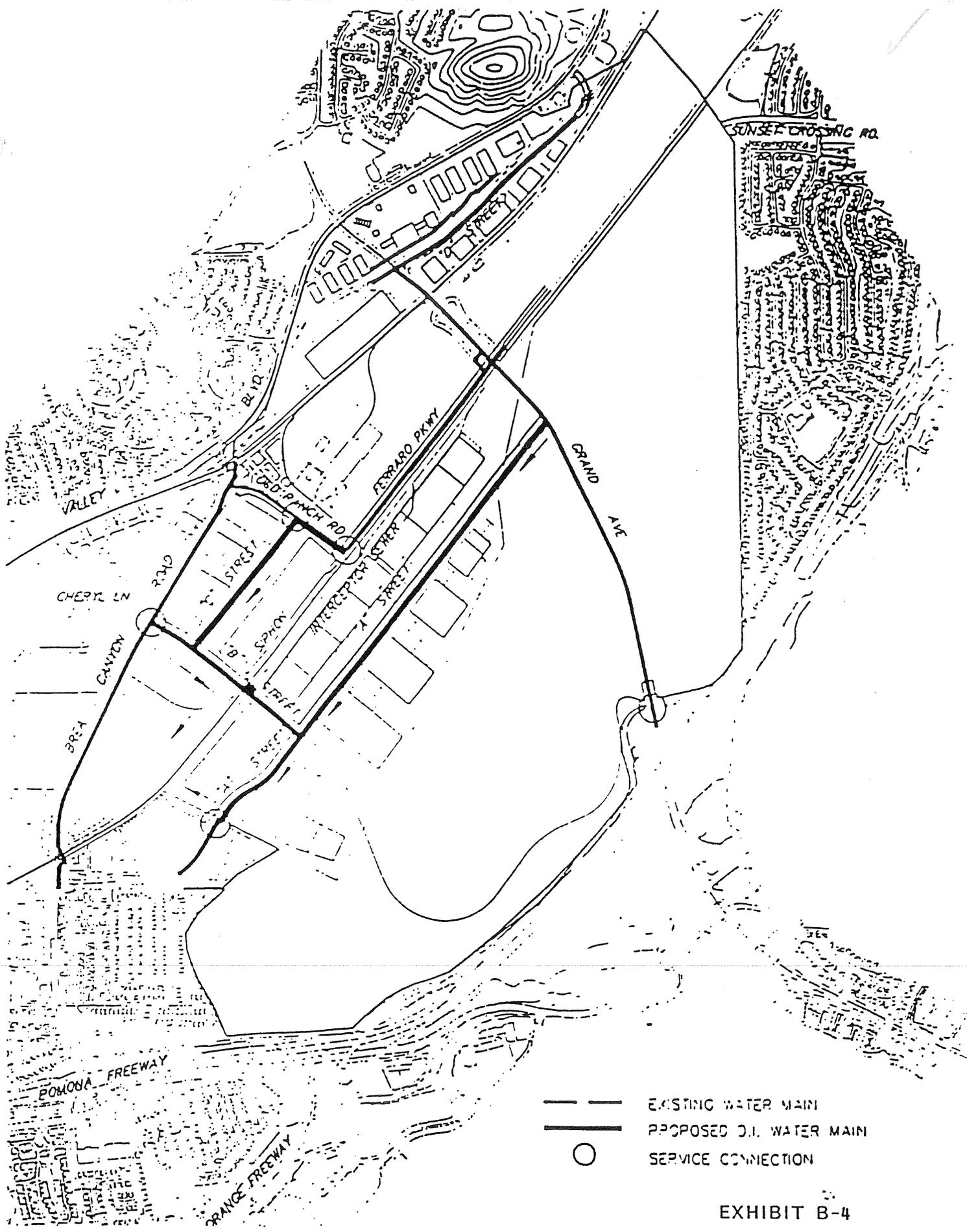
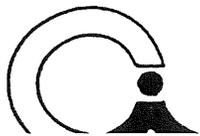


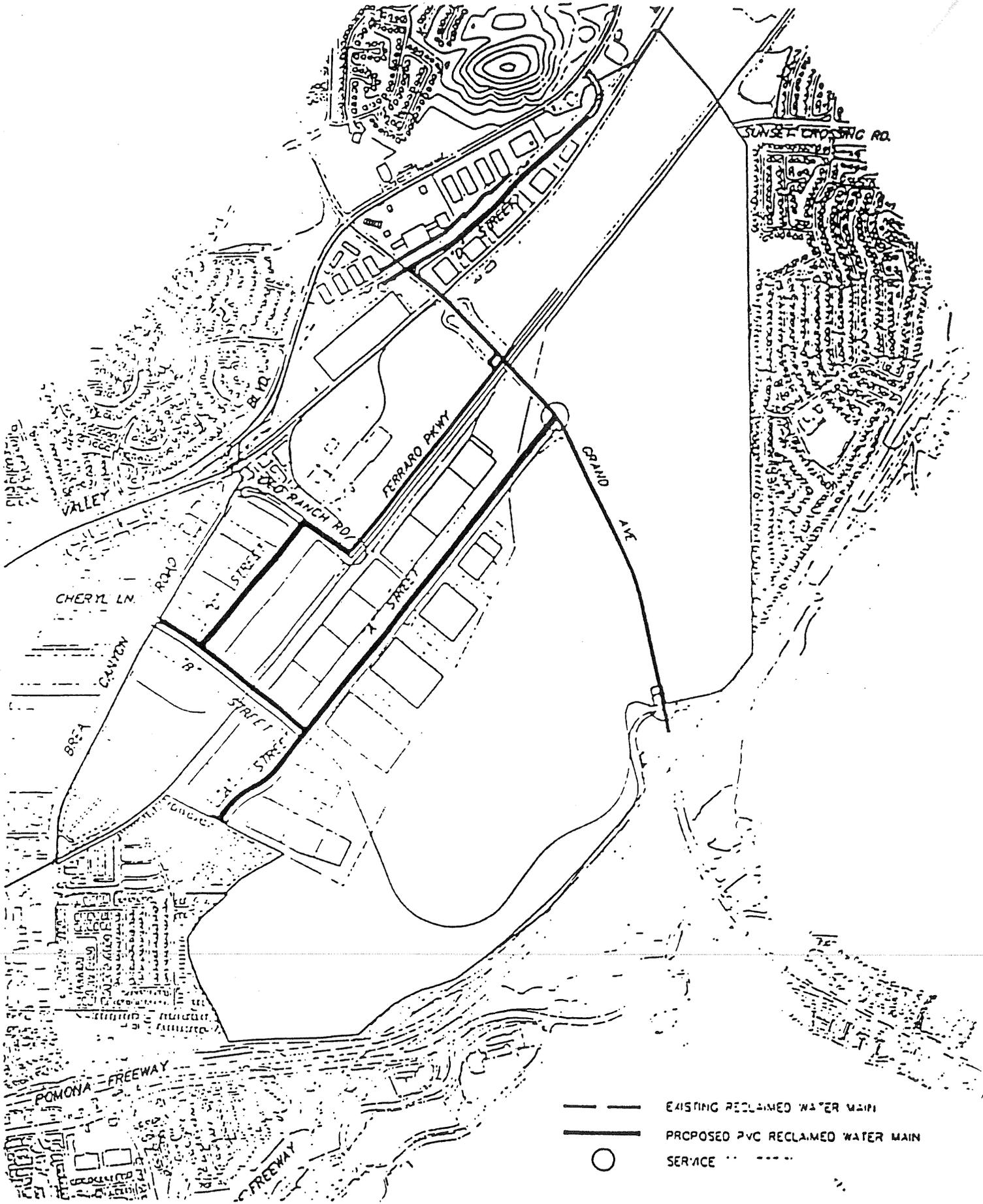
EXHIBIT B-4



Water System
 CITY OF INDUSTRY CALIFORNIA

4 ACRES 
 SCALE of 400' 800' 1600' 3200' 





-  EXISTING RECLAIMED WATER MAIN
-  PROPOSED PVC RECLAIMED WATER MAIN
-  SERVICE

EXHIBIT B-5



Reclaimed Water System

CITY OF INDUSTRY CALIFORNIA

4 ACRES 

SCALE OF 400' 800' 1600' 3200'




SCOPE OF DEVELOPER'S DEVELOPMENT

Project Description

The proposed plan calls for the construction of approximately 6,638,300 square feet of space over a ten-year period. The uses proposed for the development include light manufacturing, wholesale trade and distribution facilities, technical service businesses, business offices, restaurant facilities, retail shops, other commercial facilities, and other related compatible uses.

Although detailed site plans and the architectural design have not yet been finalized, the proposed project will have an architectural treatment and character consistent with the objectives established by Project No. 2 guidelines.

BUILDING TYPES

The overall master planning concept is to provide a campus style park like environment for a variety of business enterprises. The architectural guidelines and the design concept for the buildings are intended to foster a variety of aesthetics to provide both individual identity and usage differentiation for the various buildings. Therefore a diverse palette of materials would be applied with discretion to create the wealth of color, texture and form that is necessary to avoid the monotony of many industrial parks. But the entire project will be tied together thematically and linked by the overall landscape design. The final building designs will mix these elements into aesthetically pleasing structures to suit the specific needs of each user. The following are some illustrations of the conceptual buildings as they are envisioned at this time.

CLASS I BUILDINGS

COMMERCIAL MULTI-TENANT

These one story glass, metal panel and textured concrete buildings will provide for the service needs and amenities of the complex. Such amenities could include food services, a health club, child care facilities, travel agency, stationers, convenience store, hair care, copy/print shop and other related business services. Thereby the project will not only be self-sufficient through its intelligent master planning which includes services, but it can also support needs of the surrounding industrial and business community.

MAJOR RETAIL

These larger buildings of glass, metal and concrete will provide space for larger retail users, such as a market, drugstore or "Big Box" retailers. These facilities can support the needs of this development and the nearby area. They would provide an attractive anchor to the northeasterly entrance to the project.

CLASS II BUILDINGS

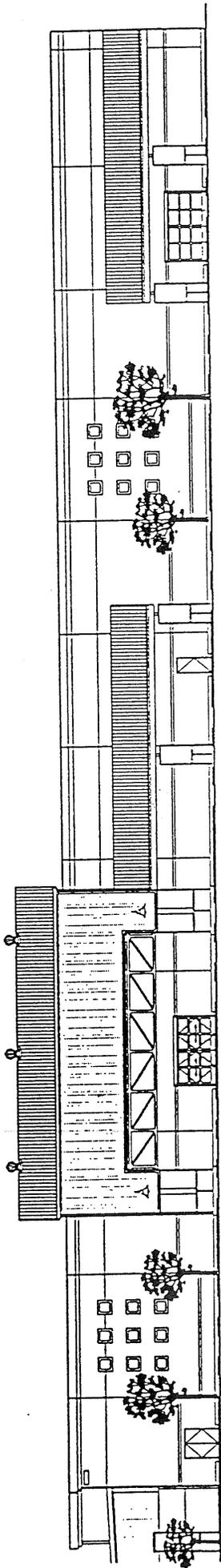
LIGHT INDUSTRIAL

These smaller one story industrial buildings form a counter point to the large industrial buildings in the complex. They utilize glass, metal panels, painted and textured concrete in a range of schemes to provide for variety among their numbers. They will house the smaller businesses engaged in various manufacturing, distribution and commercial activities with modest space requirements. These buildings will receive architectural treatment on one or two faces, with the remaining elevations receiving a consistent but simpler treatment. All loading areas occur at the side or rear of these structures.

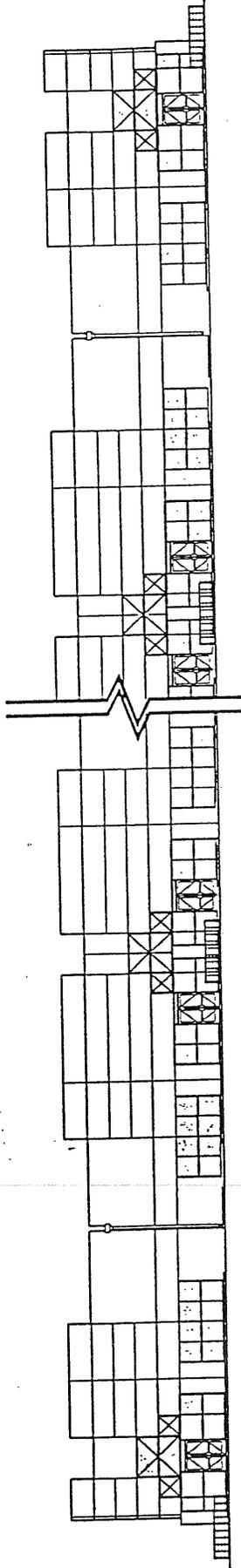
CLASS III BUILDINGS

INDUSTRIAL/DISTRIBUTION

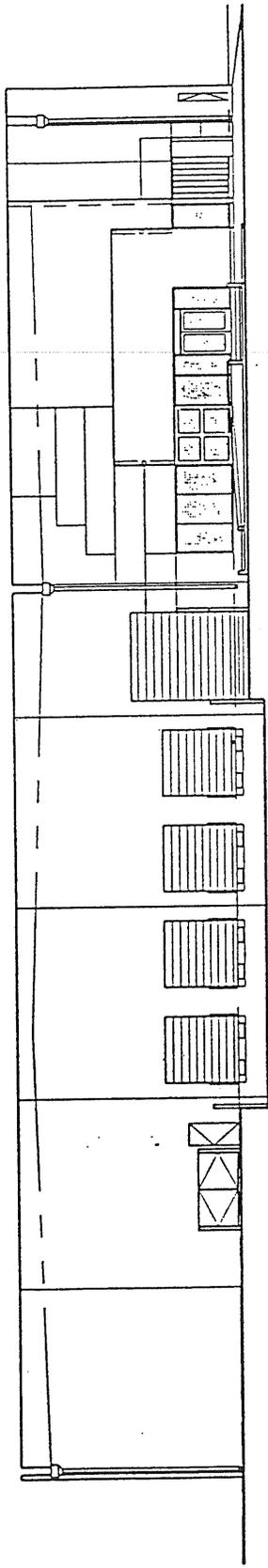
These large one-story structures will be largely of painted concrete with a variety of materials including glass, metal panels, textured concrete, brick and other materials used to accentuate the office areas. The primary elevations will be articulated in a consistent fashion with and include these office areas. The facilities are truck and rail served, with access on the front, sides, or rear of the structure.



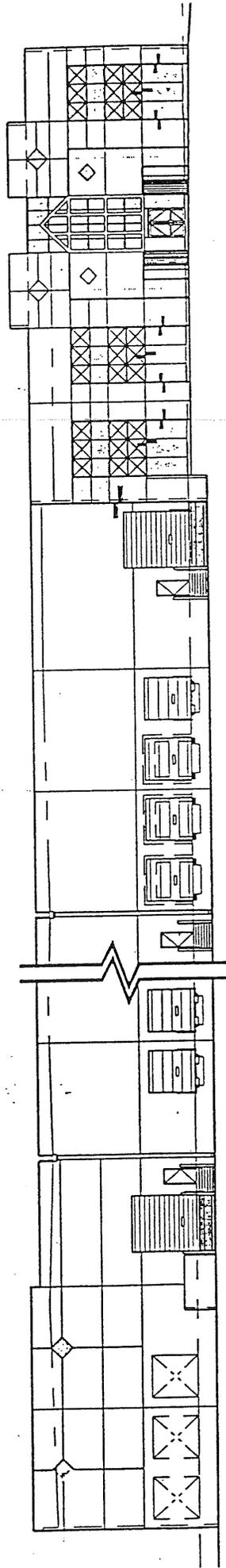
**TYPICAL CONCEPT
MAJOR RETAIL**



**TYPICAL CONCEPT
COMMERCIAL MULTI-TENANT**



**TYPICAL CONCEPT
LIGHT INDUSTRIAL**



**TYPICAL CONCEPT
INDUSTRIAL / DISTRIBUTION**

EXHIBIT "7"

INDUSTRY URBAN DEVELOPMENT AGENCY

May 27, 1999

SCOPE OF AGENCY IMPROVEMENTS

The Agency will, at its cost and expense, design and construct the public improvements, located within the public rights of way, reasonably necessary to adequately serve the Project and to provide the mitigation required for the Project to satisfy the requirements of the California Environmental Quality Act ("CEQA"). Said public improvements shall include:

A. Roads

Design and construct streets and all utilities and infrastructure for the following project roadways. (See Exhibit 7 A Jurisdiction and Circulation.)

Street improvements will include curb, gutter, and road pavement design and grades and sidewalks. Street lighting, traffic signals, pavement striping, traffic control signage, landscape and irrigation for roadway medians are also included.

Street A – from Grand Ave to west project boundary, including special intersection design at Grand Avenue, all street improvements, utilities and infrastructure.

Street B – From Street "A" to Brea Canyon Road including design and construction of the Union Pacific Rail Road ("UPRR") undercrossing for B Street and intersection modifications at Brea Canyon Road all street improvements, utilities and infrastructure.

Street C – From Street "B" to Old Ranch Road, all street improvements, utilities and infrastructure.

Street D – From Grand Avenue west to the end of the cul de sac and east along the south side of the San Jose Creek, then northerly across San Jose Creek to Valley Boulevard, all street improvements, utilities, and infrastructure, including the bridge over the San Jose Creek.

Old Ranch Road – Modify intersection at Brea Canyon Road, including reconstruction of Brea Canyon Road at the existing intersection, all street improvements, utilities and infrastructure.

Intersection of Brea Canyon Road and Valley Boulevard – Modify intersection to accommodate project related turn movements. This work may include widening the bridge on Brea Canyon Road at San Jose Creek. All street improvements, utilities and infrastructure.

EXHIBIT "7"
(Continued)

Intersection of Brea Canyon Road and Valley Boulevard – Modify intersection to accommodate project related turn movements. This work may include widening the bridge on Brea Canyon Road at San Jose Creek. All street improvements, utilities and infrastructure.

Intersection of Grand Avenue and Valley Boulevard – Modify intersection to allow widening on both streets to accommodate turn movements.

B. Master Hydrology

Prepare a master hydrology report and construct the required improvements for the re-development project site based on full buildout of Project as depicted on the attached proposed project exhibit. Agency will use reasonable efforts to obtain approval for, and construct a box culvert to contain the flow of Snow Creek through the Site to its connection with San Jose Creek. The hydrology report will require approval from the Los Angeles County Food Control District for storm drain connections to San Jose Creek.

C. Storm Drain System

Design and construct a storm drainage system to convey water from the planned public streets described above. The storm drainage system will be designed to carry storm water flows from the planned development areas and adjacent property. Lateral stubs will be extended to the street right of way for each development lot. Design and construct improvements to Snow Creek drainage system. (See Exhibit 7 B Storm Drain System.)

D. Sanitary Sewer:

Design and construct sanitary sewer main lines within the project roadways and easements where necessary, to serve each lot within the project development. Plans will include main line connections to existing trunk sewers, and crossings of San Jose Creek, and the railroad right of ways. (See Exhibit 7 C Sewer System.)

Design and construct Siphon on the main trunk sewer adjacent to the UPRR right of way to accommodate the planned road undercrossing on Street B.

E. Water

Design and construct potable water lines within Street A, Street B, Street C and Street D. Lines will connect to the existing systems in Grand Avenue, Valley Boulevard and Brea Canyon Road. Service laterals to each lot will be provided, however meter vaults and back flow preventors will not be set. The location of

EXHIBIT "7"

(Continued)

such meter vaults and back flow preventers shall be established by the Developer. (See Exhibit 7 D Water System).

Install Fire Hydrants as required.

F. Reclaimed Water

Design and construct reclaimed water lines within Street A, Street B, Street C and Street D.

Street A, Street B and Street C water lines will connect to the existing systems in Grand Avenue and Brea Canyon Boulevard. Services laterals to each lot will be provided, however meter vaults and back flow preventers will not be set. The location of such meter vaults and back flow preventers will be established by the Developer. (See Exhibit 7 E Reclaimed Water System.)

Street D water lines will connect to the existing systems in Grand Avenue and Valley Boulevard. Services laterals to each lot will be provided, however meter vaults and back flow preventers will not be set (See attached Reclaimed Water System.)

G. Dry Utilities

Design and construct ducts, vaults, junction boxes and related substructure elements for Electrical, Telephone (including fiber optics), and main line Gas systems. Line and ducts will stubbed to the right of way line to provide service to each lot. Such work shall be coordinated with utility companies.

H. Grading

Design and construct mass grading at elevations predetermined by Developer and Agency, to remove existing hill areas north of UPRR right of way. Export material will be transported and placed as compacted fill within the street rights of way south of the UPRR right of way for the construction of public improvements. Any excess material will be transported and placed at a location, designated by Developer, south of the UPRR right of way for further processing by Developer. The existing utility lines crossing such hill areas will be relocated.

I. Grade Separated Rail/Street Crossing

Design and construct grade separated Rail/Street Crossing, construct a shoofly and relocate existing rail lines at UPRR right of way and "B" Street.

EXHIBIT "7"
(Continued)

J. Rail Within Union Pacific Rail Road Right-of-Way

Work with the UPRR to design and construct required rail improvements within the Union Pacific Rail Road Right-of-Way.

K. Additional Work

Any additional public improvements required to satisfy the CEQA mitigation requirements for the Project.

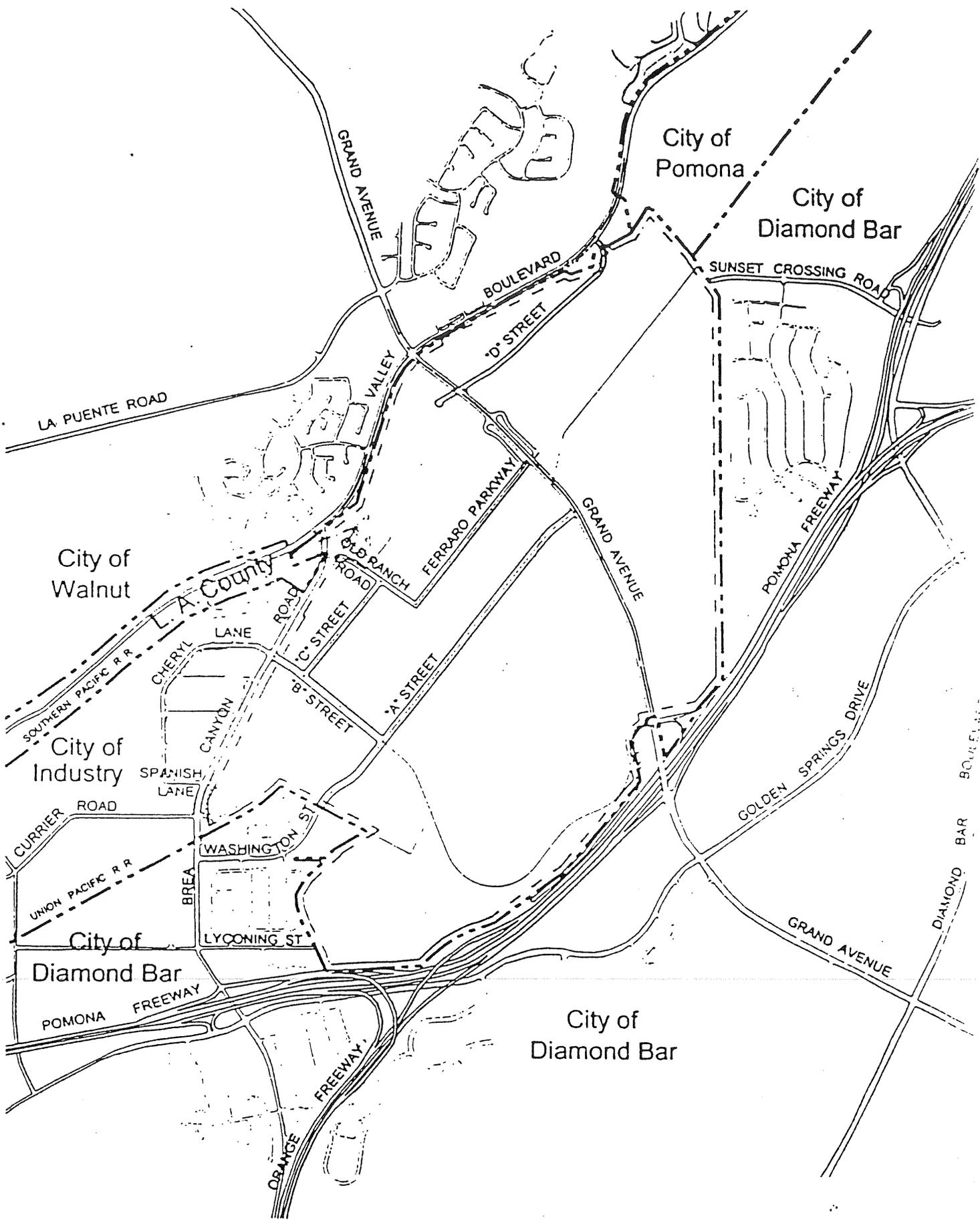


EXHIBIT 7-A



Jurisdiction and Circulation Plan

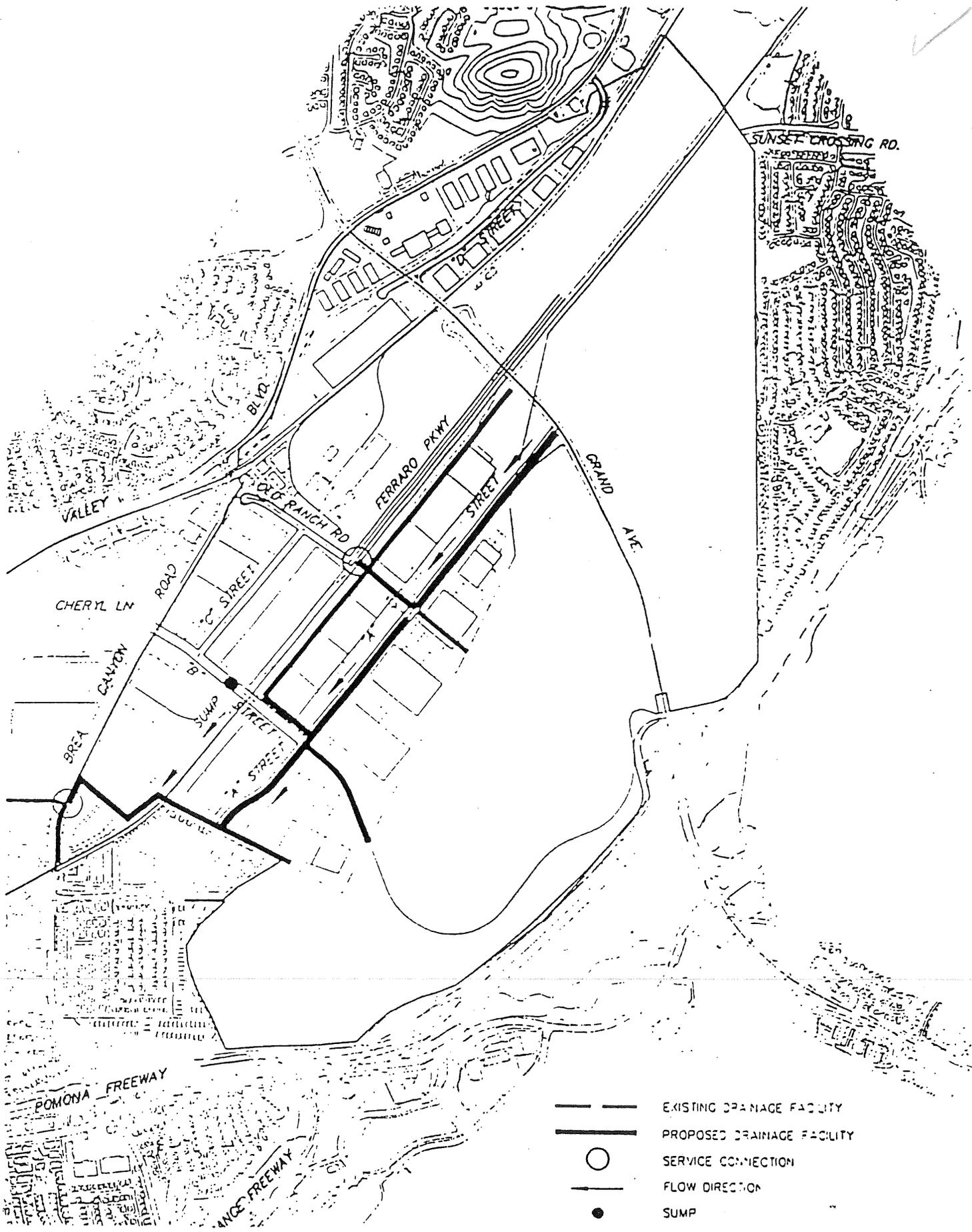
CITY OF INDUSTRY CALIFORNIA
 INDUSTRY URBAN DEVELOPMENT AGENCY

4 ACRES 

SCALE 0" = 400' 1800' 2400'

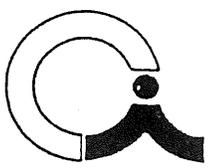
JOB NO: 18-00503



-  EXISTING DRAINAGE FACILITY
-  PROPOSED DRAINAGE FACILITY
-  SERVICE CONNECTION
-  FLOW DIRECTION
-  SUMP

EXHIBIT 7-B



Drainage System

CITY OF INDUSTRY CALIFORNIA
 INDUSTRY URBAN DEVELOPMENT AGENCY

4 ACRES  

SCALE OF 1" = 400' 800' 1600' 2000'

JOB NO: 18400003
 DATE: 11/11/03



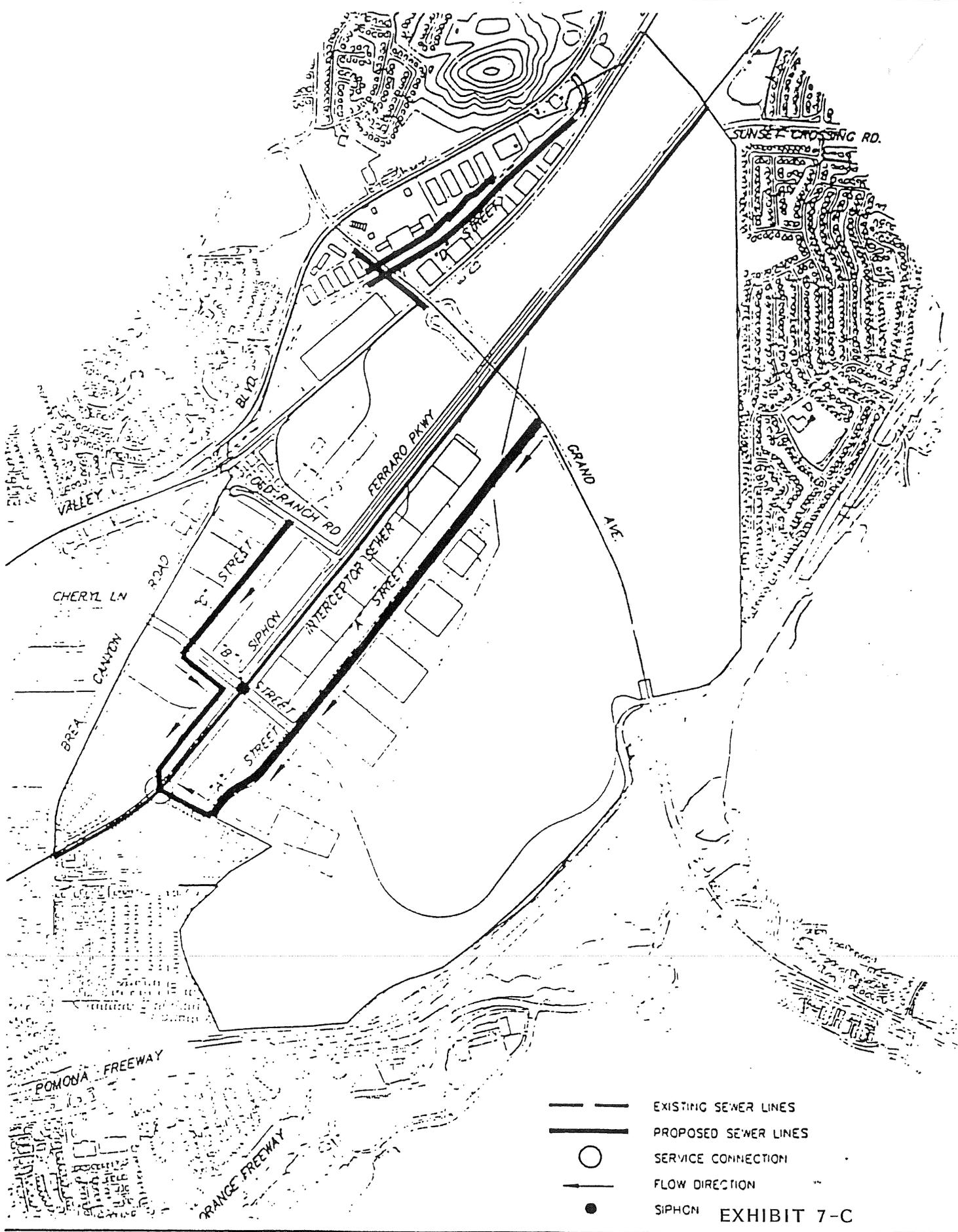
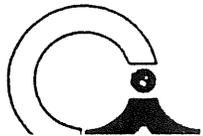


EXHIBIT 7-C

Plotted: 06/01/99 11:34:22 AM D:\GIS\411\SPN\Project\map\004\Pl_1-55-2.dwg



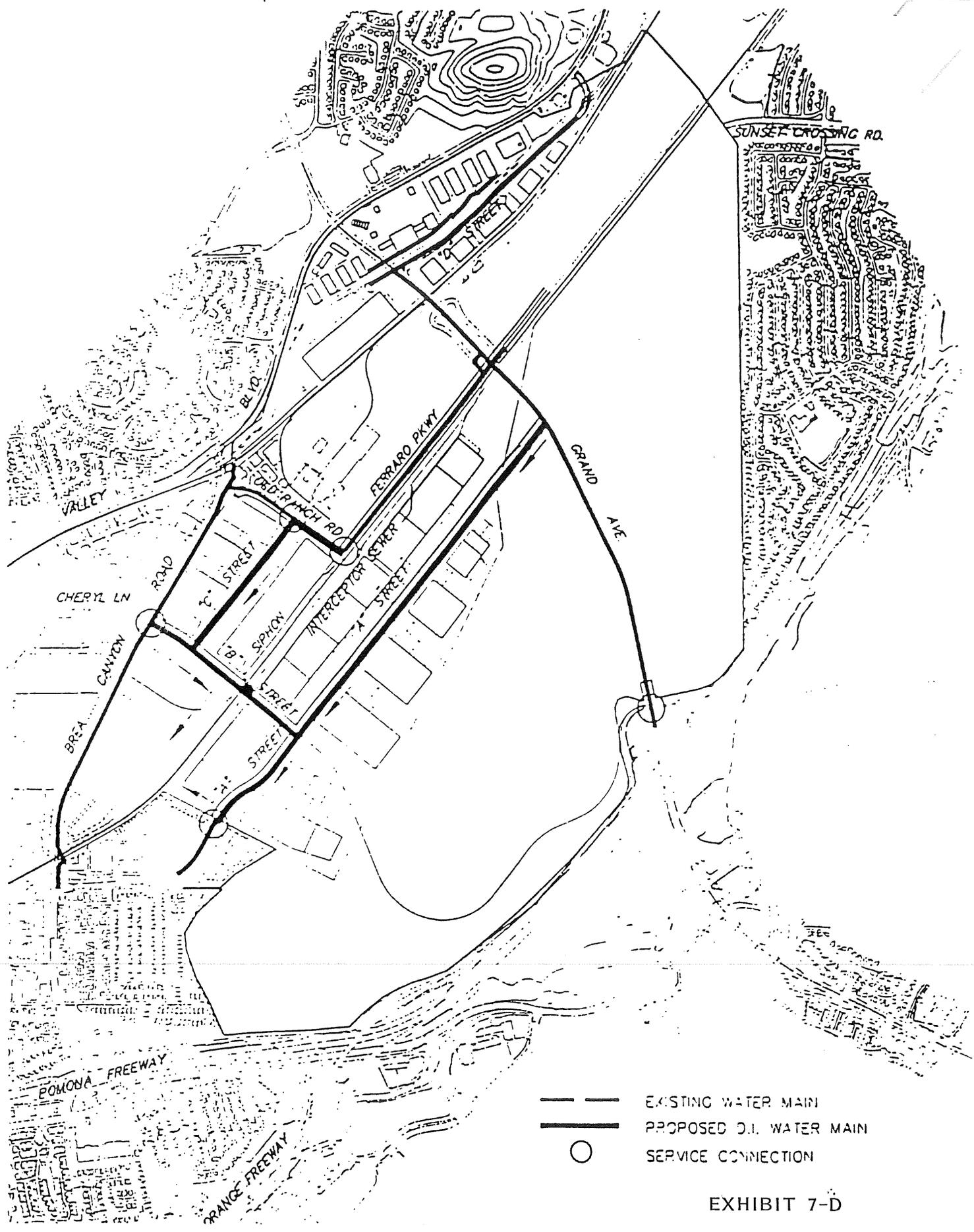
Sewer System

CITY OF INDUSTRY CALIFORNIA

4 ACRES 

SCALE 0' 400' 800' 1600' 3200' 





-  EXISTING WATER MAIN
-  PROPOSED 30" D.I. WATER MAIN
-  SERVICE CONNECTION

EXHIBIT 7-D



Water System
 CITY OF INDUSTRY CALIFORNIA

4 ACRES  

SCALE OF 400' 800' 1600' 3200'

JOB NO: 1800563



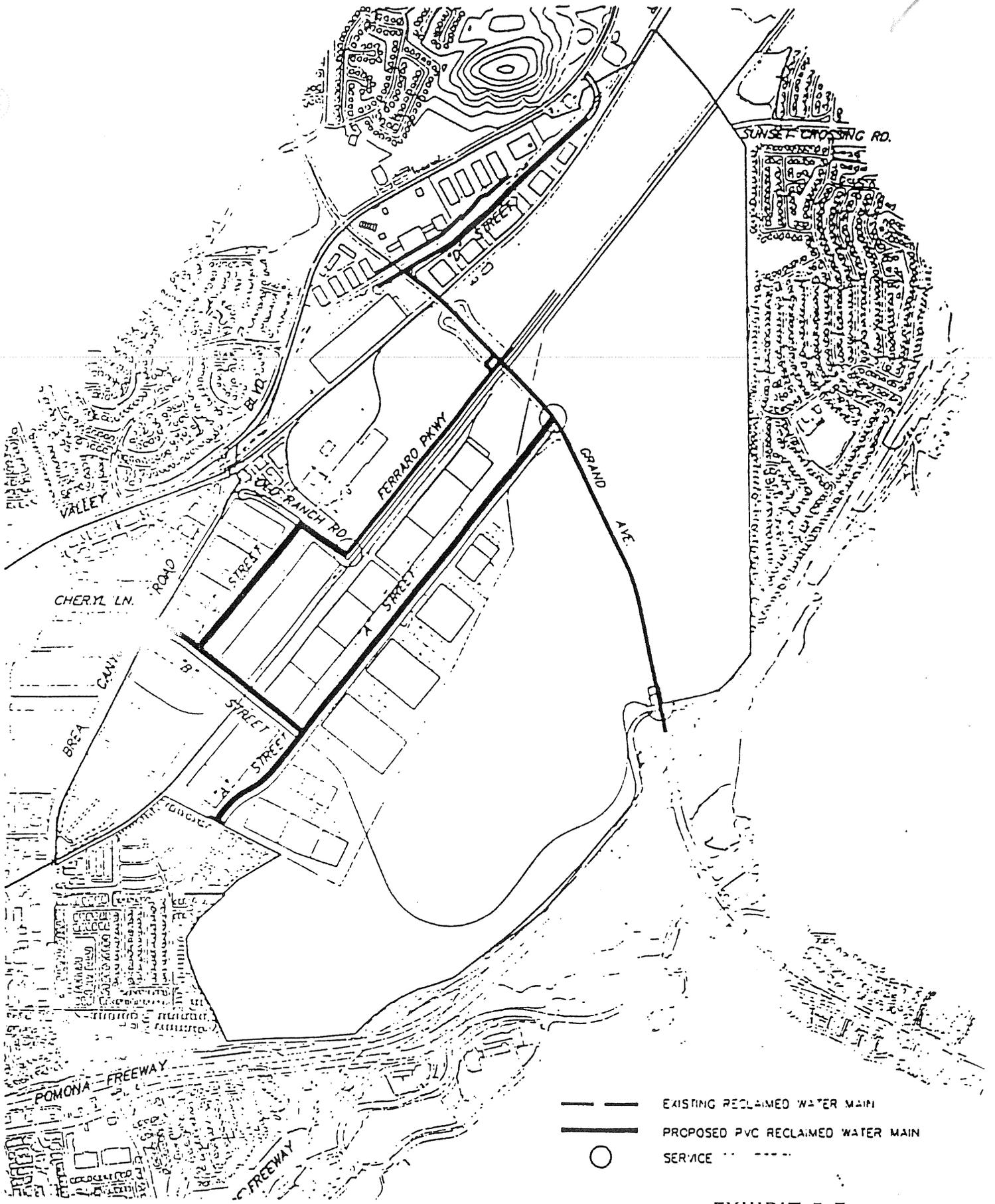


EXHIBIT 7-E



Reclaimed Water System

CITY OF INDUSTRY CALIFORNIA

4 ACRES 

SCALE OF 400' 800' 1600' 3200' 

