

FOURTH IMPLEMENTATION AGREEMENT

This Fourth Implementation Agreement (this "Implementation Agreement") is entered into by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (the "Agency"), and INTERNATIONAL GATEWAY ASSOCIATES, LLC, a Delaware limited liability company (the "Developer"), as of May 28, 2002.

For and in consideration of the mutual covenants and conditions herein set forth, the Agency and the Developer hereby agree as follows:

1. PURPOSE OF FOURTH IMPLEMENTATION AGREEMENT

The Agency and LandGrant Development Unlimited, a California corporation ("LandGrant") have heretofore entered into that certain Disposition and Development Agreement dated May 29, 1998, as amended by the First Implementation Agreement thereto dated February 23, 2000, the Second Implementation Agreement thereto dated November 27, 2000 and the Third Implementation Agreement thereto dated June 28, 2001 (collectively with this Implementation Agreement, the "Agreement"). LandGrant subsequently assigned its interest in the Disposition and Development Agreement, as amended, to the Developer. The Developer, pursuant to a Partial Assignment and Assumption Agreement dated October 1, 2001 and with the consent of the Agency, further assigned to International Gateway I, LLC (the "B/C Developer"), and B/C Developer assumed, all of the Developer's right, title and interest as "Developer" under the Agreement insofar as the same pertains to Development Parcels B and C under the Agreement. The Agency and the Developer desire to amend the Agreement to:

- (A) Adjust the boundaries of certain of the Development Parcels;
- (B) Revise the Schedule of Performance to extend the time to obtain the Bi-National Authorization for the River Pedestrian Bridge and make certain other changes;
- (C) Revise the Scope of Development to reflect changes to the Improvements to be developed on specific Development Parcels;
- (D) Provide for the conveyance and development of Development Parcel A in three (3) phases: Development Parcel A-1 (Phase 1-B-1); Development Parcel A-2 (Phase 1-B-2); and Development Parcel A-3 (Phase 1-B-3);

- (E) Provide for the financing and development of an approximately 28,800 square foot City library in an airspace lot in Development Parcel A-2 (Phase 1-B-2), and remove the requirement for 50,000 square feet of cultural or institutional use on Development Parcel E-4;
- (F) Provide the Developer with flexibility to develop Development Parcel A-3 (Phase 1-B-3) with the Hotel uses (and ancillary conference center, parking, retail, entertainment and food uses), currently anticipated for Development Parcel E-3, instead of exclusively with retail, entertainment and food uses, and to develop Development Parcel E-3 with retail, entertainment, food uses and government or other institutional uses instead of with the Hotel;
- (G) Provide the Developer with flexibility to develop Building X as part of Development Parcel A-1 and should the Developer make such election, to make a corresponding adjustment to the square footage in Development Parcel A-3;
- (H) Clarify that the Developer's obligations to build any particular phase of the Project are subject to the Developer's receipt of debt and equity financing satisfactory to Developer in its discretion; and
- (I) Amend provisions of the DDA to limit the Agency's rights to capture or otherwise receive a payment of any portion of Developer's profits upon sale of any portion of the International Gateway Site after the commencement of construction of the improvements on Development Parcel A-1.

2. SITE MAP

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No. 1, Amended Site Map, is hereby amended to read as set forth in Exhibit "A" to Fourth Agreement, Amended Attachment No. 1, which is herein by this reference. The Agency and Developer agree that the boundaries of the Development Parcels henceforth shall be deemed to consist of the boundaries identified on Map 14259 recorded on August 15, 2001 (Map No. 01-0581338 in the Official Records of San Diego County Recorder's Office (the "2001 Subdivision Map") or on the Final Map prepared by Parsons Engineering for International Gateway of the Americas Phase 1B under its work order No. 420302, draft dated May 20, 2002 (the "2002 Subdivision Map").

Development Parcel(s)	Lots
A-1	Lots 8 and 9 as shown on the 2002 Subdivision Map
A-2	Lots 5 and 6 as shown on the 2002 Subdivision Map (it being understood that the 2002 Subdivision Map also includes an airspace lot (No. 7) which may be developed in the future separate from Development Parcel A-2).
A-3	Lots 1, 2, 3 and 4 as shown on the 2002 Subdivision Map
B and C	Each of the following: (a) Lots 6, 8 and 11 through 16 as shown on the 2001 Subdivision Map (except that Development Parcels B and C shall exclude that portion of Lot 15 of the 2001 Subdivision Map that lies east of Virginia Avenue shown thereon); and (b) Lot 10 as shown on the 2002 Subdivision Map
D	Lot 10 as shown on the 2001 Subdivision Map

The real property constituting the properties which together make up Development Parcels E-1, E-2, E-3 and E-4 (collectively, the "E" Property") is described in Exhibit B-1 hereto. The external boundaries of said Development Parcels are co-terminus with the boundary of the E Property. The respective boundaries of Development Parcels E-1, E-2, E-3 and E-4 within the E Property are as shown generally on the map attached hereto as Exhibit B-2, it being understood that the Developer and the Executive Director of the Agency may adjust such internal boundaries from time to time by subsequent agreement.

3. SCHEDULE OF PERFORMANCE

The following respective Sections of the Schedule of Performance, as amended through the Third Implementation Agreement, are hereby amended to read respectively as follows:

II. PREDEVELOPMENT ACTIVITIES

1. Obtaining Bi-National Authorization for River Pedestrian Bridge. Agency (and City) and Developer shall

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commence and diligently attempt to obtain Bi-National Authorization for the River Pedestrian Bridge (referred to in Section 708).

IV. CONVEYANCE AND CONSTRUCTION -BY DEVELOPMENT PARCEL

3. Submission - Schematic/Design Development Drawings and Landscaping and
g. Developer shall submit to Agency for Schematic/Design Drawings and Landscaping and Plans for each Development Parcel.

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With respect to Development Parcels B and C, within one hundred (100) days after execution of the First Implementation Agreement by Agency.

With respect to Development Parcel A-1, on or before October 30, 2002 (except that the Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for the improvements to be developed pursuant to an exercise of the "Building X Option" (as defined in the Scope of Development) need not be submitted until the submission of the Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for Development Parcel A-3, it being understood that the Building X Option may be exercised at any time prior to such submission). With respect to Development Parcel A-2, on or before December 30, 2003. With respect to Development Parcel A-3, on or before April 30, 2004.

With respect to Development Parcels D and E-1, within one hundred eighty (180) days after the Agency and appropriate Federal Agencies have executed the Federal Agencies Cooperation Agreement.

With respect to Development Parcels E-2 and E-3, on or before June 30, 2005.

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

With respect to Development Parcel E-4, on or before June 30, 2005.

6. Submission - 50% Construction Drawings. Developer shall prepare and submit to Agency for approval the 50% Construction Drawings and Specifications for each applicable Development Parcel.

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With respect to Development Parcel A-1 (other than any improvements to be constructed pursuant to the Building X Option), on or before January 31, 2003. With respect to Development Parcel A-2, on or before June 30, 2004. With respect to Development Parcel A-3 (and any improvements to be constructed pursuant to the Building X Option), on or before November 30, 2004.

With respect to each Development Parcel (except Development Parcel A), within one hundred eighty (180) days after approval by Agency of the Schematic/Design Development Drawings and Preliminary.

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

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With respect to Development Parcels B and C, both concurrently, and concurrently with conveyance of all Sales Development Parcels within the Development Parcels to Developer, and in any event within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Development Parcels B and C, or (2) October 31, 2001.

With respect to Development Parcel A-1 (other than financing to construct improvements pursuant to the Building X Option), within the earlier of (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Development Parcel A-1 (other than the improvements to be constructed pursuant to

the Building X Option) or (2) thirty-six (36) months after execution of the Fourth Implementation Agreement. With respect to any improvements to be constructed pursuant to the Building X Option, within the earlier of (1) thirty (30) days after approval by the Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for the Building X Improvements and (2) Forty-two (42) months after execution of the Fourth Implementation Agreement.

With respect to Development Parcel A-2, within the earlier of (1) 240 days after the City has delivered a "Library Instruction to Proceed" in accordance with Section 3.2 of the "Subsequent Parcel A Reciprocal Easement Agreement and Cost Sharing Agreement" pertaining to Development Parcel A approved by the Agency (the "Development Parcel A REA") which Development Parcel A REA shall be substantially in the form attached to the Fourth Implementation Agreement as Exhibit "D" or (2) August 31, 2005.

With respect to Development Parcel A-3, within the earlier of (1) thirty (30) days after approval by Agency of

Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Development Parcel A-3 or (2) forty-two (42) months after execution of the Fourth Implementation Agreement.

With respect to Development Parcels D and E-1, both concurrently, and within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Development Parcels D and E-1, or (2) twenty-seven (27) months after the Agency and appropriate Federal Agencies have executed the Federal Agencies Cooperation Agreement.

With respect to Development Parcel E-3, within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Development Parcel E-3, or (2) forty-five (45) months after execution of the Third Implementation Agreement by Agency.

With respect to Development Parcel F, only

concurrently with or after Development Parcel E-3, and within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Development Parcel F, or (2) forty-five (45) months after execution of the Third Implementation Agreement by Agency.

With respect to Development Parcel E-2, only concurrently with or after Development Parcel F, and within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Development Parcel E-2, or (2) forty-five (45) months after execution of the Third Implementation Agreement by Agency.

With respect to Development Parcel E-4, within the earlier of: (1) thirty (30) days after approval by Agency of Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Development Parcel E-4, or (2) forty-five (45) months after execution of the Third Implementation Agreement by Agency.

4. SCOPE OF DEVELOPMENT

The following respective paragraphs of the Section A.1., Development Parcels, of the Scope of Development (Attachment No. 4), as amended through the Third Implementation Agreement, are hereby amended to read respectively as follows:

Paragraph a., Development Parcel A - Retail, is hereby amended to read in its entirety as follows:

a. Development Parcel A - Retail

Development Parcel A represents a gross land area of approximately 22.5 acres, and is situated on the western third of the project. It is a triangular parcel bounded on the south by the Tijuana River levee; on the north and west by the relocated alignment of Camino de la Plaza; and on the east by Development Parcels B, D and F. Development Parcel A will be developed in three phases.

First Phase. Phase 1-B-1, also described as Development Parcel A-1, represents a gross land area of approximately 12.52 acres, and will be developed with approximately 189,115 square feet of retail, entertainment and food uses. Development commences at the western end of Development Parcel B fronting generally toward Camino de la Plaza and includes several freestanding restaurant/retail pads adjacent to Camino de la Plaza. Anticipated uses may include one or more "big box" anchor tenants and several mid-scale retail uses. Developer further shall have the option to develop Development Parcel A-1 with up to an additional optional square footage of approximately 23,980 square feet and appropriate required parking (the "Building X Option").

Development Parcel A-1 will be connected to other Development Parcels by way of a pedestrian promenade.

Second Phase. Phase 1-B-2, also described as Development Parcel A-2, represents a gross land area of approximately .951 acres and an air space parcel of .951 acres and will be developed with approximately 28,155 square feet of retail, entertainment and food uses. Subject to election by the City in accordance with the Development Parcel

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A REA, and performance by the City of any related obligations, Development Parcel A-2 also may be developed with an approximate 28,800 square foot City-owned library/cultural facility developed above the first floor development component (2nd floor). Development commences at the southwestern end of Development Parcel A-1 fronting generally towards the west end of Camino de la Plaza. Anticipated uses may include a "big box" anchor and several mid-scale retail uses.

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

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Third Phase. Phase 1-B-3, also described as Development Parcel A-3, represents a gross land area of approximately 8.55 acres and will be developed with approximately 52,730 square feet of retail, entertainment and food uses; provided, however, that if the Developer exercises the Building X Option in connection with Development Parcel A-1, then the required square footage in Development Parcel A-3 shall be reduced by an amount equal to the square footage developed pursuant to the Building X Option. Development commences at the northwestern end of Development Parcel A-1 fronting generally towards the west and Camino de la Plaza and includes freestanding restaurant/retail pads adjacent to Camino de la Plaza. Anticipated uses may include a "big box" anchor and several mid-scale retail uses.

As an alternative to the above-described development of Development Parcel A-3, this area can be developed with a business and tourist-oriented hotel of approximately 235,000 square feet with approximately 300 rooms and a 50,000 square foot conference facility, together with approximately 15,000 square feet of retail, entertainment and food uses. It is anticipated that the hotel and conference center will include sufficient onsite parking via a parking garage to meet code requirements for onsite guest parking. Development Parcel A-3 will be connected to other Development Parcels by way of a pedestrian promenade.

It shall be a condition to development of each of the above phases that the plans therefor shall call for sufficient parking, when added to the parking spaces available in the balance of the Project, so that upon completion of such phase there shall be a sufficient number of parking spaces within the Gateway Project to satisfy all applicable City Code requirements. These requirements are more fully set forth in Section 2.13 of the Overall REA recorded October 17, 2001 in the Official Records of the San Diego County Recorder as Document No. 2001-0751836, as amended from time to time. Further, should the City timely elect and pursue development of the library on Development Parcel A-2, then Developer shall cause to be developed on Development Parcel A-3 at least 150 parking spaces for non-exclusive use by the library.

Paragraph g., Development Parcel E-3 - Hotel and Conference Center, is hereby further amended to read in its entirety as

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Development Parcel E-3 - Hotel and Conference Center

Development Parcel E-3 represents a gross land area approximately 2.3 acres, and is situated at the northeast quadrant of Development Parcel E, along Virginia Avenue. It is an irregular parcel bounded by Development Parcel E-4 to the south and Development Parcels E-1 and E-2 to the west.

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

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

As an alternative development if Development Parcel A-3 is developed as a Hotel and Conference Center, then Development Parcel E-3, at Developer's option, can be developed with approximately 52,730 square

provided further, however, that if Developer exercises the Building X Option in connection with Development Parcel A-1, then the optional square footage in Development Parcel E-3 shall be reduced by an amount equal to the Square footage developed pursuant to the Building X Option. It shall be a condition to such development that the plans call for sufficient parking, when added to the parking spaces available in the balance of the Gateway Project, that upon completion of such development there shall be a sufficient number of parking spaces within the Gateway Project to meet all applicable City Code requirements. This development would also be connected to other Development Parcels by way of a pedestrian esplanade.

Paragraph h., Development Parcel E-4 - University/Cultural, is hereby further amended to read in its entirety as follows:

h. Development Parcel E-4 - University/Cultural

Development Parcel E-4 represents a gross land area of 1.4 acres, and is situated south of Development Parcel E-3. It is an irregularly shaped parcel. Development Parcel E-4 is generally bounded by Development Parcel E-3 on the north; Development Parcel E-1 on the west; the United States and Mexico International Border on the south; and the Tijuana River levee on the southwest.

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

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

Development Parcel E-4 will face a wide pedestrian esplanade to the northwest. This esplanade is part of a project-wide pedestrian circulation program.

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It is envisioned that the esplanade will link the FISA building, multimodal transit center, and retail uses in the project.

If the City timely develops a Library on Development Parcel A-2 in accordance with the Development Parcel A REA, then as an alternative development, Development Parcel E-4, at Developer's option, can be developed with approximately 25,000 square feet of retail, cultural, institutional, entertainment and food uses.

If the City does not timely develop a Library on Development Parcel A-2, then the requirement for a 50,000 square foot cultural and/or institutional use on Development Parcel E-4 is reduced to 25,000 square feet and the Developer may add up to 25,000 square feet of additional retail, cultural, institutional, entertainment and food uses.

5. PHASED CONVEYANCE AND DEVELOPMENT OF DEVELOPMENT PARCEL A

a. Notwithstanding any contrary provision of the Agreement, the Agency and the Developer agree that Development Parcel A shall be conveyed and developed in three (3) separate phases, as depicted in the Amended Site Map, as follows.

- (1) The first phase, defined as "Development Parcel A-1" or "Phase 1-B-1", shall consist of: the development of Buildings "A", "B", "D" and "V" and Pads "E" and "U", with a gross leasable area of approximately 189,115 square feet in the aggregate, to be developed for retail, entertainment and food uses, (provided, however, that Developer shall have the right (as described in paragraph a. of Section A.1 of the Scope of Development, the "Building X Option"), at any time prior to approval of the financing for Development Parcel A-3, to expand the development on Development Parcel A-1 by including up to 23,980 square foot Building X on Development Parcel A-1, in which case the gross leasable area of Development Parcel A-1 would be approximately 213,095 square feet), and all improvements required to provide access to the buildings and parking spaces servicing the Project, as required pursuant to clause (4) below, , all as described in the Amended Scope of Development, within the time provided in the Amended Schedule of Performance. Notwithstanding the phasing of the improvements to

Development Parcel A, all offsite improvements required for Development Parcel A shall be constructed in connection with the development of Phase 1-B-1.

- (2) The second phase, defined as "Development Parcel A-2" or "Phase 1-B-2", shall consist of: Building "Z", with a gross leasable area of approximately 28,155 square feet for retail, entertainment and food uses on the ground floor, and, subject to the timely election by the City in accordance with the Development Parcel A REA, and timely performance thereafter by the City of its related obligations thereunder, another approximately 28,800 square feet of useable area in an air space parcel for the Library (described in Section 6, below), and all improvements required to provide access to the buildings and parking spaces servicing the Project, as required pursuant to clause (4), below, all as provided in the Amended Scope of Development, within the time provided in the Amended Schedule of Performance.
- (3) The third phase, defined as "Development Parcel A-3" or "Phase 1-B-3", shall consist of either (i) up to approximately 52,730 square feet of gross leasable area for either retail, entertainment and food uses, as provided in the Amended Scope of Development (provided that such square footage shall be reduced by approximately 23,980 gross leasable square feet if the Developer exercises the Building X Option), or (ii) the Hotel (as defined below), if Developer elects to transfer the Hotel use from Development Parcel E-3 to Development Parcel A, as provided in Section 7, below; and all improvements required to provide access to the buildings and parking spaces servicing the Project as required pursuant to clause (4) below, all as provided in the Amended Scope of Development, within the time provided in the Amended Schedule of Performance.
- (4) It shall be a condition to development of each of the above phases that the plans therefor shall call for sufficient parking, when added to the parking spaces already available in the balance of the Project, so that upon completion of such phase, there shall be a sufficient number of parking spaces within the Gateway Project to satisfy all

spaces within the Gateway Project to satisfy all applicable City Code requirements. These requirements are more fully set forth in Section 2.13 of the "Overall REA" recorded October 17, 2001 in the Official Records of the San Diego County Recorder as Document No. 2001-0751836, as amended from time to time. The parking so required in order to commence a phase may be located on a separate Development Parcel, so long as the rights to such parking are memorialized in a manner reasonably satisfactory to the Agency. Parking so established may be re-located from time to time, so long as the parking requirements under Section 2.13 of the Overall REA continue to be satisfied. The establishment of parking upon a Development Parcel for which the Developer has not yet commenced the improvements described in clauses (1), (2) or (3) above shall not constitute "commencement of construction" with respect to such phase, and the fact that such parking improvements are paid for in whole or in part by financing proceeds procured in connection with development of another Development Parcel shall not be construed as if the Developer has submitted or obtained financing for the development of the Development Parcel upon which such parking improvements are located.

b. The fourth (4th) paragraph of Section 104 is hereby amended to add a new sentence to the end thereof, to read as follows:

"In accordance with the Amended Scope of Development, Development Parcel A may be developed in separate phases, each of which shall constitute, as the context requires, a separate "Development Parcel" and shall be the subject of a separate Certificate of Completion: (1) Development Parcel A-1 (Phase 1-B-1); (2) the Library Phase Retail Lot and the Library Lot in Development Parcel A-2 (Phase 1-B-2) (it being understood that an airspace lot above the Library may be further developed in accordance with the requirements of the Development Parcel A REA); and (3) Development Parcel A-3 (Phase 1-B-3)."

c. Section 718 of the DDA is amended to add a new paragraph to the end thereof, to read as follows:

Amended
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Agreement

standing Section 718 of the DDA, the executed t Parcel A Public Use Lease shall be amended to e following revised use and rental provisions:

Development Parcel A -
Parking Area: approximately 454 parking spaces, all in
Development Parcel A-1 (Phase 1-B-1).

Improvements: Approximately 189,000 square feet of
retail, entertainment and food uses on Parcel A (the
"Initial A Improvements") plus at least 28,000 additional
square feet of retail, entertainment and food uses on
Parcel A (the "Supplemental A Improvements").

Base Rent A: \$6,306,000
Upon completion of the Initial A Improvements
(70.04%): \$4,416,886
Upon completion of the Supplemental A Improvements
(29.96%): \$1,889,114

First Tier Base Rent A: \$1,145,000
Upon completion of Initial A Improvements (70.04%):
\$801,988
Upon completion of Supplemental A Improvements
(29.96%): \$343,012

Second Tier Base Rent A: \$5,161,000
Upon completion of Initial A Improvements (70.04%):
\$3,614,898
Upon completion of Supplemental A Improvements
(29.96%): \$1,546,102

d. To conform to the three-phased development of Development
Parcel A, as provided in this Implementation Agreement, the parties
agree as follows:

- (1) Section II.A.2. (Cash or Cash Equivalents) of
Amended Attachment No. 2, Method of Financing, is
hereby amended to revise the respective amounts of
the Acquisition Loans as follows:

<u>Acquisition Loan</u>	<u>Principal Amount</u>
Development Parcel A-1 Loan	\$1,246,758
	(provided, however, that if Developer exercises the Building X Option, then the Development Parcel A-1 Loan amount shall be \$1,404,849, which is the sum of the amount shown above plus the amount of the Development Parcel A-3 Loan allocable to Building X)

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(Loan Amounts)*

Development Parcel A-2 Loan \$ 185,614

Development Parcel A-3 Loan \$ 347,627

(provided, however, that if Developer exercises the Building X Option, then the Development Parcel A-3 Loan amount shall be \$189,537, which is the amount shown above minus the amount of the Development Parcel A-3 Loan allocable to Building X; and provided further that if Developer elects to transfer from Development Parcel E-3 to Development Parcel A-3 the right and obligation to develop the Hotel, the Development Parcel A-3 Loan amount shall be \$990,000, which represents the loan amount otherwise allocated to Development Parcel E-3).

Development Parcel B Loan \$ 650,000

Development Parcel C Loan \$1,226,000

Development Parcel D Loan \$ 70,000

Development Parcel E-1 Loan \$ 720,000

Development Parcel E-2 Loan \$ 455,000

Development Parcel E-3 Loan \$ 990,000

(provided, however, if Developer elects to transfer from Development Parcel E-3 to Development Parcel A-3 the right and obligation to develop the Hotel, the Development Parcel E-3 Loan amount shall be \$347,627, and provided further that if Developer also exercises the Building X Option, then the Development Parcel E-3 Loan amount shall be \$189,537, which sum represents \$347,627 minus the amount of

the Loan otherwise allocable to Building X.

Development Parcel F Loan \$1,160,000

- (2) Developer and Agency hereby agree to prepare and execute an Amendment to the Agreement To Be Recorded Affecting Real Property (Development Parcel A), in a form that is mutually acceptable to the Developer and the Agency Executive Director or designee (and which incorporates the provisions of the letter dated October 16, 2001 from the Agency to Developer), and to record the fully executed instrument in the land records of San Diego County;
- (3) Developer hereby agrees to execute an Amendment to the Public Use Lease (Development Parcel A), in the form attached to this Implementation Agreement as Exhibit "C" to Fourth Implementation Agreement, which is incorporated herein by this reference, and Agency agrees to cause the City to execute the Amendment to the Public Use Lease and to record the fully executed instrument in the land records of San Diego County; and
- (4) Developer and the Agency Executive Director shall revise Attachment No. 14, Loan Agreement to the extent necessary to conform to the changes set forth in this Implementation Agreement. Upon request of either party, the other party shall confirm the final form of the Loan Agreement.

6. SAN YSIDRO BRANCH LIBRARY

a. In furtherance of the DDA, as amended by this Implementation Agreement, the parties agree to cooperate in good faith, without cost or expense to the Agency, to prepare, process and cause the City to approve a three-dimensional parcel map for Building "Z" in Development Parcel A-2 (Phase 1-B-2). The parcel map shall be substantially similar to the 2002 Subdivision Map referred to in Section 2 of this Fourth Implementation Agreement. The parcel map shall include two (2) separate airspace lots above the ground-floor of Building "Z", the "Library Lot" and the "Above Library Airspace Lot", as described in the Development Parcel A REA. The Library Lot and the Above Library Airspace Lot shall be referred to collectively as the "Airspace Lots".

b. In furtherance of the DDA, as amended by this Implementation Agreement, Developer hereby agrees to donate the

Airspace Lots to the City of San Diego and Agency agrees to cause the City to accept such donation. The grant deeds for the conveyance of the Airspace Lots shall be in a form that is acceptable to the City Manager and the City Attorney or their designees.

c. Concurrently with the conveyance of title to the Airspace Lots, Developer shall execute the Development Parcel A REA, to provide for access to and from the Airspace Lots, maintenance of the building exterior and joint use areas, obligation of the owner of the Library Phase Retail Lot to rebuild Building "Z", and related matters. Agency agrees to cause the City to execute the Development Parcel A REA and to record the fully executed instrument in the land records of San Diego County. The Development Parcel A REA shall be in a form that is acceptable to the Developer, the City Manager and the City Attorney or their designees.

d. Agency and Developer shall cooperate in good faith with the City of San Diego to apply for funding (the "Library Grant") under the California Reading and Literacy Improvement and Public Library Construction and Renovation Bond Act of 2000, to pay a portion of the cost of constructing a new approximately 28,800 square foot San Ysidro branch library (the "Library") in the Library Lot.

e. Agency agrees to enter into a Cooperation Agreement with the City regarding the provision of the balance of funds needed to fully fund the construction of the Library, which shall be subject to the approval of the Library Grant.

f. The grant deeds conveying the Airspace Lots to the City shall contain a right of reverter by which the Developer shall reserve the right at its option to reenter and take possession of the Airspace Lots conveyed to the City, and to terminate and revest in Developer the property interest conveyed to the City, if, (i) by September 30, 2003, the City has not received Grant Approval and the Agency has not notified Developer in writing that Agency has obtained sufficient funding and/or funding commitments from other sources to proceed to finance the construction of the Library (the "Alternative Funding") or (ii) the City thereafter fails to timely accomplish the steps and actions pertaining to development of the library that are described in Section 3.2 of the Development Parcel A REA.

g. In the event Developer exercises its right of reverter as to the Airspace Lots, the DDA shall be deemed amended so that Developer shall have the right, in its discretion, to construct up to 50,000 square feet of gross leasable space in Development Parcel

E-4, which may include, in Developer's discretion, up to 25,000 square feet of gross leasable space for retail and food services, with the balance for cultural or institutional uses; provided, Developer shall be obligated to construct approximately 25,000 square feet of gross leasable space in Development Parcel E-4 for cultural or institutional uses, it being understood that such cultural and institutional uses may be comprised of the types of cultural and institutional uses described in Section 4 of this Fourth Implementation Agreement (amending paragraph h. of Section A.1 of the Scope of Development).

h. Subject to the approval of the Library Grant or the provision of Alternative Funding pursuant to paragraph f. of this Section 6, above, Developer agrees to construct the Library in accordance with and subject to the terms and conditions of the Development Parcel A REA. If the City timely makes its election to build the Library, and thereafter performs as required under the Development Parcel A REA, then the Library shall be constructed concurrently with the construction of the retail space in Building "Z" within the Library Phase Retail Lot below the Library.

i. Upon completion of construction of the Library in Development Parcel A-2 (Phase 1-B-2) in accordance with this Section 6, the following shall apply: the DDA shall be deemed amended to delete Developer's right and obligation to construct approximately 50,000 square feet of gross leasable space in Development Parcel E-4 for cultural or institutional uses; Developer's obligation to provide 50,000 square feet of cultural or institutional space shall be deemed satisfied; and the Developer shall have the option, but not the obligation, to develop up to 25,000 square feet of gross leasable area for retail and food uses on Parcel E-4.

7. DEVELOPER'S ELECTION RE HOTEL

a. Developer shall have the right, in its discretion, to elect, by written notice delivered to the Agency Executive Director (the "Hotel Transfer Election Notice"), to transfer from Development Parcel "E-3" to Development Parcel A-3 (Phase 1-B-3) the right and obligation under the DDA to develop a business and tourist hotel and conference center, with approximately 300 rooms and approximately 50,000 square feet of conference space, with retail and parking, as provided in the Scope of Development (the "Hotel"). The Hotel Transfer Election Notice shall be accompanied by Schematic/Design Development Drawings showing the proposed Hotel improvements in Development Parcel A-3 (Phase 1-B-3), which shall be located and designed, to the maximum extent commercially feasible and not inconsistent with the development of the Hotel,

to protect the visibility of the Library to the adjacent community and to maximize ease of access to the Library by Library users.

b. Developer's election shall be subject to: (i) approval of the proposed location and site layout of the Hotel within Development Parcel A-3 (Phase 1-B-3) by the Agency Executive Director; and (ii) approval of all land use entitlements and permits by the City.

c. Developer shall make the election to transfer its rights and obligations regarding the Hotel from Development Parcel E-3 to Development Parcel A-3 (Phase 1-B-3), if at all, not later than the time provided in the Amended Schedule of Performance for submitting Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans for Development Parcel A-3 (Phase 1-B-3), or Development Parcel E-3, whichever occurs first.

d. Upon the delivery of the Hotel Transfer Election Notice, the following shall apply:

- (1) the DDA shall be deemed amended to delete Developer's right and obligation to construct the Hotel in Development Parcel E-3;
- (2) the DDA shall be deemed amended to permit Developer an option to develop Development Parcel E-3 with approximately 52,730 square feet of retail, entertainment and food uses (provided that if Developer exercises the Building X Option, then said optional square footage shall be reduced by an amount equal to the square footage developed pursuant to the Building X Option). It shall be a condition to such development that the plans call for sufficient parking, when added to the parking spaces available in the balance of the Gateway Project, that upon completion of such development there shall be a sufficient number of parking spaces within the Gateway Project to meet all applicable City Code requirements. This development will be connected to other Development Parcels by ways of a pedestrian esplanade;
- (3) Section II.A.2. of the Amended Method of Financing shall be deemed amended to revise the amount of the Development Parcel A-3 Acquisition Loan from \$347,627 to \$990,000, and to revise the amount of the Development Parcel E-3 Acquisition Loan from \$990,000 to \$347,627, except that if Developer also exercises the Building X Option, then the

Development Parcel E-3 Acquisition Loan amount shall be \$189,537, which is the amount shown above minus the amount of the Development Parcel A-3 Acquisition Loan allocable to Building X.

- (4) Section IV.C. (Development Parcels E-3, F and/or E-2) of the Amended Method of Financing shall be deemed amended to read in its entirety as follows:

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

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

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

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

1. None.

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

1. None."

8. TERMINATION BY DEVELOPER

Paragraph (h) of Section 510 of the Agreement is hereby amended to read in its entirety as follows:

"h. The Developer is unable despite diligent and good faith efforts, (i) to obtain financing commitments with respect to a Development Parcel of the type referenced in Section 214 of this Agreement which are satisfactory to the Developer, or (ii) to submit to the Agency such submission of evidence of financing commitments with respect to the applicable Development Parcel, within the time established respectively therefor in the Schedule of Performance (it being understood with respect to both clauses (i) and (ii) that the Developer shall not be required to submit, approve or consummate any particular financing unless the financing is obtained at times and on terms satisfactory to the Developer in its sole discretion)."

9. LIMITATION ON AGENCY CAPTURE OF PROFITS

The Developer and Agency hereby agree that notwithstanding any contrary provision of the Agreement, from and after the commencement of the construction of the improvements on Development Parcel A-1: (a) for purposes of Sections 316, 512 and 703 alone of the Agreement, the term "Sales Parcel" henceforth shall not be deemed to include any "Agreed Sales Parcel" within any Development Parcel (other than Development Parcel A-2) unless and until the Loan Agreement has been executed and delivered by the Agency with respect to the Development Parcel of which such Agreed Sales Parcel forms a part; and (b) accordingly, the Agency will not have the right to capture or otherwise receive a payment of any portion of the Developer's profits (through an increase in the purchase price or any other mechanism).

10. TIME FOR ACCEPTANCE OF THIS IMPLEMENTATION AGREEMENT BY THE AGENCY; DATE OF THIS IMPLEMENTATION AGREEMENT

This Implementation Agreement when executed by the Developer and delivered to the Agency, must be authorized, executed and delivered by the Agency within forty-five (45) days after this Implementation Agreement is signed by the Developer or this Implementation Agreement may be terminated by the Developer on written notice to the Agency.

This Implementation Agreement is executed in five (5) duplicate originals, each of which is deemed to be an original.

The date of this Implementation Agreement shall be the date first set forth above.

IN WITNESS WHEREOF, the Agency and Developer have signed this Implementation Agreement as of the dates set opposite their signatures.

INTERNATIONAL GATEWAY ASSOCIATES, LLC,
a Delaware limited liability company

By: Gateway Retail Group, LLC,
a California limited liability
company, its Managing Member

By: LandGrant Development Unlimited,
a California corporation,
its Managing Member

By: Charles M. Mason
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

Dated: 6/5/02

By: Todd Hooks
Todd Hooks
Deputy Executive Director

IN WITNESS WHEREOF, the Agency and Developer have signed this Implementation Agreement as of the dates set opposite their signatures.

INTERNATIONAL GATEWAY ASSOCIATES, LLC,
a Delaware limited liability company

By: Gateway Retail Group, LLC,
a California limited liability
company, its Managing Member

By: LandGrant Development Unlimited,
a California corporation,
its Managing Member

By: _____
Name: _____
Title: _____

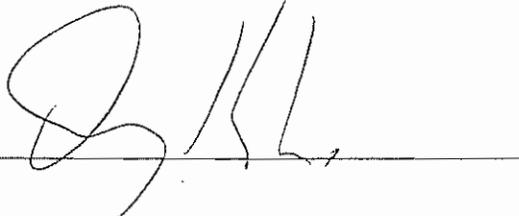
By: 
Name: CHRIS SMITH
Title: Ex V.P.

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

Dated: 6/5/02 
Todd Hooks
Deputy Executive Director

APPROVED AS TO FORM AND
LEGALITY ON THIS 5 day
of July, 2002.

CASEY GWINN
Agency General Counsel

By: 

APPROVED:
KANE, BALLMER & BERKMAN
Agency Special Counsel

By: 

Glenn F. Wasserman

EXHIBITS TO BE ATTACHED TO FOURTH IMPLEMENTATION AGREEMENT

- EXHIBIT "A" - Site Map
- EXHIBIT "B-1" - Legal Description of E-1, E-2, E-3 and E-4 Development Parcels
- EXHIBIT "B-2" - Map of E-1, E-2, E-3 and E-4 Development Parcels.
- EXHIBIT "C" - Amendment to Public Use Lease (Development Parcel A)
- EXHIBIT "D" - Subsequent Parcel A Reciprocal Easement and Cost Sharing Agreement (Second Phase Shopping Center Property and Library Phase Property)

EXHIBIT "A" TO FOURTH IMPLEMENTATION AGREEMENT

SITE MAP

[BEHIND THIS PAGE]



Las Americas
La Puerta • The Gateway

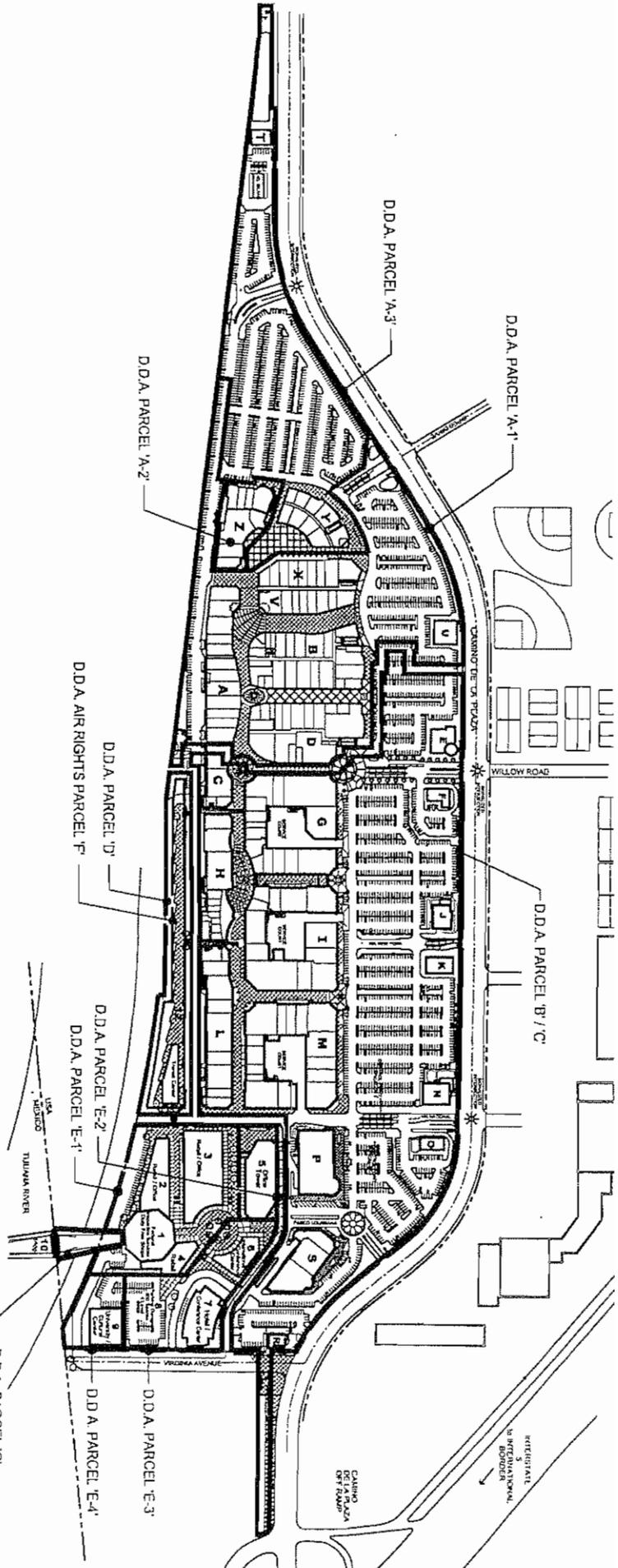


EXHIBIT A
AMENDED SITE PLAN

23 MAY, 2002

1" = 120' 240' 480'



**LANDGRANT
DEVELOPMENT**
12825 HIGH BLVD D., SUITE 212
SAN DIEGO, CALIFORNIA 92130
TELEPHONE: (619) 481-3104
FAX: (619) 481-3104
INTERNET: www.landgrant.com



**KVV
ARCHITECTURE
& CONSTRUCTION**
102 RIVINGTON AVENUE
SAN DIEGO, CALIFORNIA 92103
TELEPHONE: (619) 591-2115
FAX: (619) 591-2115

EXHIBIT "B" TO FOURTH IMPLEMENTATION AGREEMENT

EXHIBIT B-1: LEGAL DESCRIPTION OF DEVELOPMENT PARCELS E-1,
E-2, E-3 AND E-4

EXHIBIT B-2: MAP OF DEVELOPMENT PARCELS E-1, E-2, E-3 AND
E-4

[BEHIND THIS PAGE]

Description of Property

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN DIEGO, AND IS DESCRIBED AS FOLLOWS:

A portion of Blocks 15, 25 and 26 of the Map of Tia Juana City according to Map No 562 filed in the Office of the County Recorder of San Diego County, August 29, 1888, more particularly described as follows:

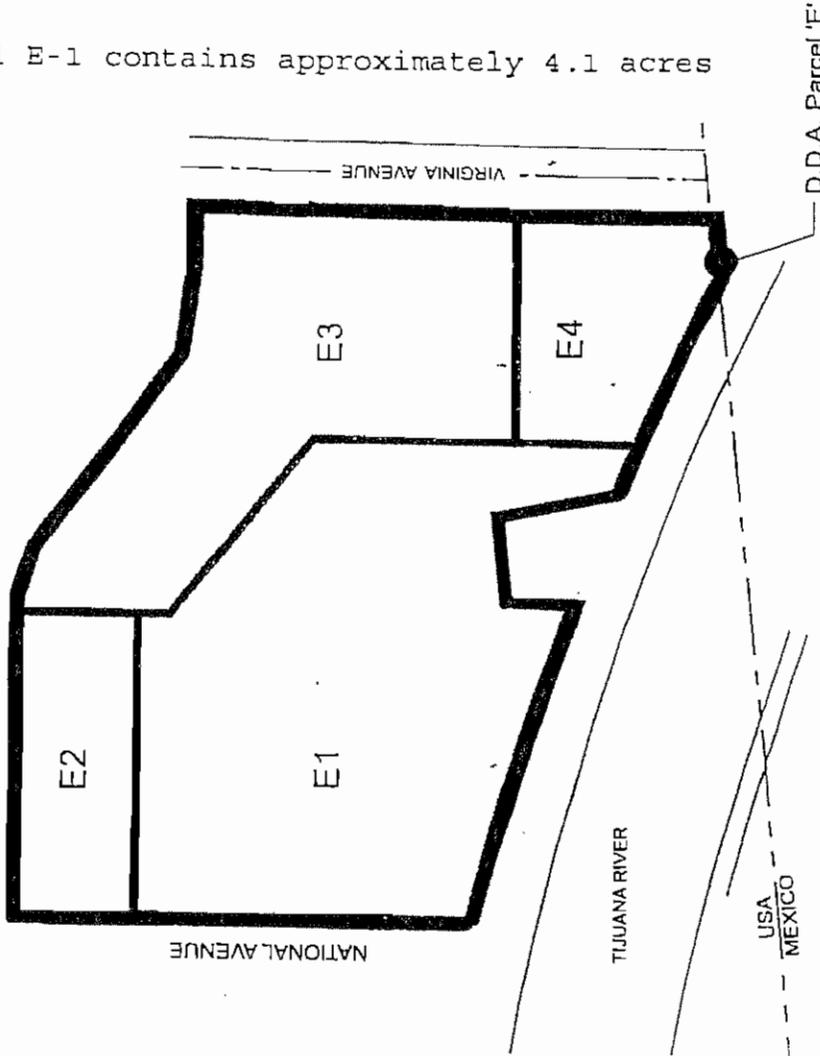
BEGINNING at the intersection of the west line of Virginia Avenue (80 feet wide) as said street is shown on Map 562 with the north line of a strip of land (60 feet wide) conveyed to the State of California by deed recorded March 29, 1971 as File No. 59313 of Official Records of the County of San Diego, said north line being parallel with and 60 feet northerly from the International Boundary between the United States of America and the Republic of Mexico; thence along said west line of Virginia Avenue north $0^{\circ}37'07''$ east 442.65 feet to the south line of Lot 15 of the final map of International Gateway of the Americas Unit 1A, as shown on Map 14259 filed in the office of the County Recorder of the County of San Diego as File No. 2001-0581338 on August 15, 2001; thence along last said south line north $89^{\circ}31'13''$ west 84.60 feet to a tangent curve concave to the northeast having a radius of 145.00 feet; thence westerly and northwesterly along the last said tangent curve through a central angle of $36^{\circ}38'26''$ a distance of 92.73 feet to a tangent line; thence along the last said tangent line north $52^{\circ}52'47''$ west 221.98 feet to a tangent curve concave to the southwest having a radius of 85.00 feet; thence north westerly and westerly along the last said tangent curve through a central angle of $36^{\circ}38'27''$ a distance of 54.36 feet to a tangent line; thence along the last said tangent line north $89^{\circ}31'14''$ west 307.12 feet to the east line of Lot 9 of the said final map of International Gateway of the Americas Unit 1A; thence along last said east line south $0^{\circ}39'47''$ west 455.85 feet to north line of the flood control channel as condemned and taken by the City of San Diego by Final Order of Condemnation recorded on August 29, 1979 as File No. 79-363927 of Official Records of said San Diego County; thence along said north line easterly along a curve concave to the south having a radius of 3225 feet through a central angle of $10^{\circ}08'30''$ a distance of 570.85 feet to the said north line of the 60 foot strip of land deeded to the State of California; thence along said north line north $84^{\circ}40'36''$ east, 163.93 feet to the point of BEGINNING.

The above described E Property contains 8.1 acres, more or less.

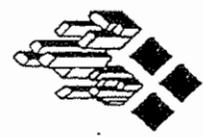


Illustration of Parcel E-1

Parcel E-1 contains approximately 4.1 acres



LANDGRANT DEVELOPMENT
 12875 High Blvd Dr., Suite 212
 San Diego, California 92130
 Telephone: (619) 481-0094
 Telecopy: (619) 481-3108
 E-Mail: information@landgrant.net



International Gateway Of The Americas SAN DIEGO, CALIFORNIA
Puerta Internacional De Las Americas SAN DIEGO, CALIFORNIA

D.D.A. Land Parcel 'E' Exhibit 24 January, 2000

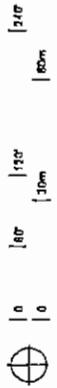
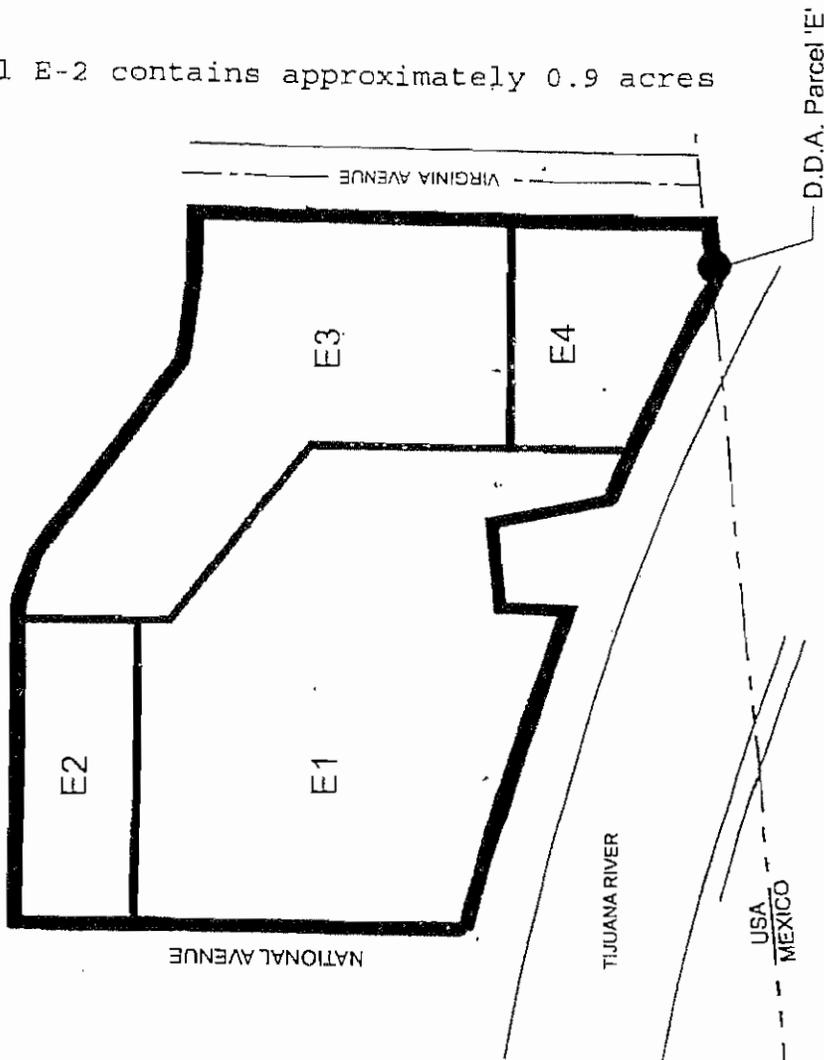


Illustration of Parcel E-2



Parcel E-2 contains approximately 0.9 acres



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 Puerta Internacional De Las Americas SAN DIEGO, CALIFORNIA

D.D.A. Land Parcel 'E' Exhibit 24 January, 2000



0 0

100'

200'

300'

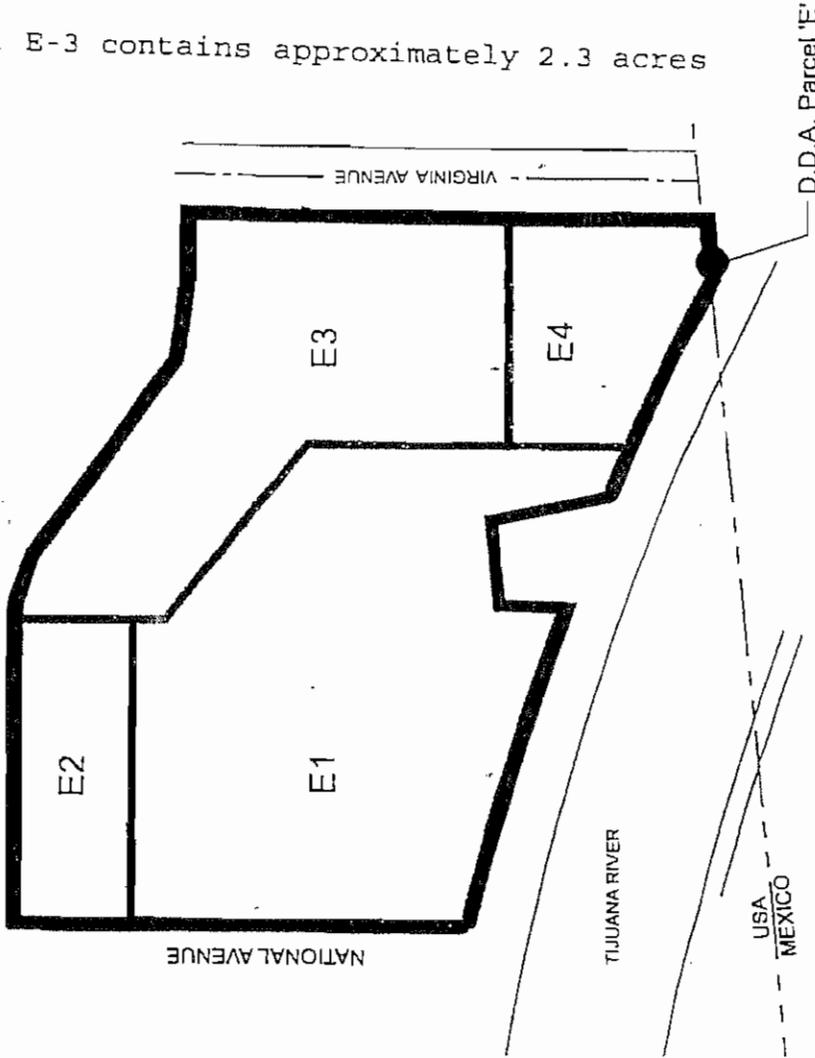
400'

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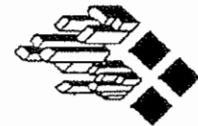
Illustration of Parcel E-3



Parcel E-3 contains approximately 2.3 acres



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 12025 High Bluff Dr., Suite 212
 San Diego, California 92130
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 Telecopy: (619) 487-3108
 E-Mail: information@landgrant.net



International Gateway Of The Americas SAN DIEGO, CALIFORNIA

Puerta Internacional De Las Americas SAN DIEGO, CALIFORNIA

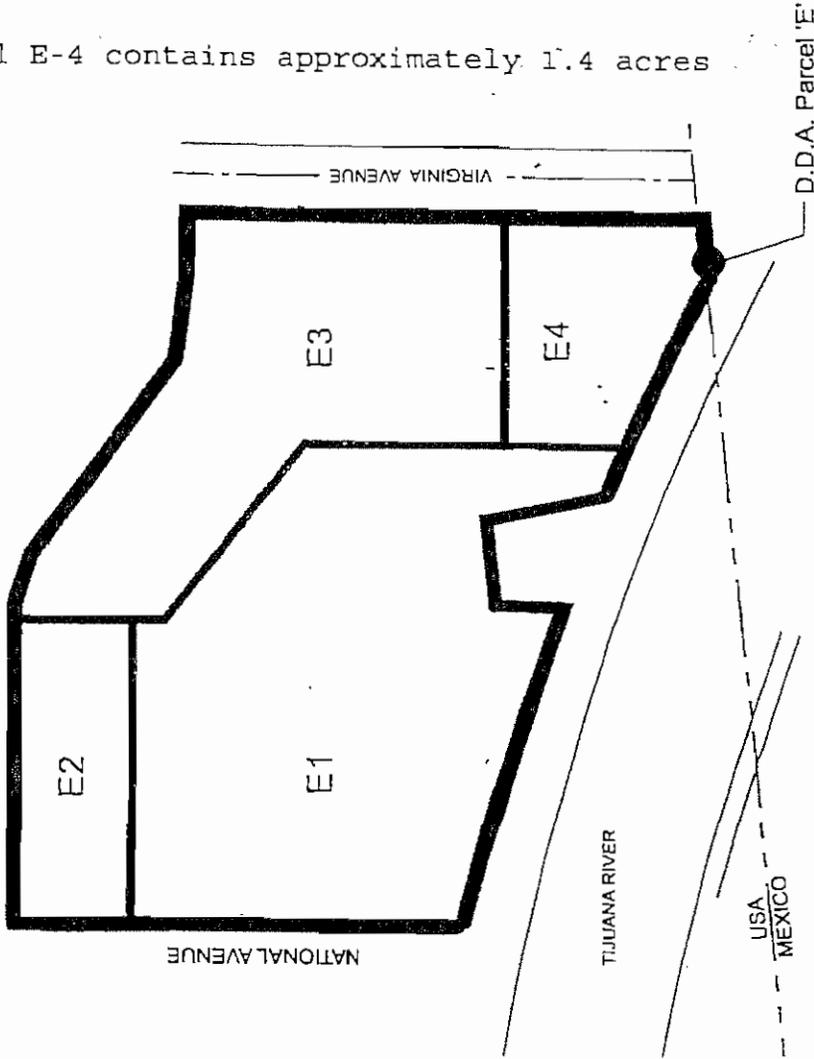
D.D.A. Land Parcel 'E' Exhibit · ⊕ · 0' 0" 140' 130m 140' 160m

24 January, 2000



Illustration of Parcel E-4

Parcel E-4 contains approximately 1.4 acres



International Gateway Of The Americas SAN DIEGO, CALIFORNIA
 Puerta Internacional De Las Americas SAN DIEGO, CALIFORNIA

D.D.A. Land Parcel 'E' Exhibit
 24 January, 2000

LANDGRANT DEVELOPMENT
 12825 High Bluff Dr., Suite 212
 San Diego, California 92130
 Telephone: (619) 481-2094
 Telecopy: (619) 481-3706
 E-Mail: information@landgrant.net

EXHIBIT "C" TO FOURTH IMPLEMENTATION AGREEMENT
AMENDMENT TO PUBLIC USE LEASE (DEVELOPMENT PARCEL A)

[BEHIND THIS PAGE]

(RA-2002-140)

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

RESOLUTION NO. R- 03474

ADOPTED ON MAY 28 2002

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO APPROVING THE FOURTH IMPLEMENTATION AGREEMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO AND INTERNATIONAL GATEWAY ASSOCIATES, LLC, FOR THE INTERNATIONAL GATEWAY OF THE AMERICAS PROJECT LOCATED IN THE SAN YSIDRO REDEVELOPMENT PROJECT AREA.

WHEREAS, the Redevelopment Agency of the City of San Diego [Agency] is engaged in activities necessary to carry out and implement the Redevelopment Plan for the San Ysidro Redevelopment Project [Project]; and

WHEREAS, in order to carry out and implement the Redevelopment Plan, on May 12, 1998, by Resolution No. R-02842, the Agency approved a Disposition and Development Agreement between the Agency and Land Grant Development [Developer], for the International Gateway of the Americas Project, a copy of which is on file in the office of the Secretary to the Agency as Document No. D-02842, and amended by the First Implementation Agreement dated February 22, 2000, Document No. D-03111a and D-03111b, the Second Implementation Agreement dated November 21, 2000, Document No. D-03272, the Third Implementation

Agreement dated June 13, 2001, Document No. D-03342 (collectively with the proposed Fourth Implementation Agreement referred to herein as the Agreement); and

WHEREAS, in order to further implement the development under the Agreement, the Agency and the developer propose pursuant to the terms and conditions of the Fourth Implementation Agreement to make certain changes deemed appropriate by the parties; and

WHEREAS, the Agency has duly considered all terms and conditions of the proposed Third Implementation Agreement and believes that the conditions contained in the proposed Fourth Implementation are in the best interest of the City and the health, safety, moral, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local law and requirements; NOW, THEREFORE,

BE IT RESOLVED, by the Redevelopment Agency of the City of San Diego, as follows:

1. That the proposed Fourth Implementation Agreement and the terms and conditions thereof are approved.
2. That the Executive Director of the Agency, or designee, is authorized to execute, for and on behalf of the Agency, the Fourth Implementation Agreement with International Gateway Associates, LLC, a Delaware Limited liability company; a copy of the Fourth Implementation Agreement is on file in the office of the secretary to the Agency as Document No. D- 03342.
3. That the Executive Director of the Agency, or designee, is authorized, on behalf of the Agency, to sign all documents necessary and appropriate to carry out and implement the

passed and adopted by The Redevelopment Agency of The City of San Diego
by the following vote:

MAY 28 2002

Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Byron Wear	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ralph Inzunza	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chair Murphy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

DICK MURPHY

Chair of The Redevelopment Agency of The City of San Diego, California

CHARLES G. ABDELNOUR

Secretary of The Redevelopment Agency of The City of San Diego, California

(Seal)

By *Charles G. Abdelnour* Deputy

Office of The Redevelopment Agency, San Diego, California

Resolution Number R-03-074 Adopted MAY 28 2002

Fourth Implementation Agreement and to administer the Agency's obligations, responsibilities and duties to be performed under the Fourth Implementation Agreement.

APPROVED: CASEY GWINN, General Counsel

By 
Douglas Humphreys
Deputy General Counsel

DKH:ai:pev
05/22/02
Or.Dept:REDV
Aud.Cert:n/a
RA-2002-140
Council: n/a
Form=rda&t-comp.frm

I HEREBY CERTIFY that the above and foregoing is a full and correct copy of RESOLUTION

NO. R-03474 of the Redevelopment Agency of The City of San Diego, California, passed and

adopted by the Agency on May 28, 2002.
CHARLES G. ABDELNOUR, Secretary

By Amanda Zuniga, Deputy

Recording Requested by:
CITY OF SAN DIEGO

When Recorded Return to and
Mail Tax Statements to:
CITY OF SAN DIEGO
Economic Development & Community
Services Department
400 B Street, 4th Floor
San Diego, CA 92101
Attention: San Ysidro Project Manager

Free Recording Requested
per Government Code § 6103

AMENDMENT TO PUBLIC USE LEASE
(Parcel A)

This Amendment to Public Use Lease (the "Amendment") is entered into as of May 28, 2002, by and between INTERNATIONAL GATEWAY ASSOCIATES, LLC, a Delaware limited liability company, ("Lessor"), and the CITY OF SAN DIEGO, a charter city ("City").

RECITALS

A. The Redevelopment Agency of the City of San Diego ("Agency") and Lessor ("Developer" therein) are the parties to that certain Disposition and Development Agreement dated May 29, 1998, as amended by the First Implementation Agreement dated February 23, 2000, the Second Implementation Agreement dated November 27, 2000, the Third Implementation Agreement dated June 28, 2001 and the Fourth Implementation Agreement dated May 28, 2002 (collectively the "DDA") with respect to the redevelopment of certain real property (the "Site"), within the San Ysidro Redevelopment Project area in the City. The redevelopment of the Site involves construction of certain improvements specified in the DDA. Such improvements are to be constructed in phases.

B. In accordance with the DDA, Lessor and City entered into that certain Public Use Lease dated March 20, 2001, relating to a portion of the Site referred to as "Parcel A" (the "Lease"). Any capitalized terms not otherwise defined in this Amendment shall have the meaning ascribed to such terms in the Lease.

C. Pursuant to the Lease, Lessor has agreed to lease to City and City has agreed to lease from Lessor that portion of Parcel A described in the Lease as the "Parking Area".

D. Pursuant to the Fourth Implementation Agreement to the DDA, the Agency and Lessor have agreed that Parcel A is to be

subdivided into three parcels, described as "Parcel A-1" (also sometimes referred to as "Phase 1-B-1") , "Parcel A-2" (also sometimes referred to as "Phase 1-B-2") and "Parcel A-3" (also sometimes referred to as "Phase 1-B-3"). The Parking Area is to be contained within Parcel A-1.

NOW, THEREFORE, in consideration of the covenants and conditions hereafter contained, and subject to the following terms and conditions, Lessor and City agree to amend the Lease as follows:

1. Map of Parcel A. The Map of Parcel A attached to the Lease as Exhibit A is hereby replaced with the substitute Map of Parcel A attached to this Amendment as Exhibit A.

2. Legal Description of Parcel A. The Legal Description of Parcel A attached to the Lease as Exhibit B is hereby replaced with the substitute Legal Description of Parcel A attached to this Amendment as Exhibit B.

3. Parking Area Description. The Parking Area Description attached to the Lease as Exhibit C is hereby replaced with the substitute Parking Area Description attached to this Amendment as Exhibit C. The parties agree that the Parking Area Description may be revised from time to time with the consent of the City Manager of the City of San Diego, provided that no such revision (a) shall diminish in any material respect the ability of the City to use the Parking Area for Park and Ride purposes or (b) shall relocate any portion of the Parking Area off Parcel A-1.

4. Rent Schedules. Rent Schedule A, attached to the Lease as Exhibit D is hereby replaced with the following Rent Schedules: Rent Schedule A-1 (Initial A Improvements), which is attached hereto as Exhibit D; and Rent Schedule A-2 (Supplemental A Improvements), which is attached hereto as Exhibit E.

5. Plan for Improvements. The Plan for Improvements on DDA Parcel A, attached to the Lease as Exhibit G is hereby replaced with the Plan for Improvements, attached to this Amendment as Exhibit F. The Plan for Improvements attached as Exhibit F shows the general layout of approximately 189,000 square feet of retail, entertainment and food uses to be constructed on Parcel A-1 pursuant to the DDA (the "Initial A Improvements"). As more fully set forth in the DDA, the Lessor is authorized to construct certain additional improvements on Parcel A (including approximately 28,000 square feet of retail, entertainment and food uses to be constructed in connection with the construction of a library on Parcel A-2, should the City so elect to construct such library and subject to the satisfaction of certain additional conditions). For purposes of this Lease, the term "Supplemental A Improvements" shall mean approximately 28,000 square feet of retail,

entertainment and food uses constructed on Parcel A in addition to the Initial A Improvements.

6. Rent. Article 1 of the Lease (RENT) is hereby amended in its entirety to read as follows:

ARTICLE 1. RENT

Amount and Terms of Payment

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

(a) "Additional Rent A" shall mean the sum of Additional Rent A-1 and Additional Rent A-2, as follows:

(i) "Additional Rent A-1" shall mean amounts to be paid each Lease Year during the Term, calculated at the rate of ten percent (10%) per annum on the First Tier Base Rent A-1, and at the rate of six percent (6%) per annum on the Second Tier Base Rent A-1, which when paid with the Annual Base Rent A-1 applicable to each such Lease Year, will equal the Annual Rent Amount A-1. The Additional Rent A-1 for each Lease Year, and the composition thereof, is shown on Rent Schedule A-1 (Initial A Improvements), which is attached to this Amendment as Exhibit D and hereby incorporated by reference.

(ii) "Additional Rent A-2" shall mean amounts to be paid each Lease Year during the Term, calculated at the rate of ten percent (10%) per annum on the First Tier Base Rent A-2, and at the rate of six percent (6%) per annum on the Second Tier Base Rent A-2, which when paid with the Annual Base Rent A-2 applicable to each such Lease Year, will equal the Annual Rent Amount A-2. The Additional Rent A-2 for each Lease Year, and the composition thereof, is shown on Rent Schedule A-2 (Supplemental A Improvements), which is attached to this Amendment as Exhibit E and hereby incorporated by reference.

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

because of an overpayment of such taxes. An example of the calculation of the Available Sales Tax A is attached to the Lease as Exhibit E.

(c) "Base Rent A" for any given Lease Year shall mean the sum of Base Rent A-1 and Base Rent A-2, as follows:

(i) "Base Rent A-1" shall mean the amount of \$4,416,886, constituting the initial total amount of Base Rent A-1 outstanding attributable to the entire Term of the Lease. The Base Rent A-1 is comprised of the sum of: (1) the initial total amount of Base Rent A-1 outstanding related to the first tier of annual Additional Rent A-1 in the amount of \$801,988 (the "First Tier Base Rent A-1"); plus (2) the initial total amount of Base Rent A-1 outstanding related to the second tier of annual Additional Rent A-1 in the amount of \$3,614,898 (the "Second Tier Base Rent A-1").

(ii) "Base Rent A-2" shall mean the amount of \$1,889,114, constituting the initial total amount of Base Rent A-2 outstanding attributable to the entire Term of the Lease. The Base Rent A-2 is comprised of the sum of: (1) the initial total amount of Base Rent A-2 outstanding related to the first tier of annual Additional Rent A-2 in the amount of \$343,012 (the "First Tier Base Rent A-2"); plus (2) the initial total amount of Base Rent A-2 outstanding related to the second tier of annual Additional Rent A-2 in the amount of \$1,546,102 (the "Second Tier Base Rent A-2").

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

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

(f) "Annual Rent Amount A" shall consist of the sum of Annual Rent Amount A-1 and Annual Rent Amount A-2, as follows:

(i) "Annual Rent Amount A-1" shall mean the equal annual scheduled payment for Base Rent A-1 and Additional Rent

A-1 owed by City to Lessor each Lease Year as shown on Rent Schedule A-1 (Initial A Improvements) (Exhibit D).

(ii) "Annual Rent Amount A-2" shall mean the equal annual scheduled payment for Base Rent A-2 and Additional Rent A-2 owed by City to Lessor each Lease Year as shown on Rent Schedule A-2 (Supplemental Improvements) (Exhibit E).

(g) "Term Commencement Date" shall mean, (i) as to the Annual Rent Amount A-1, the July 1 next following the earlier to occur of: (A) the date when the Initial A Improvements have been completed and the Parking Area Improvements referred to in Section 2.04, have been completed; or (B) the date established in the Schedule of Performance (Attachment No. 3) of the DDA for completion of construction of the Initial A Improvements, as such date may be extended by City for purposes of this provision only pursuant to Section 3.02, or as such date may be extended for purposes of this provision only pursuant to Section 6.19, to the extent, and only to the extent, that the causes under that Section delay completion of the Initial A Improvements, or the completion of the Parking Area Improvements referred to in Section 2.04, and (ii) as to the Annual Rent Amount A-2, the July 1 next following the date when the Supplemental A Improvements have been completed (in addition to the improvements described in clause (i) of this definition).

(h) "Termination Date" shall mean as follows, as the context may require:

(i) Termination Date as to Annual Rent Amount A-1 shall mean June 30 of the thirtieth (30th) Lease Year of scheduled rental payments of the Base Rent A-1 and Additional Rent A-1 under this Lease.

(ii) Termination Date as to Annual Rent Amount A-2 shall mean June 30 of the thirtieth (30th) Lease Year of scheduled rental payments of the Base Rent A-2 and Additional Rent A-2 under this Lease.

Section 1.02.

a. Annual Rent Amount A-1. City hereby agrees to pay to Lessor each Lease Year beginning with the Term Commencement Date A-1, the Annual Rent Amount A-1, until Termination Date A-1, at which time any as yet unpaid Base Rent A-1 and/or Additional Rent A-1 shall be deemed forgiven. The City's obligation to pay the Annual Rent Amount A-1 shall not be affected or diminished by any failure of the Supplemental A Improvements to be completed.

b. Annual Rent Amount A-2. City hereby agrees to pay to Lessor each Lease Year, the Annual Rent Amount A-2, until Termination Date A-2, at which time any as yet unpaid Base Rent A-2 and/or Additional Rent A-2 shall be deemed forgiven.

c. All Annual Rent Amount A shall be payable in cash or by check drawn to the order of Lessor."

Section 1.03.

Within forty-five (45) days after City receives its final installment of Sales Tax A from the State of California (or such other governmental entity as may be the payor of Sales Tax A in the future) for each Lease Year after the Term Commencement Date A-1, City shall pay to Lessor the lesser of: (a) the Annual Rent Amount A, or (b) the sum of (i) Available Sales Tax A for the applicable Lease Year, and (ii) Available Reserves A (as defined in Section 1.07 below) as of the end of the immediately preceding Lease Year. Such amount is referred to herein as the "Annual Payment" for the applicable Lease Year. An example of the calculation of the Annual Payment is attached to the Lease as Exhibit F. Any interest earned on Available Sales Tax A due to investment of such funds by City prior to the making of such Annual Payment to Lessor shall be the property of City. Concurrently with the making of such Annual Payment, City shall provide Lessor with a financial report showing the amount of Sales Tax A allocated and paid to City for the preceding Lease Year and how the amount paid to Lessor for that Lease Year was determined. Such report further shall detail the amount (if any) of Annual Rent Amount A that continues to be unpaid for any past Lease Year as referred to in Section 1.04.

Section 1.04.

City shall only be required to calculate the Annual Payments on the basis of Sales Tax A, and to pay such amounts from (a) Sales Tax A, which are actually collected, allocated to and received by City for the applicable Lease Year; and (b) Available Reserves A as of the end of the Lease Year immediately preceding the Lease Year for which the applicable Annual Payment is due. Any portion of Annual Rent Amount A which is not paid in a Lease Year because there is insufficient Available Sales Tax A for that Lease Year, or insufficient Available Reserves A, shall be deemed a deferred obligation payable (without interest) from Available Reserves A, if and as there are Available Reserves A to pay to Lessor on account of such deferred obligation. Any deposit in the Fund for Available Reserves A in a Lease Year as provided for in Section 1.05, shall be used in that Lease Year, immediately upon such deposit, to pay toward the outstanding balance of

deferred obligations, if any. After such time as City has deposited into the Fund for Available Reserves A, the maximum cumulative limit of such deposits established pursuant to Section 1.07 hereinbelow, then any portion of Annual Rent Amount A which is not paid in a Lease Year because there is insufficient Available Sales Tax A for that Lease Year, or insufficient Available Reserves A available from deposits made before the limit was reached, shall be deemed forgiven, and City shall have no further obligation or liability with respect thereto. For the purpose of calculating the outstanding balance of Base Rent A under this Lease, the portion of Annual Rent Amount A deemed forgiven shall be treated as if it actually had been paid. If payments with respect to a Lease Year (whether from Available Sales Tax A for that Lease Year or from the Available Reserves A) are less than the Annual Rent Amount A, the amounts paid shall be applied first against Annual Rent Amount A-1 and then against Annual Rent Amount A-2.

Section 1.05.

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

City covenants to take all actions legally required to obtain and receive the maximum amount of Sales Tax A revenue to which City is legally entitled so as not to jeopardize or impair Lessor's ability to receive payment pursuant to this Lease. Lessor acknowledges and agrees that to the extent that any future constitutional, legislative or judicial amendment, act, ruling or decision (hereafter referred to as a "Sales Tax

Interference Act") interferes with the ability of City to receive Sales Tax A, any payments made by City to Lessor during the period following the start of the Lease Term that such Sales Tax Interference Act is not in effect will be deemed full and complete payment of the Base Rent A and Additional Rent A, even if the amount of such payments total less than otherwise required by this Lease, unless an alternative payment formula and procedure is agreed to by the parties in accord with this Section. In the event of a Sales Tax Interference Act, the parties will reasonably cooperate to establish an alternative payment formula and procedure, provided, however, that such alternative shall be based solely upon transactions occurring on Parcel A, and shall most closely achieve the economic equivalent of the present situation for both City and Lessor.

Section 1.06.

Notwithstanding any other provision of this Lease, City may prepay the outstanding balance (not paid, or deemed paid pursuant to Section 1.04 above) of the Base Rent A, or the outstanding balance (not paid, or deemed paid pursuant to Section 1.04 above) of the First Tier Base Rent A or the Second Tier Base Rent A, together with all Additional Rent A, or the first tier of annual Additional Rent A or the second tier of annual Additional Rent A, as applicable, accrued (and not paid, or deemed paid pursuant to Section 1.04 above) as of the date of prepayment, at any time without prior notice to Lessor and without any penalty or charge. Lessor agrees to cooperate with City, including without limitation providing any appropriate estoppel certificate regarding the status of this Lease, and the prepayment of Base Rent A and the payment of accrued Additional Rent A, or the first tier of annual Additional Rent A or the second tier of annual Additional Rent A accrued, as applicable, hereunder as may be reasonably requested by City or in connection with any bond issue or other financing of City's obligations hereunder.

Section 1.07.

As security for City's obligation to make the Annual Payments to Lessor with respect to Annual Rent Amount A, City agrees to establish in its accounts a reserve fund (the "Fund for Available Reserves A"), which shall be drawn upon by City to pay toward any Annual Payment in a Lease Year when the Available Sales Tax A for the applicable Lease Year is insufficient to pay the Annual Rent Amount A in full, or to pay toward any obligations accrued in a previous Lease Year when the Available Sales Tax A for the applicable Lease Year and Available Reserves A as of the end of the immediately preceding Lease Year were insufficient to pay the Annual Rent

Amount A. Commencing with the first Lease Year after the closing of the mortgage loan and/or other financing for the development of the Initial A Improvements, when City is allocated and actually receives any amount of Sales Tax A, City shall deposit in the Fund for Available Reserves A any amount by which Available Sales Tax A exceeds the Annual Rent Amount A required for the applicable Lease Year. Any interest or other investment return earned on monies in the Fund for Available Reserves A (determined by City in its absolute discretion), shall be added to the Fund and used for the same purposes and under the same conditions and limitations, provided for herein with respect to amounts deposited by City from Available Sales Tax A. Notwithstanding the foregoing, in no event shall City be required to deposit into the Fund for Available Reserves A (including any interest added thereto) in excess of Five Hundred Eighty-Eight Thousand Ninety Six Dollars (\$588,096) for the entire term of this Lease, independent of whether or how much of such deposits are withdrawn to cover current or past shortfalls in Annual Rent Amount A. Provided however, that on the earlier of (a) the end of the tenth Lease Year after the Term Commencement Date A-1, or (b) the July 1 next following the first Lease Year in which Available Sales Tax A is greater than \$744,603, the maximum cumulative limit on deposits into the Fund for Available Reserves A shall be reduced to an amount equal to the greater of (i) the then applicable Annual Rent Amount A, or (ii) the amount theretofore withdrawn by City from the Fund for Available Reserves A to cover current or past shortfalls in Annual Rent Amount A. Any balance in the Fund for Available Reserves A in excess of such revised limit may be immediately withdrawn by City.

Section 1.08.

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

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

if City for any reason does not actually receive any such notice.

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

Section 1.09.

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

b. Annual Rent Amount A-2. Notwithstanding any other provision of this Lease, if City has made, or is treated as if having made pursuant to Section 1.04 above, the Base Rent A-2 and Additional Rent A-2 payments in compliance with the provisions of Article 1 of this Lease for transactions occurring on Parcel A for thirty (30) Lease Years beginning with the Term Commencement Date A-2, the Base Rent A-2, and any Additional Rent A-2, shall be deemed to have been completely paid, even if the sum of such installments totals less than otherwise required by this Lease.

7. Parking Area: Miscellaneous Conditions. Section 2.02 is hereby amended in its entirety to read as follows:

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

Delivery of Possession

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

Completion of Construction on Parcel A-1

(b) The Initial A Improvements shall be constructed, if at all, in the locations identified in the Plan for Improvements attached hereto as Exhibit F, or in such other locations duly approved by the City Manager on behalf of the City. The Supplemental A Improvements shall be located on Development Parcel A in such locations as may be approved by the City Manager on behalf of the City, which approval shall not be unreasonably withheld. Completion of the Initial A Improvements and/or the Supplemental A Improvements shall be evidenced by the issuance of a certificate by a licensed architect stating that all required construction necessary for occupancy of such improvements, both exterior and interior, other than tenant signage and tenant improvements, has been completed.

9. Parking Area: Term of Lease. Section 2.03 is hereby amended in its entirety to read as follows:

Term of Lease

Section 2.03. The lease term shall commence on the Term Commencement Date A-1 and shall continue until the last to occur of Termination Date A-1 or Termination Date A-2 (hereafter referred to as the "Lease Term"), unless terminated earlier in accordance with the terms of this Lease. Each consecutive twelve (12) month period is a "Lease Year." Upon the commencement of the Lease Term, the parties agree to execute an acknowledgment evidencing the date of such commencement. Except as otherwise expressly set forth herein, City shall have no right to extend the Lease Term. Upon the termination or expiration of the Lease Term, City shall immediately surrender possession of the Parking Area to Lessor or its successors or assigns, and shall not allow delay in said transfer of possession for any reason.

Lessor shall have the right to terminate the Lease Term prior to the end of the Lease Term by giving written notice of

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

10. Miscellaneous Amendments. The exhibits and attachments to the Lease are hereby amended to the extent necessary to conform to the provisions of this Amendment. The Agency Executive Director or designee is hereby authorized to make such changes to the documents attached to the Lease as may be necessary to conform to the provisions of this Lease.

11. Actions to Effectuate this Amendment. The parties agree to execute such other instruments, memoranda, agreements and amendments to documents as may be necessary or appropriate to effectuate the Lease, as amended by this Amendment. The City Manager (or his designee) is hereby authorized to execute on behalf of the City such memoranda of agreements with the Lessor as the City Manager and City Attorney (or his designee) may deem appropriate for the proper interpretation and implementation of the terms of this Amendment, including such corrections or modifications to the terms of this Amendment as the City Manager (or designee) and City Attorney (or designee) may deem appropriate and consistent with the purposes of this Amendment.

12. Lease to Remain in Effect. Except as expressly provided otherwise in this Amendment, the Lease remains in full force and effect, enforceable in accordance with its terms.

13. Counterparts; Date of Amendment. This Amendment is executed in five (5) duplicate originals, each of which is deemed to be an original, and may be signed in counterparts. This Amendment shall not be effective until it has been mutually executed by Lessor and City. Upon such mutual execution, the date of this Amendment for reference purposes shall be the date first set forth above.

IN WITNESS WHEREOF, the City and Lessor have executed this Agreement.

Executed this _____ day of _____, 2002.

INTERNATIONAL GATEWAY ASSOCIATES, LLC
a Delaware limited liability company
(Lessor)

By: Gateway Retail Group, LLC,
a California limited liability
company
(Managing Member)

By: LandGrant Development
Unlimited, a California
corporation (Managing
Members)

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

CITY OF SAN DIEGO
(City)

By: _____

APPROVED AS TO FORM AND LEGALITY:

CASEY GWINN
City Attorney

By: _____

EXHIBIT A

MAP OF PARCEL A

[BEHIND THIS PAGE]



Las Americas
La Puella • The Gateway

INDICATES AREA OF
PARKING LEASE AGREEMENT
FOR D.D.A. LAND PARCEL A-1 "PHASE 1B1"
454 PARKING SPACES SHOWN

D.D.A. LAND PARCEL A-2

D.D.A. LAND PARCEL A-3

D.D.A. LAND PARCEL A-1

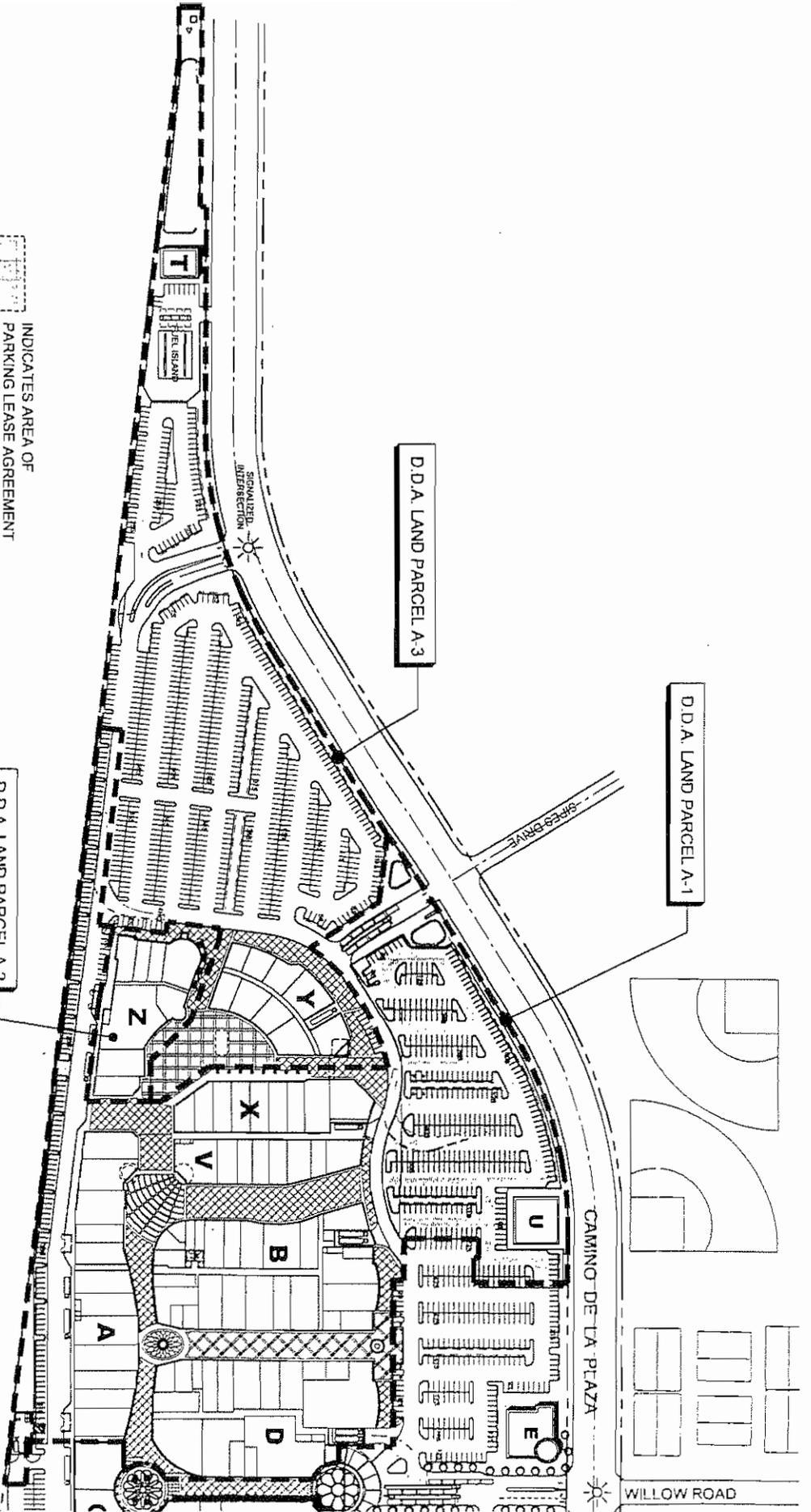
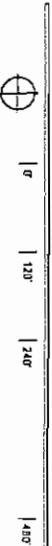


EXHIBIT A
MAP OF PARCEL A
23 MAY, 2002



LANDGRANT
DEVELOPMENT
12935 High Blvd Dr., Suite 212
San Diego, California 92130
Telephone: (619) 441-0304
Fax: (619) 441-0304
E-Mail: Information@landgrant.net



AMV
ARCHITECTURE
2000 Camino del Rio South
San Diego, CA 92108
Tel: (619) 591-7110

EXHIBIT B
LEGAL DESCRIPTION OF PARCEL A

[BEHIND THIS PAGE]

EXHIBIT B
International Gateway of the Americas
Legal Description of Parcel A

Lots 1, 2, 3, 4, 5, 6, 8, and 9 of the map of International Gateway of the Americas Phase 1B as shown on Map , filed in the Office of the County Recorder of the County of San Diego

The above described Parcel contains 21.07 acres, more or less.

EXHIBIT C

PARKING AREA DESCRIPTION

[BEHIND THIS PAGE]

EXHIBIT c
DDA Parking Use Area Description

A portion of Lots 8 and 9 of the Map of International Gateway of the Americas Phase 1B as shown on Map [REDACTED], filed in the Office of the County Recorder of the County of San Diego, [REDACTED], more particularly described as follows:

Parcel A-1

Beginning at the northwest corner of Lot 10 of said Map of International Gateway of the Americas Phase 1B; thence southerly along the west line of said Lot 10 South 0°00'00" East, 129.98 feet to a non-tangent curve concave to the north having a radius of 229.28 feet (a radial line to said non-tangent curve bears North 28°32'18" West); thence southwesterly, westerly and northwesterly along the last said curve through a central angle of 49°34'23" a distance of 198.37 feet to a reversing curve concave to the south having a radius of 197.92 feet; thence north westerly, westerly and southwesterly along the last said curve through a central angle of 52°49'14" a distance of 182.46 feet to a non-tangent line (a radial line to said non-tangent line bears North 31°47'09" West); thence along said non-tangent line South 58°12'51" West, 102.68 feet; thence North 32°14'01" West 99.16 feet; thence North 57°45'59" East, 28.33 feet; thence North 0°00'00" East, 57.10 feet; thence North 30°21'25" West, 15.17 feet; thence North 58°28'16" East, 169.47 feet to a non-tangent curve having a radius of 645.20 feet (a radial to said non-tangent curve bears South 31°31'58" East); thence northeasterly along the last said non-tangent curve through a central angle of 24°57'22" a distance of 281.03 feet; thence South 0°00'00" West 87.16 feet; thence South 90°00'00" East 98.00 feet; thence North 0°00'00" West 89.73 feet; thence South 90°00'00" East 64.68 feet to the east line of lot 9 of said Map; thence along said east line South 0°00'00" West 138.26 feet; thence North 90°00'00" West, 79.68 feet to the beginning.

The above described Parcel contains 2.66 acres, more or less.

Beginning at the southwest corner of Lot 8 of said Map of International Gateway of the Americas Phase 1B; thence northerly along the west line of said Lot 8 North 6°49'14" East, 25.00 feet; thence South 83°07'50" East, 890.94 feet; thence South 90°00'00" East, 308.25 feet to the east line of said lot 8; thence southerly along the said east line South 0°00'00" West, 25.00 feet; thence South 90°00'00" West, 309.75 feet to the south line of said lot 8; thence westerly along the south line of said Lot 8 North 83°07'50" West, 892.42 feet to the beginning.

The above described Parcel contains 0.69 acres, more or less.

EXHIBIT D

RENT SCHEDULE A-1 (INITIAL A IMPROVEMENTS)

[BEHIND THIS PAGE]

Exhibit D to
Amendment to Public Use Lease (Parcel A)
RENT SCHEDULE A-1
(Initial A Improvements)

Lease Year	Annual Rent Amount	Annual Base Rent	Annual First Tier Additional Rent	Balance of First Tier Base Rent Due For Term	Annual Second Tier Additional Rent	Balance of Second Tier Base Rent Due for Term	Total Annual Additional Rent	Balance of Base Rent Due for Term
0				\$801,988		\$3,614,898		\$4,416,886
1	\$347,693	(\$50,600)	(\$80,199)	\$797,112	(\$216,894)	\$3,569,174	(\$297,093)	\$4,366,286
2	\$347,693	(\$53,831)	(\$79,711)	\$791,749	(\$214,150)	\$3,520,706	(\$293,862)	\$4,312,455
3	\$347,693	(\$57,275)	(\$79,175)	\$785,850	(\$211,242)	\$3,469,330	(\$290,417)	\$4,255,179
4	\$347,693	(\$60,948)	(\$78,585)	\$779,361	(\$208,160)	\$3,414,871	(\$286,745)	\$4,194,232
5	\$347,693	(\$64,864)	(\$77,936)	\$772,222	(\$204,892)	\$3,357,145	(\$282,828)	\$4,129,367
6	\$347,693	(\$69,042)	(\$77,222)	\$764,370	(\$201,429)	\$3,295,955	(\$278,651)	\$4,060,325
7	\$347,693	(\$73,498)	(\$76,437)	\$755,733	(\$197,757)	\$3,231,094	(\$274,194)	\$3,986,827
8	\$347,693	(\$78,254)	(\$75,573)	\$746,232	(\$193,866)	\$3,162,341	(\$269,439)	\$3,908,573
9	\$347,693	(\$83,329)	(\$74,623)	\$735,781	(\$189,740)	\$3,089,463	(\$264,364)	\$3,825,244
10	\$347,693	(\$88,747)	(\$73,578)	\$724,285	(\$185,368)	\$3,012,213	(\$258,946)	\$3,736,498
11	\$347,693	(\$94,531)	(\$72,429)	\$711,639	(\$180,733)	\$2,930,327	(\$253,161)	\$3,641,966
12	\$347,693	(\$100,709)	(\$71,164)	\$697,729	(\$175,820)	\$2,843,528	(\$246,984)	\$3,541,257
13	\$347,693	(\$107,308)	(\$69,775)	\$682,428	(\$170,612)	\$2,751,521	(\$240,385)	\$3,433,949
14	\$347,693	(\$114,359)	(\$68,243)	\$665,596	(\$165,091)	\$2,653,994	(\$233,334)	\$3,319,590
15	\$347,693	(\$121,893)	(\$66,560)	\$647,082	(\$159,240)	\$2,550,615	(\$225,799)	\$3,197,697
16	\$347,693	(\$129,948)	(\$64,708)	\$626,715	(\$153,037)	\$2,441,034	(\$217,745)	\$3,067,749
17	\$347,693	(\$138,559)	(\$62,672)	\$604,313	(\$146,462)	\$2,324,878	(\$209,134)	\$2,929,190
18	\$347,693	(\$147,769)	(\$60,431)	\$579,670	(\$139,493)	\$2,201,752	(\$199,924)	\$2,781,422
19	\$347,693	(\$157,621)	(\$57,967)	\$552,562	(\$132,105)	\$2,071,239	(\$190,072)	\$2,623,801
20	\$347,693	(\$168,162)	(\$55,256)	\$522,744	(\$124,274)	\$1,932,894	(\$179,531)	\$2,455,639
21	\$347,693	(\$179,445)	(\$52,274)	\$489,945	(\$115,974)	\$1,786,250	(\$168,248)	\$2,276,194
22	\$347,693	(\$191,523)	(\$48,994)	\$453,865	(\$107,175)	\$1,630,806	(\$156,169)	\$2,084,671
23	\$347,693	(\$204,458)	(\$45,386)	\$414,177	(\$97,848)	\$1,466,036	(\$143,235)	\$1,880,213
24	\$347,693	(\$218,313)	(\$41,418)	\$370,521	(\$87,962)	\$1,291,380	(\$129,380)	\$1,661,900
25	\$347,693	(\$233,158)	(\$37,052)	\$322,498	(\$77,483)	\$1,106,244	(\$114,535)	\$1,428,743
26	\$347,693	(\$249,068)	(\$32,250)	\$269,674	(\$66,375)	\$910,001	(\$98,624)	\$1,179,674
27	\$347,693	(\$266,125)	(\$26,967)	\$211,567	(\$54,600)	\$701,982	(\$81,567)	\$913,549
28	\$347,693	(\$284,417)	(\$21,157)	\$147,650	(\$42,119)	\$481,483	(\$63,276)	\$629,132
29	\$347,693	(\$304,039)	(\$14,765)	\$77,340	(\$28,889)	\$247,753	(\$43,654)	\$325,093
30	\$347,693	(\$325,093)	(\$7,734)	\$0	(\$14,865)	\$0	(\$22,599)	\$0

Effective Date: May 13, 2002
Date Time Printed: 5/24/2002 10:43 AM

EXHIBIT E

RENT SCHEDULE FOR A-2 (SUPPLEMENTAL A IMPROVEMENTS)

[BEHIND THIS PAGE]

Exhibit E to
Amendment to Public Use Lease (Parcel A)
RENT SCHEDULE A-2
(Supplemental A Improvements)

Lease Year	Annual Rent Amount	Annual Base Rent	Annual First Tier Additional Rent	Balance of First Tier Base Rent Due For Term	Annual Second Tier Additional Rent	Balance of Second Tier Base Rent Due for Term	Total Annual Additional Rent	Balance of Base Rent Due for Term
0				\$343,012		\$1,546,102		\$1,889,114
1	\$148,709	(\$21,642)	(\$34,301)	\$340,927	(\$92,766)	\$1,526,545	(\$127,067)	\$1,867,472
2	\$148,709	(\$23,024)	(\$34,093)	\$338,633	(\$91,593)	\$1,505,815	(\$125,685)	\$1,844,449
3	\$148,709	(\$24,497)	(\$33,863)	\$336,110	(\$90,349)	\$1,483,842	(\$124,212)	\$1,819,952
4	\$148,709	(\$26,068)	(\$33,611)	\$333,335	(\$89,031)	\$1,460,550	(\$122,642)	\$1,793,884
5	\$148,709	(\$27,743)	(\$33,333)	\$330,282	(\$87,633)	\$1,435,860	(\$120,966)	\$1,766,142
6	\$148,709	(\$29,529)	(\$33,028)	\$326,923	(\$86,152)	\$1,409,689	(\$119,180)	\$1,736,612
7	\$148,709	(\$31,435)	(\$32,692)	\$323,229	(\$84,581)	\$1,381,948	(\$117,274)	\$1,705,177
8	\$148,709	(\$33,469)	(\$32,323)	\$319,166	(\$82,917)	\$1,352,542	(\$115,240)	\$1,671,707
9	\$148,709	(\$35,640)	(\$31,917)	\$314,696	(\$81,153)	\$1,321,372	(\$113,069)	\$1,636,067
10	\$148,709	(\$37,957)	(\$31,470)	\$309,779	(\$79,282)	\$1,288,332	(\$110,752)	\$1,598,110
11	\$148,709	(\$40,431)	(\$30,978)	\$304,370	(\$77,300)	\$1,253,309	(\$108,278)	\$1,557,679
12	\$148,709	(\$43,074)	(\$30,437)	\$298,421	(\$75,199)	\$1,216,185	(\$105,636)	\$1,514,605
13	\$148,709	(\$45,896)	(\$29,842)	\$291,876	(\$72,971)	\$1,176,833	(\$102,813)	\$1,468,709
14	\$148,709	(\$48,911)	(\$29,188)	\$284,677	(\$70,610)	\$1,135,121	(\$99,798)	\$1,419,798
15	\$148,709	(\$52,134)	(\$28,468)	\$276,759	(\$68,107)	\$1,090,905	(\$96,575)	\$1,367,664
16	\$148,709	(\$55,579)	(\$27,676)	\$268,048	(\$65,454)	\$1,044,037	(\$93,130)	\$1,312,085
17	\$148,709	(\$59,262)	(\$26,805)	\$258,466	(\$62,642)	\$994,356	(\$89,447)	\$1,252,823
18	\$148,709	(\$63,201)	(\$25,847)	\$247,926	(\$59,661)	\$941,695	(\$85,508)	\$1,189,622
19	\$148,709	(\$67,415)	(\$24,793)	\$236,332	(\$56,502)	\$885,874	(\$81,294)	\$1,122,207
20	\$148,709	(\$71,923)	(\$23,633)	\$223,579	(\$53,152)	\$826,704	(\$76,786)	\$1,050,283
21	\$148,709	(\$76,749)	(\$22,358)	\$209,551	(\$49,602)	\$763,984	(\$71,960)	\$973,534
22	\$148,709	(\$81,915)	(\$20,955)	\$194,119	(\$45,839)	\$697,500	(\$66,794)	\$891,619
23	\$148,709	(\$87,447)	(\$19,412)	\$177,145	(\$41,850)	\$627,028	(\$61,262)	\$804,172
24	\$148,709	(\$93,373)	(\$17,714)	\$158,473	(\$37,622)	\$552,327	(\$55,336)	\$710,799
25	\$148,709	(\$99,722)	(\$15,847)	\$137,933	(\$33,140)	\$473,144	(\$48,987)	\$611,077
26	\$148,709	(\$106,527)	(\$13,793)	\$115,340	(\$28,389)	\$389,210	(\$42,182)	\$504,550
27	\$148,709	(\$113,822)	(\$11,534)	\$90,488	(\$23,353)	\$300,240	(\$34,887)	\$390,727
28	\$148,709	(\$121,646)	(\$9,049)	\$63,150	(\$18,014)	\$205,931	(\$27,063)	\$269,082
29	\$148,709	(\$130,038)	(\$6,315)	\$33,079	(\$12,356)	\$105,965	(\$18,671)	\$139,043
30	\$148,709	(\$139,043)	(\$3,308)	\$0	(\$6,358)	\$0	(\$9,666)	\$0

Effective Date: May 13, 2002
Date Time Printed: 5/24/2002 10:43 AM

Prepared by: S. Haines
Approved by: _____

EXHIBIT F
PLAN FOR INITIAL A IMPROVEMENTS
[BEHIND THIS PAGE]

PHASE 1B

BUILDING "A"	45,070 SF
BUILDING "B"	58,390 SF
BUILDING "D"	56,880 SF
BUILDING "V"	20,180 SF
BUILDING "X"	24,515 SF
BUILDING "Y"	22,120 SF
BUILDING "Z"	27,045 SF
SUB-TOTAL	254,200 SF
PAD "U"	5,600 SF
PAD "E"	7,000 SF
PAD "T"	3,200 SF
SUB-TOTAL	15,800 SF
TOTAL PHASE 1B	270,000 SF

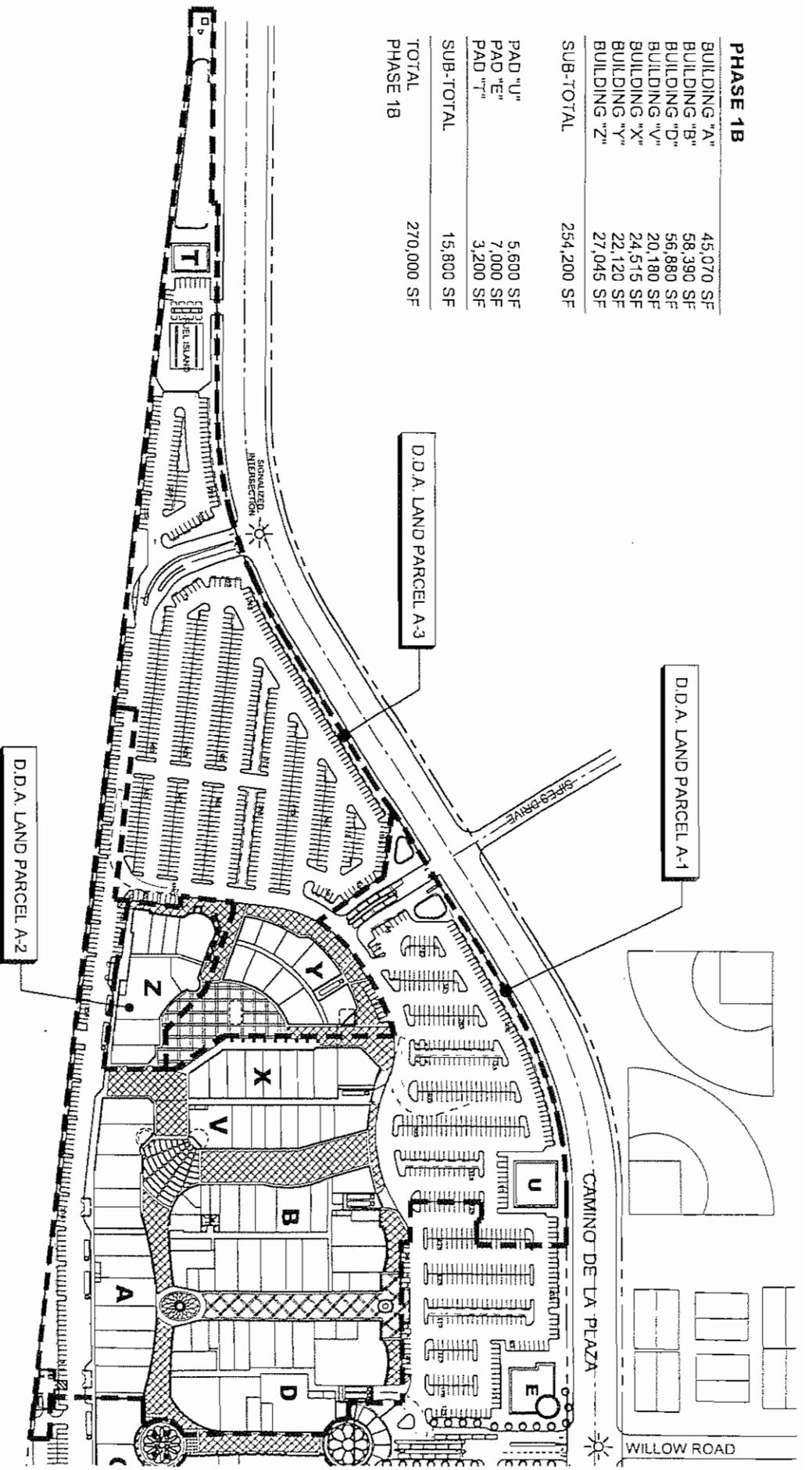


EXHIBIT F
PLANS FOR IMPROVEMENT
23 MAY, 2002



EXHIBIT "D" TO FOURTH IMPLEMENTATION AGREEMENT

SUBSEQUENT PARCEL A RECIPROCAL EASEMENT AND COST
SHARING AGREEMENT (SECOND PHASE SHOPPING CENTER
PROPERTY AND LIBRARY PHASE PROPERTY)

[BEHIND THIS PAGE]

Recording Requested By and
When Recorded Mail To:

LANDGRANT DEVELOPMENT
12625 High Bluff Drive, Suite 212
San Diego, CA 92130
Attn: Michelle A. Clarke

(Space Above This Line for Recorder's Use)

SUBSEQUENT PARCEL A
RECIPROCAL EASEMENT AND COST SHARING AGREEMENT
(SECOND PHASE SHOPPING CENTER PROPERTY
AND LIBRARY PHASE PROPERTY)

SEE TAB 54



THE CITY OF SAN DIEGO

DATE ISSUED: May 22, 2002 REPORT NO. RA-02-08
CMR-02-110

ATTENTION: Mayor and Members of the City Council
Chair and Members of the Redevelopment Agency
Docket of May 28, 2002

SUBJECT: San Ysidro Library - Fourth Implementation Agreement to the Disposition and Development Agreement for the Las Americas Project, Cooperation Agreement between Agency and City, findings to expend tax increment revenues, Reciprocal Easement Agreement (REA), Two Deeds, Amend Public Use Lease Parcel A (Parking Lease), and direction to proceed with Redevelopment Tax Allocation Bond issue.

REFERENCE: Manager's Reports No.'s RA-01-08 dated June 13, 2001; 01-035, dated February 21, 2001; 00-247, dated November 12, 2000; RA-00-19, dated November 15, 2000; RA-00-03, dated February 16, 2000; RA-98-4, dated May 6, 1998; and RA-97-8, dated July 11, 1997. See also City Manager's Companion Report on Proposition 14 Bond Application.

SUMMARY

Issue(s) -

For the Council: Should the Council (1) Approve a Reciprocal Easement Agreement (REA) with International Gateway Associates, LLC; (2) Accept two Deeds for construction of a branch library in San Ysidro as a donation from International Gateway Associates, LLC for the Library; (3) Introduce and hold a first reading of an ordinance approving an amendment to the 'Public Use Lease Parcel A' (for parking) phasing the lease payments and adjusting the boundaries; (4) Approve findings for spending redevelopment tax increment funds on the San Ysidro Library; and (5) Approve a Cooperation Agreement with the Redevelopment Agency regarding the Agency's contribution to the City of tax allocation bond funds for the San Ysidro Library?

For the Agency: Should the Agency: (1) Enter into the Fourth Implementation Agreement to the Disposition and Development Agreement (DDA) for the Las Americas (International Gateway of the Americas) Project with International Gateway Associates, LLC; (2) Approve findings for spending redevelopment tax increment funds on the San Ysidro Library; (3) Enter into a Cooperation Agreement with the City regarding the

Redevelopment Agency

600 B Street, Suite 400, MS 904 • San Diego, CA 92101-4506
Tel (619) 533-4233 Fax (619) 533-5250

Community and Economic Development

Agency's contribution of tax allocation bond funds to the City for the San Ysidro Library; and (4) Authorize the Executive Director to proceed with the preparation of all documents necessary to issue a tax allocation bond for the San Ysidro Redevelopment Project Area?

Manager's Recommendation -

For the Council: That the City Council: (1) Approve a Reciprocal Easement Agreement (REA) with International Gateway Associates, LLC; (2) Accept two Deeds for construction of a branch library in San Ysidro as a donation from International Gateway Associates, LLC for the Library; (3) Introduce and hold a first reading of an ordinance approving an amendment to the 'Public Use Lease Parcel A' (for parking) phasing the lease payments and adjusting the boundaries; (4) Approve findings for spending redevelopment tax increment funds on the San Ysidro Library; and (5) Approve a Cooperation Agreement with the Redevelopment Agency regarding the Agency's contribution to the City of tax allocation bond funds for the San Ysidro Library.

For the Agency: That the Agency: (1) Enter into the Fourth Implementation Agreement to the Disposition and Development Agreement (DDA) for the Las Americas (International Gateway of the Americas) Project with International Gateway Associates, LLC; (2) Approve findings for spending redevelopment tax increment funds on the San Ysidro Library; (3) Enter into a Cooperation Agreement with the City regarding the Agency's contribution of tax allocation bond funds to the City for the San Ysidro Library; and (4) Authorize the Executive Director to proceed with the preparation of all documents necessary to issue a tax allocation bond for the San Ysidro Redevelopment Project Area.

Other Recommendations - None.

Fiscal Impact -

For the City: The Amendment to the Public Use Lease Parcel A would phase the lease payment by the City to the Developer, but not change the total amount paid by the City to the Developer. The value of the donation equal \$3,195,000 for the library and includes not only the air rights parcel and parking, but the Common Area Maintenance (CAM) charges for the library for the entire time the City uses the building for a public library.

For the Agency: The Cooperation Agreement commits the Agency to expending up to \$2,500,000 subject to issuing tax allocation bonds toward a branch library in the San Ysidro Redevelopment Project Area as part of the Las Americas Project. The total library is estimated to cost \$14,686,000. The City is applying for a grant from Proposition 14 moneys to provide the remaining costs of the library. The economics of the remainder of the DDA do not change, other than phasing the repayment of the tax increment note to match the phasing of the development on Parcel A.

Environmental - The City Council and Redevelopment Agency certified the Final

Environmental Impact Report (adopted April 2, 1996 by Council Resolution No. R-287149) and a Mitigated Negative Declaration (MND) (adopted on May 12, 1998 by Council Resolution No. R-290105 SCNo. 98031064) for this project with approval of the DDA on May 12, 1998.

BACKGROUND

On May 12, 1998 the Redevelopment Agency and LandGrant Development entered into a Disposition and Development Agreement to develop a 1.4 million square foot mixed use retail, office, hotel, transit center on a 67- acre site in San Ysidro adjacent to the old commercial border crossing at Virginia Avenue. The project has a value of approximately \$200 million and would generate an estimated 2,200 permanent and 3,400 construction jobs, \$1.6 Million in annual sales tax dollars, \$900,000 in annual tax increment dollars, \$1.01 million in annual transient occupancy tax dollars, and \$1.3 million in annual bridge revenue. The project proposed linking San Diego to Tijuana via a new monumental pedestrian bridge that would celebrate our two cities and cultures.

In November 2000, voters in San Diego approved a ballot measure which allowed flexibility of going up to 150 feet in height to accommodate the bridge and hotel within certain parameters (amending Prop. D). The Developer and City staff have been working closely toward obtaining the Presidential Permit necessary to build the bridge. The project is being discussed at the highest levels in both Mexico City and Washington D.C. Staff remains optimistic that approval for the bridge will be forthcoming over the next several months (the next International Bridges & Border Commission meeting will be held in San Diego in September). LandGrant has continued to improve and modify the project to respond to market demands and explore other exciting venues to join the center. In November 2001, LandGrant opened the first phase consisting of 370,000 square feet of retail shops and restaurants (Parcel B/C).

The project has received national and international attention both for its architectural design and the impact on the border area. The project has been featured on the national ABC evening news, KPBS television, the Travel Channel and will be the subject of upcoming articles in the Economist Magazine and Urban Land Institute's monthly magazine.

To facilitate these actions the Agency on June 13, 2001, entered into the Third Implementation Agreement with International Gateway Associates, LLC. The Third Implementation Agreement amended the Schedule of Performance by extending the date the Developer had to receive federal approvals for the River Pedestrian Bridge from June 30, 2001, to June 20, 2002. It also adjusted some dates for submission of plans, etc. to reflect the changes in the anticipated construction schedule. On November 21, 2000, the Redevelopment Agency entered into the Second Implementation Agreement with the Developer. The Second Implementation Agreement provided for the Agency assuming certain offsite improvement costs associated with the project. On February 22, 2000, the Agency entered into the First Implementation Agreement which

provided for the first phase of the project proceeding ahead of the anticipated International Bridges and Border Commission (IBBC) authorization of the River Pedestrian Bridge.

On November 21, 2000, the City Council approved the discretionary permits for the first two phases of the project (Parcels A and B/C). The City Council also approved entering into two Public Use Leases (Parcel A and Parcel B/C) for public parking with International Gateway Associates, LLC on February 21, 2000, to facilitate the project financing.

DISCUSSION

The actions before the Council and Agency will allow the San Ysidro Library to be built within the Las Americas Project (subject to the City obtaining Prop 14 funds from the State); extend the time frame that the developer has to obtain the Presidential Permit; give the developer flexibility in siting the hotel (on Parcel E-3 or Parcel A-3); and directing the Executive Director to begin the process of issuing tax allocation bonds. Specifically, the actions are more fully described as follows:

For the Council:

1. The Reciprocal Easement Agreement (REA) with International Gateway Associates would provide for access (physical and utility) to the library air rights parcel, maintenance of the exterior building and joint use areas, parking easement for 152 spaces for library uses, obligation of each party to rebuild, restrictions on the uses permitted within the building space below the library. The developer will absorb the library's share of the CAM charges for as long as the City operates it as a public library. The CAM charges include all exterior maintenance, security, and building insurance, the City will only be responsible for liability insurance, interior library maintenance and repair, mechanical maintenance of the elevator (the elevator only serves the library) and HVAC, which will be separately metered. The REA also provides for the Developer using a "design/build" process for the construction of the library. The Developers architects are responsible for the exterior design, and the City has hired an architect to work with the library and community to develop the interior space that meets community's needs. The Design/Build Agreement will be executed once grant funding is approved and will have a not to exceed dollar amount.
2. Two Deeds, for air rights parcels, are being donated by International Gateway Associates, LLC, valued at \$3,195,000 for the library parcel, to the City for the construction of the San Ysidro Library. The library Deed includes an easement for 152 parking spaces, restrict the property to the uses/limits included in the REA and a reversionary clause if the City fails to obtain financing for the library by September 30, 2003. The library deed is for the actual construction of the library, the second is the air space above the library and gives control of the use(s) to the City. The reason for dividing the air rights into two parcels is to allow the City to develop, should it choose to do so, the air space above the library. There has been some interest expressed regarding developing a museum above the library, for example.

3. The 'Public Use Lease for Parcel A' (for parking) amendment provides for an adjustment to the lease payment schedule to reflect the phasing of construction on Parcel A and minor adjustments to the physical location of the parking spaces. The original lease was approved by the Council on March 20, 2001, by Ordinance OO-18932.

4. The Four Findings that the Council needs to make declare that (1) there is a benefit to the San Ysidro Redevelopment Project Area from this project, (2) there are no other reasonable means of financing the San Ysidro Library, (3) the Library will contribute to the elimination of blight, and (4) the project is consistent with the Implementation Plan. The attached resolution states the reasons staff believes the San Ysidro Library will contribute to the completion of the Redevelopment Plan for San Ysidro and meet the above findings.

5. Cooperation Agreement with the Agency is subject to the Agency issuing a tax allocation bond to contribute toward the Agency's share of completing the San Ysidro Library. The Agency is planning on issuing the bonds this summer (2002) of which up to \$2,500,000 will go toward the San Ysidro Library.

As part of the docket the Council will be acknowledging the administrative approval of the Final Subdivision Map for development of Parcel A (the Tentative Map was approved by the Council on November 21, 2000.) Along with the Final Map, the City will administratively process a Subdivision Improvement Agreement covering all the off site improvements that were conditioned as part of the Tentative Map process.

For the Agency:

The Fourth Implementation Agreement will authorize several actions to include the San Ysidro Library in the Las Americas Project, allow the Developer to continue to pursue obtaining the Presidential Permit, and allow the Developer some flexibility in siting a hotel within the project. More specifically, the actions are as follows:

1. The Fourth Implementation Agreement would authorize the following:
 - a) Adjust the boundaries of certain Parcel (A Parcel) into 3 parcels.
 - b) Revise the Schedule of Performance, Attachment 3 to the DDA, to extend the Developer's ability to pursue the Presidential Permit for the River Pedestrian Bridge from June 30, 2002, until September 30, 2003; to reflect the adjustment in the construction phasing for Parcel A; and, to reflect the impact the extension to the federal approvals for the River Pedestrian Bridge has on the development on the E Parcels.
 - c) Revise the Scope of Development, Attachment 4 to the DDA, to reflect changes to the Improvements to be developed on specific Parcels to facilitate the San Ysidro Library.

d) Provide for the conveyance and development of Parcel A in three (3) phases as follows:

BUILDING PHASING (A-1 WITH BLDG X)				A-1 WITHOUT BLDG X	
PARCEL/PHASE	BUILDINGS	SQ.FT.	% OF TOTAL	SQ.FT.	% OF TOTAL
A-1 (1B1)	A,B,D,V,X(opt),E,U	213,095	78.92%	189,115	70.04%
A-2 (1B2)	Z	28,155	10.43%	28,155	10.43%
A-3 (1B3)	Y,T,X(opt)	28,750	10.65%	52,730	19.53%
TOTAL		270,000	100.00%	270,000	100.00%

Each phase would be independent, but the first phase would be required to provide all the parking, utilities and access necessary to that phase. In addition, all the off site improvements previously required by the Development Permit would have to be built with the first phase.

Revise Section 718 of the DDA, allowing for a phased payment schedule (sales tax) under the 'Public Use Lease Parcel A' (for public parking) to match the construction schedule.

LEASE PAYMENT SCHEDULE			
BASE RENT A	PARCEL/PHASE	% OF PHASING	PAYMENT
\$6,306,000 Old Lease Payment	A-1 (1B1)	70.04%	\$4,416,886
	A-2 (1B2)	29.96% (remainder)	\$1,889,114
TOTAL		100.00%	\$6,306,000

LEASE PAYMENT SCHEDULE			
FTBR A	PARCEL/PHASE	% OF PHASING	PAYMENT
\$1,145,000 Old Lease Payment	A-1 (1B1)	70.04%	\$801,988
	A-2 (1B2)	29.96% (remainder)	\$343,012
TOTAL		100.00%	\$1,145,000

LEASE PAYMENT SCHEDULE			
STBR A	PARCEL/PHASE	% OF PHASING	PAYMENT
\$5,161,000 Old Lease Payment	A-1 (1B1)	70.04%	\$3,614,898
	A-2 (1B2)	29.96% (remainder)	\$1,546,102
TOTAL		100.00%	\$5,161,000

Revise the Method of Financing, Attachment 2 to the DDA, dividing the tax increment notes for Parcel A into three notes to reflect the phasing of construction as noted above. The Agency approved one note in the amount of \$1,780,000 to be repaid over 30 years from tax increment revenues. The Developer is required by the DDA to pay a minimum amount of property tax. The note was to be triggered by a certain amount of square footage being developed. As the project is being phased in, the note needs to be adjusted to reflect the amount of development completed per phase.

PARCEL A LOAN REPAYMENT SCHEDULE (A-1 WITH BLDG X)				A-1 WITHOUT BLDG X	
LOAN AMOUNT	PARCEL/PHASE	% OF PHASING	PAYMENT	% OF PHASING	PAYMENT
\$1,780,000 Old Loan Amount	A-1 (1B1)	78.92%	\$1,404,849	70.04%	\$1,246,758
	A-2 (1B2)	10.43%	\$185,614	10.43%	\$185,615
	A-3 (1B3)	10.65%	\$189,537	19.53%	\$347,627
TOTAL		100.00%	\$1,780,000	100.00%	\$1,780,000

e) Provide for including the San Ysidro Branch Library in the Las Americas Project by removing the condition to provide 50,000 square feet of cultural space within Parcel E-4 and replacing it with 25,000 square feet of library space on Parcel A. The City would have until September 30, 2003, to proceed with building the library. If the City chooses not to build the library, the Developer would be conditioned to provide 25,000 square feet of cultural space on Parcel E-4 rather than the 50,000 square feet originally included in the DDA.

f) Revise the DDA to allow the Developer flexibility in siting the hotel on either Parcel A or Parcel E-3, subject to the Agency Executive Director and City approving the site plan, development permits, coastal permit etc. The Developer has received interest in locating a hotel within the Las Americas Project, but most of that interest has been on a site located away from where the River Pedestrian Bridge would be located. The Agency approved a hotel as part of the original DDA on Parcel E-3, but the City has not yet issued development permits for the E Parcels. This action would allow the Developer to continue discussions with interested hotel operators, but still require him to obtain City approval for permits. The Developer would have until the start of construction of the final phase on Parcel A to make the election to move the hotel.

g) Revise the DDA to clarify that the Agency right to capture a portion of increase values as a result of the sale of the property terminates after the commencement of construction of Phase 1B1 of the A Parcel, except for Phase 1B2 (the library parcel) and amend Section 510 (h) that financing is at the sole discretion of the developer.

2. The Four Findings that the Agency needs to make declare that (1) there is a benefit to the San Ysidro Redevelopment Project Area from the library project, (2) there are no other reasonable means of financing the San Ysidro Library, (3) the library will contribute to the elimination of blight, and (4) the project is consistent with the Implementation Plan. The attached resolution states the reasons staff believes the San Ysidro Library will contribute to the completion of the Redevelopment Plan for San Ysidro and meet the above findings.

3. The Cooperation Agreement with the City is subject to the Agency using proceeds from a tax allocation bond to contribute the Agency's share toward completing the San Ysidro Library. The Agency is planning on issuing bonds this summer (2002) of which up to \$2,500,000 will go toward the San Ysidro Library. The Agency is scheduled to approve the budget for Fiscal Year 2003 on May 21, 2002, which includes the proposed bond issue and funds for the library.

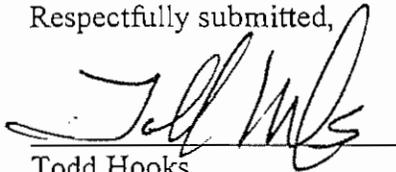
4. Authorize the Executive Director to proceed with the preparation of documents necessary to issue tax allocation bonds for the San Ysidro Project Area.

ALTERNATIVE

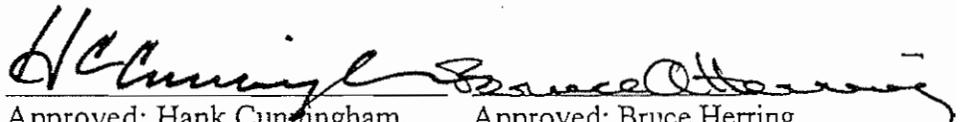
Alternative 1. Do not approve the actions necessary to facilitate the library, but approve the extension to the Developers ability to pursue the Presidential Permit and flexibility to move the hotel from Parcel E-3 to Parcel A. This would delay for an undetermined amount of time construction of a library in San Ysidro. (The City is seeking grant funding for the library and if unsuccessful the library cannot proceed.)

Alternative 2. Do not approve any of the actions, this would delay the library for an undetermined amount of time; effectively stop the developer and City from pursuing the Presidential Permit for the River Pedestrian Bridge; eliminate the potential of attracting a hotel to the Las Americas Project; and potentially stop the development of the remainder of the project.

Respectfully submitted,



Todd Hooks
Deputy Executive Director
of Redevelopment Agency/
Deputy Director
Redevelopment



Approved: Hank Cunningham Approved: Bruce Herring
Assistant Executive Director of Deputy City Manager
Redevelopment Agency/Director
Community & Economic
Development

CUNNINGHAM/PKH

- ATTACHMENT(S):
1. Reciprocal Easement Agreement (REA)
 2. Deeds (two)
 3. Amendment to Public Use Lease A (parking lease)
 4. Findings of Benefit for San Ysidro Library (City)
 5. Cooperation Agreement between City and Agency
 6. Fourth Implementation Agreement Las Americas Project
 7. Findings of Benefit San Ysidro Library (Agency)

file:SY_IGA_4thImplementationStaffReport

Final

REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO

September 22, 2003

International Gateway Associates, LLC
c/o Land Grant Development
12625 High Bluff Drive, Suite 212
San Diego, CA 92130-2054
Attention: Mr. C. Samuel Marasco

Re: Disposition and Development Agreement

Dear Mr. Marasco:

This letter concerns the Disposition and Development Agreement ("DDA") relating to the International Gateway of the Americas development (the "Project") in the San Ysidro Redevelopment Project area. The DDA was most recently amended by the Fourth Implementation Agreement, dated as of May 28, 2002. The representatives of the Redevelopment Agency of the City of San Diego ("Agency") and International Gateway Associates, LLC ("Developer") have identified certain aspects of the DDA, as amended through the Fourth Implementation Agreement, which may require further clarification or amendment in order to respond to current circumstances which are outside the control of the parties. These include, but are not limited to, the following:

(1) *Steps which likely can be addressed in the near term:*

(A) Ratification by the City Council of the form of Public Use Lease that was intended to be approved in connection with the Fourth Implementation Agreement; and

(B) Clarification, through approval by the Executive Director or by City Council approval in connection with the ratification of the Public Use Lease, of the Site Map for the improvements to be developed on Parcel A-1 (Developer has submitted a proposed final Site Map to the Agency for review, and the Agency presently is evaluating the submitted final Site Map for substantial conformance with the Site Map approved for Parcel A-1 in connection with the Fourth Implementation Agreement, it being understood that

the Agency could not provide such clarification on an expedited basis unless it concurred with the assessment of substantial conformance)

(2) *Steps which likely can be addressed over an intermediate term:*

(A) Modifications to the DDA, Site Map, Schedule of Performance, Development Parcel A Grant Deed and Subsequent Parcel A Reciprocal Easement and Cost Sharing Agreement, as they relate to the rights and obligations of the parties with respect to the development of a library/cultural center in Development Parcel A-2; and

(B) Modification to the DDA, Site Map, Scope of Improvements, Schedule of Performance, Method of Financing and other aspects of the DDA insofar as it relates to parcels A-2 and A-3; and

(C) Amendments to the Schedule of Performance as it relates to the Bi-National Authorization for the River Pedestrian Bridge.

The purpose of this letter is to memorialize our mutual intention to meet, confer and take all reasonable steps necessary:

(i) as soon as practically possible, and in any event during the next two months, to negotiate (with terms mutually satisfactory to the parties) a clarification agreement, implementation agreement or other appropriate steps that will address the matters described in (1) above (and any other matters reasonably requested by the parties in the nature of clarification of, rather than substantive adjustment to, the existing rights and obligations of the parties pertaining to Parcel A-1); and

(ii) during the next four months, to negotiate (with terms mutually satisfactory to the parties) an implementation agreement or other appropriate steps that will address the above-described matters described in (2) above and any other appropriate modifications to the DDA (as currently amended through the Fourth Implementation Agreement) that we may identify.

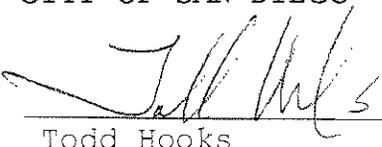
It is our mutual intention to endeavor to complete the steps described in (i) above as expeditiously as practically possible (it being understood and agreed that the Agency and the City still are in the process of reviewing the Site Map submitted by the Developer for Parcel A-1 for this purpose, and nothing in this letter shall be construed as approval of such submitted Site Map). It further is our mutual intention to endeavor to complete and bring a completed implementation agreement addressing the matters described in (ii) above with respect to Parcels A-2 and A-3, signed by the Developer, to the Redevelopment Agency and City Council for their consideration before the end of January of 2004.

Consistent with that schedule and our mutual desire to focus during these respective periods on the actions needed to further the purposes of the DDA by clarifying or amending certain of its provisions as noted above, it is our mutual intention to refrain, during the negotiation of such implementation or other agreements, from giving any notices of default or taking any other action in the nature of exercising rights or remedies which may be available under the DDA (as amended through the Fourth Implementation Agreement), the Development Parcel A Grant Deed and the Subsequent Parcel A Reciprocal Easement and Cost Sharing Agreement (provided that the foregoing shall not be construed as obligating either party to continue to so forbear beyond January 31, 2004).

Nothing contained in this letter is intended to, nor shall it be deemed to waive any right that either party may have against, the other under the DDA or any other agreement or instrument, but is intended only to state the intention of the undersigned representatives of the Agency and the Developer.

REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO

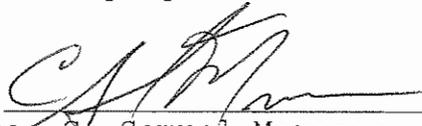
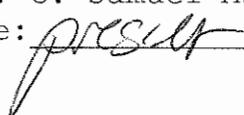
Dated: _____

By:  _____
Todd Hooks
Deputy Executive Director

INTERNATIONAL GATEWAY ASSOCIATES, LLC,
a Delaware limited liability company

By: Gateway Retail Group, LLC,
a California limited liability
company, its Managing Member

By: LandGrant Development Unlimited,
a California corporation,
its Managing Member

By: 
Name: C. Samuel Marasco
Title: 



THE CITY OF SAN DIEGO

January 29, 2004

International Gateway Associates, LLC
c/o JER International Gateway, LLC
1650 Tysons Boulevard, Suite 1600
McLean, Virginia 22102
Attention: Mr. Brad Coburn

Re: Disposition and Development Agreement

Dear Mr. Coburn:

This letter concerns the Disposition and Development Agreement ("DDA") relating to the International Gateway of the Americas development in the San Ysidro Redevelopment Project area. The DDA most recently was amended by a Fourth Implementation Agreement, dated as of May 28, 2002.

The representatives of the Redevelopment Agency of the City of San Diego ("Agency") and International Gateway Associates, LLC ("Developer") have executed a letter dated September 22, 2003 (the "Letter Agreement") pertaining to, among other things, the agreement by the Agency and the Developer to refrain from giving certain types of notices of default, and taking certain other actions in the nature of exercising rights or remedies under the DDA. The purpose of this letter is to extend those arrangements so as to create a more realistic time period to address the issues covered in the Letter Agreement.

Accordingly, the Agency and the Developer hereby confirm that (a) the reference in the Letter Agreement to "the end of January of 2004" is hereby changed to "the end of April of 2004" and (b) the reference in the Letter Agreement to "January 31, 2004" is hereby changed to "April 30, 2004".

Nothing contained in this letter is intended to, nor shall it be deemed to waive any right that either party may have against, the other under the DDA or any other agreement or instrument, but is intended only to state the intentions of the undersigned representatives of the Agency and the Developer.

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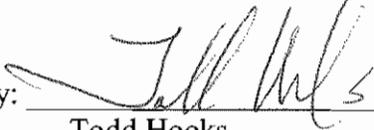
Redevelopment Agency

600 B Street, Suite 400, MS 904 • San Diego, CA 92101-4506
Tel (619) 533-4233 Fax (619) 533-5250

Community and Economic Development

Mr. Brad Coburn
JER International Gateway LLC
January __, 2004
Page 2

**REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO**

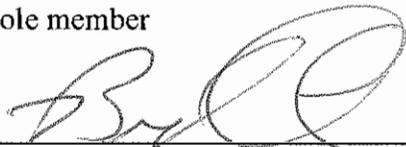
By: 

Todd Hooks
Deputy Executive Director

Reviewed and approved:

INTERNATIONAL GATEWAY ASSOCIATES, LLC,
a Delaware limited liability company

By: JER International Gateway, LLC,
its sole member

By: 

Name: **Bradley S. Coburn**
Title: **Director**
Date: **04**

1901
B. S. G. G. G.



THE CITY OF SAN DIEGO

April 22, 2004

International Gateway I LLC
International Gateway Associates, LLC
c/o JER International Gateway
1650 Tysons Boulevard, Suite 1600
McLean, Virginia 22102
Attention: Mr. Brad Coburn

Re: Phase IB of Las Americas Project

Ladies and Gentlemen:

This letter is provided in connection with that certain Disposition and Development Agreement executed by LandGrant Development Unlimited, a California corporation ("LDU") as of May 28, 1998, and by the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO ("Agency") as of May 29, 1998, concerning the Las Americas project in the San Ysidro Redevelopment Area (the "Project"), as clarified and implemented by (1) that certain First Implementation Agreement by and between the Agency and LDU, executed by LDU as of February 7, 2000 and by the Agency as of February 23, 2000, (2) that certain Second Implementation Agreement by and between the Agency and International Gateway Associates, LLC, a Delaware limited liability company ("IGA"), executed by IGA as of November 6, 2000 and by the Agency as of November 27, 2000, (3) that certain Third Implementation Agreement by and between the Agency and IGA, executed by IGA as of June 24, 2001 and by the Agency as of June 28, 2001, and (4) that certain Fourth Implementation Agreement by and between the Agency and IGA, dated as of May 28, 2002 (collectively, the "DDA"). The terms of the DDA have been further clarified by (a) a letter dated March 10, 2000 by and between the Agency and IGA, (b) a letter dated September 21, 2001 between the Agency, IGA and certain entities affiliated with IGA, including International Gateway I LLC, a Delaware limited liability company ("Phase I Developer") pertaining to, among other things, the assignment by IGA to Phase I Developer of all of the rights of "Developer" under the DDA insofar as they pertain to Development Parcels B and C, (c) a letter dated September 22, 2003 between the Agency and IGA pertaining to, among other things, the agreement by IGA and the Agency to refrain from giving certain types of notices of default, and taking certain other actions in the nature of exercising rights or remedies under the DDA, until after January 31, 2004, and (d) a letter dated January 29, 2004 between the Agency and IGA pertaining to the extension of said January 31, 2004 date to April 30, 2004 (collectively, the "Clarification Letters"). Capitalized terms used and not defined herein shall have the meanings assigned to them in the DDA (as clarified in the Clarification Letters).

Redevelopment Agency

600 B Street, Suite 400, MS 904 • San Diego, CA 92101-4506
Tel (619) 533-4233 Fax (619) 533-5250

Community and Economic Development

SD\430347.5





Pursuant to the terms of the DDA, the City of San Diego (the "City") has entered into a Public Use Lease (Parcel A) with IGA dated as of March 20, 2001 relating to Development Parcel A, which Public Use Lease (Parcel A) has been filed with the City Clerk as Document No. 0018932 and has been amended by an Amendment to Public Use Lease (Parcel A) dated as of November 18, 2003 and filed with City Clerk on January 13, 2004 as Document No. 0019252. Said Public Use Lease (Parcel A), as the same may be amended from time to time, sometimes is referred to as the "Parcel A Public Use Lease."

You have informed us that you desire to proceed with development of Development Parcel A-1 of the Project, subject to certain modifications described herein. Such modifications do not effect material changes to the previously approved development for Development Parcel A-1, and accordingly these modifications may be confirmed by the Executive Director on behalf of the Agency under the Executive Director's general authority to implement the development generally contemplated by the DDA (and to facilitate financing to effect such development). Therefore, in order to facilitate the foregoing and implement the development generally contemplated by the DDA, the Executive Director hereby confirms the following:

(1) The Agency does not object to the adjustment of the boundary lines among Development Parcels A-1, A-2 and A-3 as depicted on Attachment A attached hereto (it being understood that from and after the completion of such lot line adjustments, (a) the definition of Development Parcel A-1 for purposes of the DDA shall be the area included within "Parcel A-1" identified on Attachment A, and (b) Development Parcels A-2 and A-3 shall consist in the aggregate of the area depicted on Attachment A as "A-2/A-3", and prior to development of Development Parcel A-2 or Development Parcel A-3 as a separate development parcel and phase under the DDA, the precise boundaries for the respective Development Parcels (within the area depicted as "A-2/A-3") shall be submitted to the Agency and the City for approval, which approval shall not be unreasonably withheld, conditioned or delayed). The Agency agrees to take steps reasonable and appropriate to implement such adjustments by execution of further documentation upon request (e.g., documentation necessary in connection with Subdivision Map Act compliance or the City's procedures for approval of adjusted boundaries, documentation to clarify the physical boundaries of the Development Parcels (in a manner consistent with the boundary adjustments) for purposes of the respective A-1, A-2 and A-3 Contingent Purchase Price Reimbursement Agreement and the Agreements Affecting Real Property applicable to the Development Parcels, and documentation to clarify for purposes of the Parcel A Public Use Lease the physical boundaries of the Development Parcels, in a manner consistent with the boundary adjustments described herein). Nothing in this paragraph (1) is intended to limit the police power of the City (through its Development Services Department) in considering permits (or amendments to permits) required in order to construct such improvements in accordance with applicable law.

(2) The Agency has approved of the replacement of the "Amended Site Map" attached as Exhibit A to the Fourth Implementation Agreement with the Amended Site Map attached hereto as Attachment B insofar as it pertains to Development Parcel A-1. The Agency further confirms that, for purposes of Section 718 of the DDA (as amended by Section 5(c) of the Fourth Implementation Agreement), Section 5(a)(1) of the Fourth Implementation Agreement, and Section 2.b of the "San Ysidro Redevelopment Project Agreement to be Recorded Affecting Real Property (Parcel A)" (which was recorded on October 17, 2001 as Document No. 2001-0751841 in the San Diego County Recorder's Office (the "Parcel A Agreement Affecting Real Property")), the improvements to be developed on Development Parcel A-1 shall consist of the buildings identified

on the Amended Site Map as A, B, D-1 and D-2, with an aggregate gross leasable area of approximately 188,272 square feet, to be developed for retail, office entertainment and/or food uses (which improvements, for purposes of the Parcel A Public Use Lease, shall constitute the "Initial A Improvements"). The Developer further shall have the right, but not the obligation, to develop within Development Parcel A-1 (a) approximately 3,631 square feet of improvements for retail, office, entertainment and/or food uses within an expansion of Building "D-2" identified on the Amended Site Map as Building D-3 and (b) up to 12,500 square feet of improvements for retail, office, entertainment and/or food uses within Pad U identified on the Amended Site Map (it being understood, however, that the Developer shall be entitled to obtain the Certificate of Completion for Development Parcel A-1 contemplated by Section 324 of the DDA upon completion of the approximately 188,272 square feet of improvements identified as buildings A, B, D-1 and D-2, and without having to complete the optional additional improvements described in clauses (a) or (b) of this sentence).

(3) As contemplated by Section 5(d)(2) of the Fourth Implementation Agreement, IGA and the Agency shall prepare and execute amendment documentation for the Parcel A Agreement Affecting Real Property in a form that is mutually acceptable to IGA and the Agency Executive Director or designee (and which implements the foregoing for purposes of the public record), and shall record the same. Such documentation shall be prepared, executed and recorded at or before the execution and delivery of the A-1 Contingent Purchase Price Reimbursement Agreement (which, per Sections IV.21 and IV.22 of the Schedule of Performance included within the DDA, as amended through the Fourth Implementation Agreement, is to be executed and recorded at such time as the Agency has approved the Final Construction Drawings and Specifications and Final Landscaping and Finish Grading Plans for Development Parcel A-1, given that the approval of the Development Parcel A-1 Loan Agreement constitutes approval of the mortgage loan and/or other financing for development of Development Parcel A-1). Nothing in this paragraph (3) is intended to limit the police power of the City (through its Development Services Department) in considering permits (or amendments to permits) required in order to construct such improvements in accordance with applicable law.

(4) With respect to Development Parcel A-1:

(a) the requirement set forth in Section IV.3 of the Schedule of Performance of the DDA that the Phase I Developer submit Schematic/Design Development Drawings and Preliminary Landscaping and Grading Plans has been satisfied by submission of the revised site plans and other materials provided to Morris Dye by Aubrey Cook McGill under a cover letter dated November 26, 2003 pertaining to "Project Name: Las Americas SCR; ACM Project No: 02-210," and that the Agency has approved such plans and materials (and any revisions thereto effected by the Amended Site Plan or by the materials described in clause (b) below); and

(b) the requirement set forth in Section IV.6 of the Schedule of Performance of the DDA that the Phase I Developer submit 50% Construction Drawings and Specifications has been satisfied by submission of the drawings and other materials provided to Robert Chavez by Aubrey Cook McGill under a cover letter dated April 14, 2004 pertaining to "Las Americas Phase IB-1: 50% Construction Drawings," and that the Agency has approved such plans and materials.

(5) Section (ii) of the Clarification Letter dated September 22, 2003 (as amended by the Clarification Letter dated January 29, 2004) identifies certain matters to be addressed by the Agency and the Phase I Developer through a negotiated implementation agreement to be brought before the City Council for approval before April 30, 2004. Subsequent to the execution of the Clarification Letter dated September 22, 2003, the City has determined not to proceed with the Library within Development Parcel A-2, and accordingly (a) the City has permitted the Library Option to lapse and (b) fee title to the "Airspace Lots" within Development Parcel A-2 (as referenced in Section 6.a of the Fourth Implementation Agreement) has reverted to the Developer free and clear of any rights of the City or any other person or entity claiming through the City), as contemplated by Section 6.f of the Fourth Implementation Agreement and the terms of the grant deed recorded in the San Diego County Recorder's Office on June 13, 2002 as Document No. 2002-0503516 (said grant deed being the deed by which fee title to such Airspace Parcels was conveyed to the City), and (c) with respect to the future development of Development Parcel E-4, the provisions of Section 6.g of the Fourth Implementation Agreement shall apply. The Agency and the City agree to take such steps as the Developer further may request in order to evidence such conveyance to the Developer of fee title to the Airspace Parcels.

(6) The parties acknowledge and agree that, in their respective discretion, they may discuss and enter into further implementation agreements at such time as the parties approach more active development of the E Properties or Development Parcels A-2 and A-3. In the interim, and in order to facilitate such discussion, the parties further agree that:

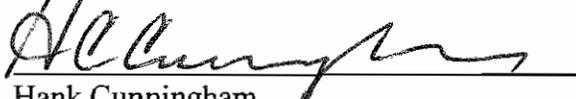
(a) for purposes of Section IV.3 of the Schedule of Performance of the DDA, the outside date for submission of Schematic/Design Development Drawings and Preliminary Landscape and Grading Plans with respect to Development Parcels A-2 and A-3 shall be June 30, 2005, rather than December 30, 2003 and April 30, 2004, respectively; and

(b) for purposes of Section II.1 of the Schedule of Performance, the outside date for obtaining the Bi-National Authorization for River Pedestrian Bridge shall be June 30, 2005.

In order to confirm the agreement of IGA and the Phase I Developer to the foregoing, please sign this letter in the place indicated below and return it to the Agency. This letter shall not be effective unless and until you have so signed and returned this letter.

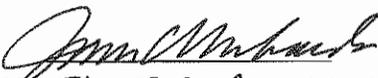
Very truly yours,

THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO

By: 
Hank Cunningham
Assistant Executive Director

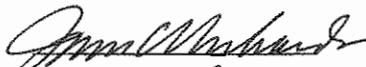
Reviewed and Agreed To:

INTERNATIONAL GATEWAY ASSOCIATES, LLC, a Delaware limited liability company

By: 
Name: JAMES C. RICHARDS
Its: VICE PRESIDENT

INTERNATIONAL GATEWAY I LLC, a Delaware limited liability company

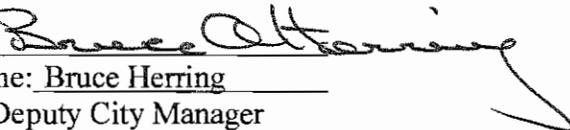
By: International Gateway Associates, LLC, a Delaware limited liability company, its sole member

By: 
Name: JAMES C. RICHARDS
Its: VICE PRESIDENT

Reviewed and Agreed To:

The undersigned City of San Diego, in its capacity as the lessor under the Parcel A Public Use Lease and as the grantee under the grant deed recorded in the San Diego County Recorder's Office on June 13, 2002 as Document No. 2002-0503516 (said grant deed being the deed by which fee title to such Airspace Parcels was conveyed to the City), hereby confirms its approval of the matters set forth in the above letter and its agreement to take such steps as IGA reasonably may request in order to implement such matters, including without limitation (a) such steps as IGA reasonably may request in order to implement such adjustments to the Parcel A Public Use Lease as may be necessary or reasonably appropriate in connection therewith (e.g., documentation necessary in connection with the Subdivision Map Act compliance or the City's procedures for approval of adjusted boundaries, documentation to confirm for purposes of the Parcel A Public Use Lease the scope of the Initial A Improvements, the Supplemental A Improvements and the Parking Area, and documentation to confirm for purposes of the Parcel A Public Use Lease the physical boundaries of the Development Parcels), and (b) such steps as IGA reasonably may request in order to evidence the conveyance of the Airspace Parcels described in Section 5 of the letter. The City further acknowledges that IGA and its successors and assigns may rely upon and enforce the confirmations and agreements set forth herein.

THE CITY OF SAN DIEGO

By: 
Name: Bruce Herring
Its Deputy City Manager

Attachment A

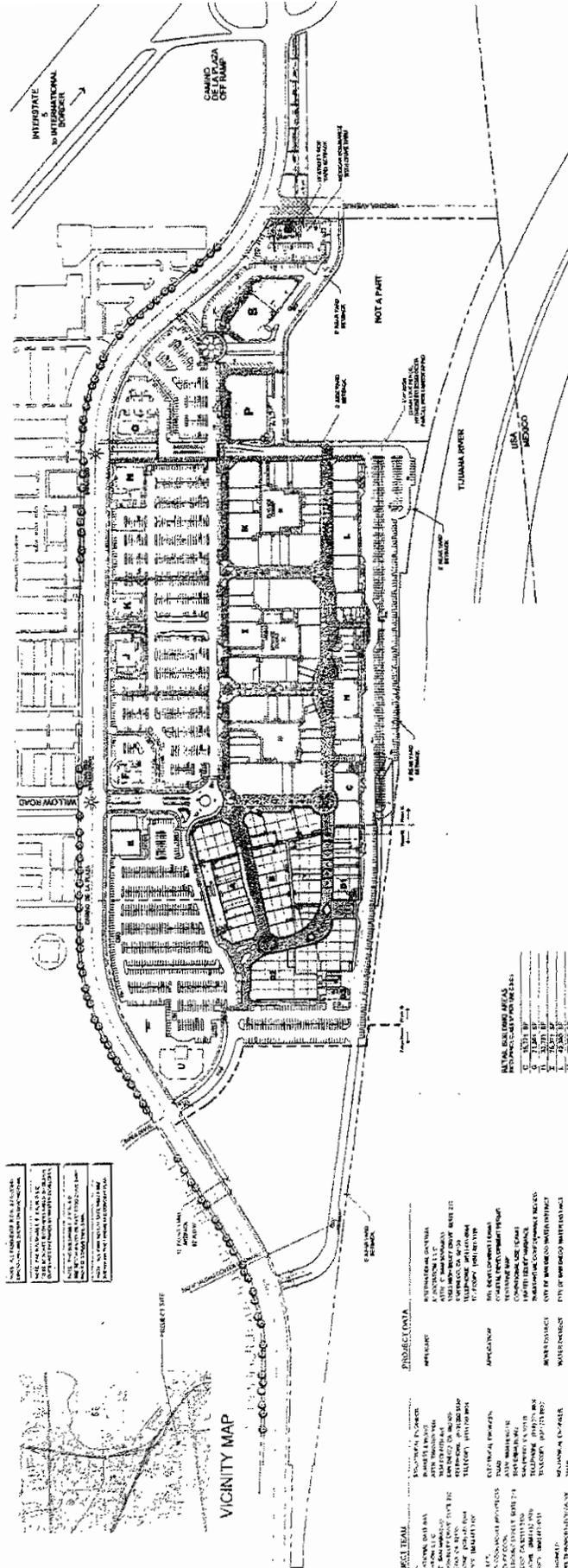
BOUNDARY ADJUSTMENTS

Development Parcel A-1 shall mean lots 2 and 3 shown on the attached draft Parcel Map.

The “A-2/A-3” area shall mean both: (a) Lots 1 and 2 of the “2002 Subdivision Map” (as defined in the Fourth Implementation Agreement, as such Map has been recorded on June 13, 2002 in the San Diego County Recorder’s office as Map No. 14406), and (b) Lot 1 shown on the attached draft Parcel Map.

Attachment B

**AMENDED SITE MAP (DEVELOPMENT PARCEL A-1)
See attached map.**



NOTES:

1. ALL DIMENSIONS ARE IN FEET AND INCHES.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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9. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
10. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

VICINITY MAP



PROJECT TEAM

CLIENT: LANDGRANT DEVELOPMENT, INC.
 10000 WILLOW ROAD, SUITE 100
 LAS VEGAS, NV 89135
 TEL: 702.735.1000
 WWW.LANDGRANTDEVELOPMENT.COM

ARCHITECT: HOK
 1000 WILLOW ROAD, SUITE 100
 LAS VEGAS, NV 89135
 TEL: 702.735.1000
 WWW.HOK.COM

ENGINEER: HOK
 1000 WILLOW ROAD, SUITE 100
 LAS VEGAS, NV 89135
 TEL: 702.735.1000
 WWW.HOK.COM

LANDSCAPE ARCHITECT: HOK
 1000 WILLOW ROAD, SUITE 100
 LAS VEGAS, NV 89135
 TEL: 702.735.1000
 WWW.HOK.COM

PLANNING: HOK
 1000 WILLOW ROAD, SUITE 100
 LAS VEGAS, NV 89135
 TEL: 702.735.1000
 WWW.HOK.COM

CONSTRUCTION MANAGER: HOK
 1000 WILLOW ROAD, SUITE 100
 LAS VEGAS, NV 89135
 TEL: 702.735.1000
 WWW.HOK.COM

PROJECT DATA

PROJECT NAME: THE SHOPS AT LAS AMERICAS

PROJECT ADDRESS: 10000 WILLOW ROAD, SUITE 100, LAS VEGAS, NV 89135

PROJECT TYPE: COMMERCIAL DEVELOPMENT

PROJECT STATUS: PRELIMINARY DESIGN

PROJECT START DATE: 01/15/2010

PROJECT END DATE: 01/15/2010

PROJECT AREA: 100,000 SQ. FT.

PROJECT PERMIT: SDP/CDP NO. 40-0338

NATURAL BOUNDARY AREAS

NO.	DESCRIPTION	AREA (SQ. FT.)	TOTAL (SQ. FT.)
1	WILLOW ROAD	10,000	10,000
2	WILLOW ROAD	10,000	20,000
3	WILLOW ROAD	10,000	30,000
4	WILLOW ROAD	10,000	40,000
5	WILLOW ROAD	10,000	50,000
6	WILLOW ROAD	10,000	60,000
7	WILLOW ROAD	10,000	70,000
8	WILLOW ROAD	10,000	80,000
9	WILLOW ROAD	10,000	90,000
10	WILLOW ROAD	10,000	100,000

RESTAURANT INCLUDED AREAS

NO.	DESCRIPTION	AREA (SQ. FT.)	TOTAL (SQ. FT.)
1	RESTAURANT	10,000	10,000
2	RESTAURANT	10,000	20,000
3	RESTAURANT	10,000	30,000
4	RESTAURANT	10,000	40,000
5	RESTAURANT	10,000	50,000
6	RESTAURANT	10,000	60,000
7	RESTAURANT	10,000	70,000
8	RESTAURANT	10,000	80,000
9	RESTAURANT	10,000	90,000
10	RESTAURANT	10,000	100,000

SUMMARY

NO.	DESCRIPTION	AREA (SQ. FT.)	TOTAL (SQ. FT.)
1	RESTAURANT	10,000	10,000
2	RESTAURANT	10,000	20,000
3	RESTAURANT	10,000	30,000
4	RESTAURANT	10,000	40,000
5	RESTAURANT	10,000	50,000
6	RESTAURANT	10,000	60,000
7	RESTAURANT	10,000	70,000
8	RESTAURANT	10,000	80,000
9	RESTAURANT	10,000	90,000
10	RESTAURANT	10,000	100,000

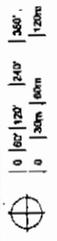
PROJECT ADDRESS: 10000 WILLOW ROAD, SUITE 100, LAS VEGAS, NV 89135

SHEET TITLE: SITE PLAN

THE SHOPS AT LAS AMERICAS
 CITY OF LAS VEGAS, CLAYTON



The Shops at Las Americas
 SDP/CDP NO. 40-0338



NO. **REVISIONS** **DATE**

1. PRELIMINARY DESIGN
2. PRELIMINARY DESIGN
3. PRELIMINARY DESIGN
4. PRELIMINARY DESIGN
5. PRELIMINARY DESIGN
6. PRELIMINARY DESIGN
7. PRELIMINARY DESIGN
8. PRELIMINARY DESIGN
9. PRELIMINARY DESIGN
10. PRELIMINARY DESIGN

LOT

INTERNATIONAL GATEWAY ASSOCIATES LLC
c/o JER International Gateway LLC
1650 Tysons Boulevard
Suite 1600
McLean, Virginia 22102

July 23, 2004

Mr. Hank Cunningham
Redevelopment Agency of the City of San Diego
Community and Economic Development
600 B Street, Fourth Floor, MS 904
San Diego, CA 92101-4506

Re: Las Americas Project – Potential Adjustments to Accommodate Library

Dear Hank:

The purpose of this letter is to confirm the parameters for a 5th Implementation Agreement to be adopted in connection with the Disposition and Development Agreement between the Redevelopment Agency and the Developer of the “Las Americas” project at the Tijuana/San Diego border in the San Ysidro community of San Diego, as the same has been implemented and clarified to date (the “DDA”). The parties intend that they each will pursue full implementation of the terms of this letter through execution and adoption of the 5th Implementation Agreement and related documents (including without limitation an amendment to the Parcel A Public Use Lease, as described below) (collectively, the “5th Implementation Documents”) as soon as reasonably possible, and the parties agree to move forward in good faith to achieve such execution and adoption.

1. **Grant of Pad U.** The developer shall convey fee title to “Pad U” to the City of San Diego. Pad U is described on Exhibit A attached hereto. Pad U is in the process of being created as a separate legal lot pursuant to a subdivision map substantially consistent with Exhibit B attached hereto that has been submitted by the developer for processing to the City of San Diego (the “Map”).

2. **Reciprocal Easement Agreement.** The conveyance of Pad U to the City shall be made subject to all exceptions of record (including an Overall Reciprocal Easement and Cost Sharing Agreement recorded October 17, 2001 as document no. 2001-0751836 (the “Overall REA”), but excluding the Subsequent Parcel A Reciprocal Easement and Cost Sharing Agreement recorded June 13, 2002 as document no. 2002-0503517, which shall be terminated) and to a new reciprocal easement agreement (the “New Parcel A REA”) that will contain the following material terms:

(A) ***Lots Covered by New Parcel A REA.*** The respective lots covered by the New Parcel A REA shall consist of Development Parcel A-1 (as re-constituted per the Map), Pad U, and the balance of the "A-2/A-3 Area" (as shown on the Map).

(B) ***Pad U – Use Limitations.*** The City, as the owner of Pad U, shall agree that Pad U shall be subject to the following use limitations:

(1) Pad U shall be used only for the construction and operation either of (a) a public library, or (b) buildings for alternative civic uses, but such alternative uses only shall be permitted if first approved by (i) the owner of Parcel A-1 (it being understood that such owner may withhold such approval if such owner reasonably concludes that the proposed Pad U use might be inconsistent with, incompatible with, or disruptive of, the operation of a first class retail shopping center on Parcel A-1 (other than temporary disruptions during the construction of such improvements, so long as the construction activities are reasonably tailored to minimize such disruptions), and (ii) the owner of the A-2/A-3 Area (it being understood that such owner may withhold such approval if such owner reasonably concludes that the proposed Pad U use might be inconsistent with, incompatible with, or disruptive of, the operation of residential and related uses (as described in paragraph 4(C) below) on the A-2/A-3 Area (other than temporary disruptions during the construction of such improvements, so long as the construction activities are reasonably tailored to minimize such disruptions)).

(2) The buildings on Pad U shall not exceed 25,000 square feet in the aggregate and shall have no more than two stories. No more than 20% of the total square footage within the facilities shall be designed for, or used for, meeting or conference purposes. The design of the buildings (including all building and locational signage) shall be subject to the approval of the owner of Parcel A-1 and of the owner of the A-2/A-3 Area. Such approval shall not be unreasonably withheld or delayed (it being understood that it shall be legitimate for

(a) the owner of the Parcel A-1 to withhold such consent if it reasonably determines that (i) the construction or operation of the proposed Pad U improvements might be inconsistent with, incompatible with, or disruptive of, the operation of a retail shopping center on Parcel A-1 (other than temporary disruptions during the construction of such improvements, so long as the construction activities are reasonably tailored to minimize such disruptions), (ii) the exterior groundscape and access areas have not been designed in a manner that will facilitate maintenance by the owner of Parcel A-1 (as described in paragraph 2(D)(1) below) in a cost effective manner in connection with the maintenance of like areas within Parcel A-1, or (iii) the proposed improvements have not been designed with an objective of reasonably minimizing the magnitude of the impairment of the visibility of the improvements on Parcel A-1, and

(b) the owner of the A-2/A-3 Area to withhold such consent if it reasonably determines that the construction or operation of the proposed Pad U improvements might be inconsistent with, incompatible with, or disruptive of, the operation of residential and related uses (as described in paragraph 4(C) below) on the A-2/A-3 Area (other than temporary disruptions during the construction of such improvements, so long as the construction activities are reasonably tailored to minimize such disruptions)).

(3) The owner of Pad U shall commence construction of the improvements on Pad U within 84 months after the delivery to the City of the deed to Pad U, and the owner of Pad U further shall complete such improvements within 18 months after commencement of said construction (as evidenced by the issuance of a certificate of occupancy to said improvements by the City of San Diego). All such construction shall be performed at no expense to the owners of Parcel A-1 or the A-2/A-3 Area and in a manner reasonably tailored to minimize the disruption of the operation of the improvements on Parcel A-1 and the A-2/A-3 Area. If the owner of Pad U fails to commence and complete the construction of said improvements within said time periods, then the owner of Parcel A-1 shall have the right, for a period of 60 days after the lapse of the respective deadline that has not been achieved, to provide notice of its intent to purchase Pad U from the owner of Pad U. If the owner of Parcel A-1 does not timely deliver such a notice, then its right to re-purchase as a consequence of the owner of Pad U's failure to achieve the relative construction deadline shall lapse. Conversely, should the owner of Parcel A-1 timely deliver such a notice, then the owner of Pad U shall sell fee title to Pad U to the owner of Parcel A-1 on a closing date that is selected by the owner of Parcel A-1 and is no earlier than 15 days, and no later than 60 days, after delivery of such notice. The purchase price payable by the owner of Parcel A-1 shall be an amount equal to \$1,250,000 times a "CPI Factor". The CPI Factor shall mean the relative increase in the consumer price index for San Diego California (urban wage earners) from the date that the deed to Pad U is delivered to the City to the date of the closing of the transfer of Pad U to the owner of Parcel A-1 in accordance with this paragraph (in each case as evidenced by said consumer price index last published by the Bureau of Labor Statistics immediately prior to the respective measurement date). At such closing, the owner of Pad U shall transfer title to Pad U free and clear of any exceptions to title other than those existing at the time of the transfer of Pad U to the City and any additional exceptions thereafter from time to time approved in writing by the owner of Parcel A-1.

(4) The use limitations further shall provide that (a) the facilities shall be used only during normal business hours (7 am to 9 pm), (b) the facilities shall include appropriate locations on site for smoking, (c) the consumption on site of alcoholic beverages shall be prohibited, and (d) the facilities shall not be used for any commercial activities, including without limitation retail sales, sales of food or beverages (including sales through vending machines, other than vending

machine sales not exceeding in the aggregate \$2,000 per year), or entertainment activities (other than free entertainment activities reasonably ancillary to, and customary to the operation of a public library).

(C) ***Certain Parking Rights in Favor of Pad U.*** Unless otherwise agreed by the owner of Pad U, the owner of Parcel A-1 shall maintain on Parcel A-1 at least the minimum number of parking spaces required to be maintained on Parcel A-1 in accordance with the DDA and the Overall REA. With respect to parking matters, the New Parcel A REA further shall provide as follows:

(1) The owner of Parcel A-1 shall designate a portion of Parcel A-1 that is contiguous in some respect with Parcel U and which shall contain at least 152 parking spaces (the "Non-exclusive Library Spaces"), and the owner of Pad U shall have a non-exclusive right to use (and to permit its visitors to use) such Non-exclusive Library Spaces, without charge;

(2) the parking rights of the owner of Pad U shall not be exercised in a manner inconsistent with the Public Use Lease applying to Parcel A-1,

(3) the owner of Parcel A-1 may relocate the Non-Exclusive Library Spaces from time to time, so long as such relocation does not materially diminish the use and enjoyment of the Non-exclusive Library Spaces by the Owner of Pad U,

(4) subject to the rights of the owner of Pad U in clause (1) above, the owner of Parcel A-1 may designate certain parking spaces within Parcel A-1 as being for the exclusive use of other designated parties (e.g., tenants), and the owner of Parcel A-1 may collect parking fees and establish a gated or other controlled access and validation system for the use of such spaces, and

(5) the owner of Parcel A-1 shall have the right to establish further reasonable rules and regulations for the use of parking spaces on Parcel A-1, including without limitation rules or regulations prohibiting the use of the parking spaces for purposes other than parking of vehicles (e.g., the owner of Pad U shall not use, or permit its visitors to use, the parking area for storage, meetings, demonstrations, car washes, etc.).

(D) ***Maintenance.*** Each owner shall be responsible for the maintenance of its own Parcel at its own expense, subject to the following:

(1) Prior to commencement of the construction of the building improvements on Pad U approved per paragraph 2(B) above, Pad U shall be landscaped in a manner approved by the owner of Parcel A-1, at the expense of the owner of Parcel A-1. The owner of Parcel A-1 shall have no maintenance obligation with respect to Pad U during the period of construction of the building improvements approved per paragraph 2(B) above.

(2) From and after completion of construction of the building improvements on Pad U approved per paragraph 2(B) above, the owner of Parcel A-1 shall maintain those portions of Pad U that are located outside of any buildings constructed on Pad U. By way of example and clarification, such maintenance shall pertain to exterior groundscape and access areas, but not to the exterior or interior of the building improvements themselves, to any underground improvements, or to any utility improvements. Said maintenance shall be at a standard equivalent to that applied to the maintenance of like areas in Parcel A-1.

(3) The owner of Pad U shall cooperate reasonably with the owner of Parcel A-1 in achieving the maintenance described in clause (1) and clause (2), and in particular the owner of Pad U shall provide the owner of Parcel A-1 (and/or its designees) with access rights over and to Pad U so as to facilitate such maintenance.

(4) Subject to clauses (1) and (2) above, if the owner of Pad U fails to maintain its improvements in a manner generally consistent with the maintenance standards used in connection with the improvements on Parcel A-1, then the owner of Parcel A-1, and the owner of the A-2/A-3 Area, each shall have the right, after notice to the owner of Pad U, to enter Pad U and correct the maintenance deficiencies, and to collect the reasonable cost thereof from the owner of Pad U. The owner of Parcel A-1 shall have the right to prevent the owner of Pad U from using any parking on Parcel A-1 at any time that the owner of Pad U is delinquent in its maintenance or reimbursement obligations.

(5) The owner of the Pad U shall not be required to contribute funds for the maintenance of Parcel A-1 or the A-2/A-3 Area, provided that the foregoing shall not be construed as exculpating the owner of Pad U from liability for damages suffered by the owner of Parcel A-1 as a consequence of the use of the parking facilities described above.

(E) ***Right of First Refusal.*** The intent is that Pad U will be owned and operated in perpetuity by the City or an affiliated public entity controlled by the City. If the City at any time desires to transfer Pad U to any other person or entity (a "Proposed Unaffiliated Purchaser"), then (1) the City first shall submit the terms for the proposed transfer to the owner of Parcel A-1, who shall have a 10 business day period to elect to become the owner of Pad U on the same terms applicable to the proposed transfer to the Proposed Unaffiliated Purchaser (except that if the owner of Parcel A-1 elects to become such a transferee, then the closing shall occur on a date selected by the owner of Parcel A-1 that is no later than 90 days after the making of such election), and (2) if the owner of Parcel A-1 does not timely elect to become such a transferee, then the City further shall submit the terms for the proposed transfer to the owner of the A-2/A-3 Area, who shall have a 10 business day period to elect to become the owner of Pad U on the same terms applicable to the proposed transfer to the Proposed Unaffiliated Purchaser (except that if the owner of the A-2/A-3 Area elects to become such a transferee, then the closing shall occur on a date selected by the owner of the A-2/A-3 Area that is no later than 90 days after the

making of such election). If neither the owner of Parcel A-1 nor the owner of the A-2/A-3 Area elects to become such a transferee, then the City may proceed with the transfer to the Proposed Unaffiliated Purchaser, so long as (a) such transfer is effected on the same terms described in the submissions to the owners of Parcel A-1 and the A-2/A-3 Area, and (b) the transfer is completed within 120 days after the lapse of the 10 business day period within which the owner of the A-2/A-3 Area could have elected to become such a transferee. Any transferee of Pad U in accordance with the foregoing shall have the right to use Pad U for any legal purpose so long as the same (i) is not inconsistent with, or disruptive with, the operation of a retail shopping center on Parcel A-1 in a material respect (or such use otherwise has been approved by the owner of Parcel A-1 in its discretion) and (ii) is not inconsistent with, or disruptive with, the operation of residential and related uses (as described in paragraph 4(C) below) on the A-2/A-3 Area in a material respect (or such use otherwise has been approved by the owner of the A-2/A-3 Area in its discretion). From and after a transfer by the City after a waiver or lapse of the rights of first refusal described in this paragraph 2(E), the restrictions in paragraphs 2(B)(1), (3) and (4) no longer shall apply, but the restrictions in paragraph 2(B)(2) shall continue to apply.

(F) *Miscellaneous.* The burdens and benefits in the New Parcel A REA (including without limitation those described in paragraphs 2(D)(2) and (5)) shall run with the land, except that if the A-2/A-3 Area is split into separate ownership, the parties thereto shall have the right to designate the respective party empowered to exercise the approval rights afforded to the owner of the A-2/A-3 Area under the New Parcel A REA. The New Parcel A REA shall include such additional provisions as the parties may propose as are customary and appropriate for a mixed use development such as is contemplated for the three lots covered by the New Parcel A REA.

3. *Amendment to Parcel A Public Use Lease.* In addition to the amendment to the Parcel A Public Use Lease being effected in accordance with the terms of the April 22, 2004 letter between the Agency and International Gateway Associates, the Agency shall approve an amendment to the Parcel A Public Use Lease which shall provide that, upon completion of the Initial A Improvements, the rent under the Parcel A Public Use Lease shall be calculated and shall be payable as if both the Initial A Improvements and the Supplemental A Improvements had been completed, and the owners of Parcel A-1, Pad U and the A-2/A-3 Area shall be released from any further obligation to effect the Supplemental A Improvements. The City also shall bring such amendment before the City Council for first and second reading and approval as expeditiously as reasonably possible. The term "Final Approval" of said amendment shall mean that the City Council has approved the amendment at both first and second reading and that all applicable appeal or protest periods shall have expired without appeal or protest.

4. *Changes to Scope of Improvements.* The Agency shall agree that the scope of improvements for the following Development Parcels under the DDA shall be revised as follows (and the Agency shall cooperate with and assist the owners of said properties in obtaining in an expeditious and cost effective manner any further governmental authorizations, or any amendments to any existing governmental authorizations, that may be necessary or appropriate for the development of said improvements):

(A) **Pad U.** Section A.1 of Attachment No. 4 to the DDA (as revised through the 4th Implementation Agreement and the April 22, 2004 letter), shall be further revised to eliminate the descriptions of the "Second Phase" and the "Third Phase" of Parcel A. Instead, Pad U shall be created as a separate parcel to be developed by the City at the City's expense outside of the DDA.

(B) **Parcel A-1.** The Agency further agrees that it shall support, and that it shall work with the City in order to achieve, a deferral of any obligation of the owner of Parcel A-1 to pay development impact fees or housing trust fund fees as a condition to the issuance of the building permits for the improvements on Parcel A-1, and that the Agency further shall support an agreement whereby the performance by the owner of Parcel A-1 in conveying Pad U in accordance with the 5th Implementation Agreement shall constitute performance in lieu of payment of said fees, and that accordingly from and after such conveyance, such "in lieu" fees shall be deemed satisfied in full and no longer payable in any respect. The Agency shall endeavor in good faith to obtain a written agreement from the City to such effect. The parties further shall endeavor in good faith to complete the documentation contemplated by this letter as soon as reasonably possible. If, notwithstanding such efforts, said documents are not completed by October 31, 2004, then the City, at its option, shall have the right to require payment of the "in lieu" fees amount within 30 days after delivery to the owner of Parcel A-1 of a demand for such "in lieu" fees amount.

(C) **A-2/A-3 Area.** The A-2/A-3 Area described in the Map shall be established as a separate development parcel under the DDA. The Agency further shall agree to support applications for any governmental approvals (e.g., re-zoning, amendment to any development permit or coastal development permit, etc.) that may be required in order to develop the A-2/A-3 Area with multi-family residential condominiums or apartments and related improvements (with a permitted density of up to 350 units within up to 400,000 square feet of building improvements, exclusive of building improvements for parking purposes), and without any requirement that the owner

(1) ~~provide any further consideration of any type whatsoever, directly or indirectly, to the Agency (and that accordingly the term "Sales Parcel" under the DDA henceforth shall not be deemed to include any properties within the A-2/A-3 Area, and the owner the A-2/A-3 Area shall be relieved from any obligation under the DDA to disgorge any profits, or pay to the Agency any share of any proceeds or value, arising from the development of the A-2/A-3 Area as contemplated, or to otherwise pay any increased or additional purchase price or other consideration to the Agency in connection with said development), or~~

(2) bear any other further governmental fees or exactions (other than fees customarily imposed by governmental authorities, other than the Agency, in connection with the processing of permit applications).

For purposes of the Scope of Development under the DDA, the development permitted on the Development Parcel comprising the A-2/A-3 Area shall consist of such residential and related retail improvements. The 5th Implementation Agreement further shall clarify that as a consequence of such changes in the approved development for the A-2/A-3 Area, the Developer thereof shall not be entitled to receive any "Loan Agreement" on account of the Development Parcel comprising the A-2/A-3 Area.

(D) ***Certain Offsite Improvements.*** For purposes of clarification, Section A.6 of the Scope of Development (Attachment No. 4 to the DDA) shall be amended to clarify that the improvements described in Sections 6.b(1) and 6.b(2) of said Section (as amended – see the 2nd Implementation Agreement) shall be completed as part of the improvements to be constructed in connection with the development of the Parcel under the DDA comprising the A-2/A-3 Area, and as a condition to issuance of a Certificate of Completion in accordance with Section 324 of the DDA with respect to the Development Parcel comprising the A-2/A-3 Area (but the improvements described in said Sections 6.b(1) and 6.b(2) shall not be an obligation of the owner of Parcel A-1 or a condition to the issuance of a Certificate of Completion under Section 324 of the DDA with respect to Parcel A-1).

(E) ***Phase II.*** In light of the facilitation by International Gateway Associates of the construction of a library on Pad U through the grant of Pad U to the Agency, the Agency agrees that the DDA shall be amended to delete any requirement that the owner of Development Parcel E-4 under the DDA develop said property with any improvements for cultural or institutional uses (it being agreed that any square footage previously contemplated for such uses instead may be completed for retail, office or other commercial uses). The Agency further acknowledges and agrees that until such time as building improvements are constructed upon a particular portion of Development Parcel E-1, E-2, E-3 or E-4 in accordance with the DDA, the owner thereof shall have the right to improve such portion with surface parking improvements (and such owner shall have the right to permit the owner of Development Parcels B, C and A-1, and the owner of the Development Parcel comprising the A-2/A-3 Area, to use such surface parking in connection with development and operation of the improvements on their respective properties).

5. ***Clarification re Parking Requirements.*** The Agency shall approve an amendment to the Overall REA which clarifies certain minimum parking space requirements. First, the amendment shall change all references to "Parcel A" in Section 2.13 of the Overall REA to refer to "Parcel A-1". Second, the parenthetical in clause (ii) of Section 2.13(a) of the Overall REA shall be changed to read as follows: "(including each of the Public Use Leases)." Third, the minimum parking space requirements under the DDA applicable to the Initial Shopping Center Parcel and the Parcel A-1, in the aggregate, shall be deemed to equal (1) until such time as the improvements on Parcel A-1 have been opened for operation, 1450 parking spaces, and (2) thereafter, 1956 parking spaces. The Agency shall entertain such further clean up amendments to the Overall REA as International Gateway Associates reasonably may request.

6. ***Timing for Implementation.*** The parties shall endeavor to bring the 5th Implementation Agreement to the City Council for approval upon the earliest reasonably feasible date (with a target of achieving Council consideration by August 15, 2004). The parties shall endeavor to achieve Final Approval of the amendment to the Parcel A Public Use Lease as soon as reasonably feasible thereafter. The grant of Pad U to the City shall not occur until the foregoing approvals have been obtained and the Map has been recorded, and the owner of Parcel A-2 shall cause the delivery of such deed promptly thereafter.

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This letter is intended as a letter of intent only. The provisions of this letter shall not be construed as a binding agreement of the parties, but the parties agree that they shall endeavor in good faith to achieve the transactions contemplated hereby (provided that (A) International Gateway Associates hereby confirms that it is aware that the Agency and the City are governmental authorities that only can act in accordance with specified procedures, and that accordingly nothing herein shall be deemed to bind the Agency or the City unless and until such procedures have been met). If either party reasonably concludes that the conditions to the grant of Pad U, as described in paragraph 6 above, shall not be completed by December 22, 2004, then either party shall have the right to terminate its efforts to pursue the contemplated transactions, and this agreement thereafter shall have no force or effect.

In order to confirm your understandings re the above issues, please sign this letter in the place indicated below.

INTERNATIONAL GATEWAY ASSOCIATES LLC

By: 
Name: _____
Title: Bradley S. Coburn
Director

Reviewed and Approved:

The Redevelopment Agency of the City of San Diego

By: 
Name: HENRY C. CUNNINGHAM
Title: ASST. EXEC. DIR.

The City of San Diego

By: 
Name: George Loveland
Title: Senior Deputy City Manager

EXHIBIT A

Pad U shall mean lot 3 shown on the draft Parcel Map attached to the letter agreement as Exhibit B.

Development Parcel A-1 shall mean lot 2 shown on the draft Parcel Map attached to the letter agreement as Exhibit B.

The "A-2/A-3" area shall mean both: (a) Lots 1 and 2 of the "2002 Subdivision Map" (as defined in the Fourth Implementation, as such Map has been recorded on June 13, 2002 in the San Diego County Recorder's office as Map No. 14406), and (b) Lot 1 shown on the draft Parcel Map attached to the letter agreement as Exhibit B.

