

(O-99-31)
(COR. COPY(2))

ORDINANCE NUMBER O- 18565 (NEW SERIES)

Re-ADOPTED ON AUG 07 1998

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 1998, ONE PROPOSITION FOR THE ADOPTION OF AN ORDINANCE AUTHORIZING REDEVELOPMENT AND CONSTRUCTION OF A BALLPARK.

WHEREAS, on December 30, 1996, the Mayor's Task Force on Padres Planning [Mayor's Task Force] was established by the Mayor to "develop and help implement a strategic plan that enables the San Diego Padres Baseball Club [Padres] to operate on a sound business basis and as a contributing corporate citizen of San Diego for the foreseeable future;" and

WHEREAS, on September 19, 1997, the Mayor's Task Force issued its report concluding, in part, that a new baseball-oriented facility was necessary for the Padres to have the opportunity to remain competitive and to become financially stable; and

WHEREAS, on September 30, 1997, the City of San Diego Task Force on Ballpark Planning [Citizen's Task Force] was established to recommend to the Mayor and City Council a site and financing alternatives for a new baseball-oriented facility within the City of San Diego; and

WHEREAS, after numerous public hearings and debate, the Citizen's Task Force issued its report on January 29, 1998, recommending, in part, that the proposed new facility be located in the South Embarcadero area of the City of San Diego and that the City enter into negotiations

regarding the planning, construction and operation of such a new facility, but recognizing that the new facility should be part of a larger private sector redevelopment effort in the Centre City East area of San Diego; and

WHEREAS, the City, the Redevelopment Agency of the City of San Diego, the Centre City Development Corporation and the Padres have been negotiating regarding such matters since that time; and

WHEREAS, on July 14, 1998, the City and the Padres jointly presented the essential terms of an agreement to be submitted to the voters regarding the new ballpark and the necessary private sector redevelopment to be built concurrently with the new ballpark; and

WHEREAS, the Citizen's Task Force has reviewed and unanimously approved the essential terms of the proposed agreement; and

WHEREAS, the Mayor, City Council and Padres desire to submit this matter to the voters of the City of San Diego for their review and approval; and

WHEREAS, pursuant to Section 23 of the San Diego City Charter and Section 27.2501 of the San Diego Municipal Code, the City Council has direct authority, without submission of a petition therefore, to place an initiative, consisting of an ordinance, on the ballot to be considered at a Municipal Election; and

WHEREAS, the adoption of an ordinance authorizing redevelopment and construction of a ballpark is a legislative act; and

WHEREAS, by Ordinance No. O- 18559, adopted on AUG 07 1998, the City Council is calling a Municipal Election to be consolidated with the Statewide General Election on November 3, 1998, for the purpose of submitting to the qualified voters of The City one or more ballot propositions; and

WHEREAS, the City Council desires to submit to the electorate at that Municipal Election one proposition for the adoption of an ordinance authorizing redevelopment and construction of a ballpark in the City of San Diego; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. One proposition for the adoption of an ordinance authorizing redevelopment and construction of a ballpark is hereby submitted to the qualified voters of The City at the Municipal Election to be held November 3, 1998, the proposition to read as follows:

PROPOSITION

AN ORDINANCE AUTHORIZING REDEVELOPMENT AND CONSTRUCTION OF A BALLPARK

WHEREAS, on December 30, 1996, the Mayor's Task Force on Padres Planning [Mayor's Task Force] was established by the Mayor to "develop and help implement a strategic plan that enables the San Diego Padres Baseball Club [Padres] to operate on a sound business basis and as a contributing corporate citizen of San Diego for the foreseeable future;" and

WHEREAS, on September 19, 1997, the Mayor's Task Force issued its report concluding, in part, that a new baseball-oriented facility was necessary for the Padres to have the opportunity to remain competitive and to become financially stable; and

WHEREAS, on September 30, 1997, the City of San Diego Task Force on Ballpark Planning [Citizen's Task Force] was established to recommend to the Mayor and City Council a site and financing alternatives for a new baseball-oriented facility within the City of San Diego; and

WHEREAS, after numerous public hearings and debate, the Citizen's Task Force issued its report on January 29, 1998, recommending, in part, that the proposed new facility be located in the South Embarcadero area of the City of San Diego and that the City enter into negotiations regarding the planning, construction and operation of such a new facility, but recognizing that the new facility should be part of a larger redevelopment effort in the Centre City East area of San Diego; and

WHEREAS, the City, the Redevelopment Agency of the City of San Diego, the Centre City Development Corporation and the Padres have been negotiating regarding such matters since that time; and

WHEREAS, on July 14, 1998, the City and the Padres jointly presented the essential terms of an agreement to be submitted to the voters regarding the new ballpark and the necessary redevelopment to be built concurrently with the new ballpark; and

WHEREAS, those essential terms include an investment from the Padres and private sector of \$115 million, an investment from the City of \$225 million, an investment from the Redevelopment Agency of \$50 million, and numerous protections for the City's general fund including caps on both the City's investment and contribution for annual operating expenses, and a protection regarding certain general fund revenues; and

WHEREAS, the Citizen's Task Force has reviewed and unanimously approved the essential terms of the proposed agreement; and,

WHEREAS, it is the intent of the People of the City of San Diego [People] that this ordinance and the Memorandum of Understanding it authorizes constitute the legislative acts that establish policy for the City on these matters, and provide the ways and means for the implementation of that policy by such administrative and non-legislative acts as may be necessary and appropriate to carry out the purpose and intent of this ordinance; and

WHEREAS, it is the further intent of the People that this ordinance and the Memorandum of Understanding it authorizes not provide for entitlements in land or development, such entitlements being the subject of other actions by public entities or of permits to be sought at later times; and

WHEREAS, it is also the intent of the People that the requirements of the California Environmental Quality Act be fully complied with in the implementation of the matters set forth in this ordinance and the Memorandum of Understanding it authorizes; NOW, THEREFORE,

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF SAN DIEGO as follows:

Section 1. That the City Manager be and he is hereby authorized and directed to execute for and on behalf of the City of San Diego the Memorandum of Understanding between the City of San Diego [City], the Redevelopment Agency of the City of San Diego [Agency], the Centre City Development Corporation [CCDC], and Padres L.P. [Padres] concerning a ballpark district, construction of a baseball park, and a redevelopment project [MOU], the form of which is attached hereto as Exhibit A and which is incorporated into this

ordinance and made a part of it. When fully executed, the MOU shall be on file in the office of the City Clerk as Document No. OO- **18565**.

Section 2. That, following the adoption of this ordinance and approval of the MOU by the voters of the City, the City Council be and it is hereby authorized to enter into any amendments, or agree to any modifications, to the MOU that in its judgement are in the best interests of the City, Agency and CCDC only if any such amendments or modifications do not materially: 1) decrease the rights or increase the obligations of the City; 2) increase the financial commitments of the City; or 3) decrease revenue to the City.

Section 3. That the City be and it is hereby authorized and directed to enter into the agreements necessary to implement the provisions of this ordinance and the MOU, and to carry out their purposes and intent; provided, however, that any such agreements are determined by the City Council to be in the best interests of the City, Agency and CCDC and do not materially: 1) decrease the rights or increase the obligations of the City pursuant to the MOU; 2) increase the financial commitments of the City pursuant to the MOU; or 3) decrease revenue to the City pursuant to the MOU.

Section 4. This ordinance shall become effective on the date of its adoption by a majority of the voters of the City of San Diego voting at an election held for that purpose.

---END OF PROPOSITION---

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Election, in addition to any other matters required by law, there shall be printed substantially the following:

<p>PROPOSITION __. AUTHORIZING REDEVELOPMENT AND A BALLPARK</p> <p>Shall an ordinance be adopted authorizing the City of San Diego to enter into agreements to redevelop an area of downtown, and construct a multiple use ballpark, provided that: 1) the City’s participation requires no new taxes, is capped, and also limited to redevelopment funds and an amount equivalent to certain hotel tax revenue; and 2) the San Diego Padres guarantee substantial private contributions, pay all ballpark construction cost overruns, and play in San Diego until 2024?</p>	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word "yes" shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of this proposition.

Section 5. Because Exhibit A to the Proposition is an integral part of the Proposition, and incorporated by its terms into the Proposition, the City Clerk is directed to request that the County Registrar of Voters publish Exhibit A in the Voter Pamphlet along with the text of the Proposition.


Section 6. The City Clerk shall cause a digest of this ordinance to be published once in the official newspaper on the Friday following adoption by the City Council. No other notice of election on this proposition need be given.

Section 7. Pursuant to California Elections Code section 9295, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for

printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice in his office of the specific dates that the examination period will run.

Section 8. Pursuant to Section 17 of the San Diego City Charter, this ordinance relating to elections shall take effect on AUG 07 1998, which is the day of its introduction and passage.

APPROVED: CASEY GWINN, City Attorney

By 
Leslie J. Girard
Assistant City Attorney

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7/29/98
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Or.Dept:Clerk
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MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF SAN DIEGO,
THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO,
THE CENTRE CITY DEVELOPMENT CORPORATION,
AND
PADRES L.P.
CONCERNING A BALLPARK DISTRICT,
CONSTRUCTION OF A BASEBALL PARK, AND A
REDEVELOPMENT PROJECT

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MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF SAN DIEGO,
THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO,
THE CENTRE CITY DEVELOPMENT CORPORATION,
AND
PADRES L.P.
CONCERNING A BALLPARK DISTRICT,
CONSTRUCTION OF A BASEBALL PARK, AND A
REDEVELOPMENT PROJECT

RECITALS

WHEREAS, the San Diego Padres Baseball Club has been a valued community asset since joining The National League of Professional Baseball Clubs in 1969; and

WHEREAS, Padres L.P. ("Padres"), the current owner, purchased the team in 1994 and has worked diligently to improve the image of the Club in the community and to contribute to the quality of life in San Diego; and

WHEREAS, a City of San Diego ("City") task force, after thorough investigation and analysis, determined that the development and construction of a baseball park ("Ballpark") is important to providing the Padres with the opportunity for long-term economic and competitive viability; and

WHEREAS, the City believes that the development and construction of a Ballpark will provide a significant and much needed catalyst for revitalization and continuing redevelopment of downtown San Diego; and

WHEREAS, the Padres are willing to make a significant investment in the Ballpark, to make the \$115,000,000 investment in the Ballpark Project described in Section XVIII, and to commit to remain in San Diego for an expected 30 years, but in no event less than 22 years, from the Opening Date; and

WHEREAS, it has always been understood between the Parties that the Ballpark would be more than just a Ballpark, but will be a significant redevelopment project including private development in the underdeveloped vicinity of the Ballpark; and

WHEREAS, the City, the Redevelopment Agency of the City of San Diego ("Agency"), and the Centre City Development Corporation ("CCDC") are willing to make significant

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investments in the Ballpark and redevelopment around the Ballpark; and

WHEREAS, the Padres are willing to assume the responsibility for and make development of the Ballpark contingent upon contemporaneous, significant commercial redevelopment in the vicinity of the Ballpark; and

WHEREAS, the Parties agree that the following principles are central to the terms and conditions of this MOU: a) no new or increased taxes will be imposed to pay for construction of the Ballpark Project; b) the Ballpark Project will be funded through a public/private partnership, with substantial private-sector investment in addition to the public investment; c) Ballpark operations will be "privatized" to reduce public costs; d) tax-exempt financing will be used to the greatest extent possible for the Ballpark Project; and

WHEREAS, the terms of this MOU contain numerous protections for the City's general fund, including caps on the expenses of the City for operating costs and investments in the Ballpark, land and infrastructure, and a protection from the Padres regarding certain revenue streams; and

WHEREAS, the Parties have concluded that the proposed public/private partnership for the Ballpark and associated redevelopment is in the best interests of the Parties and the citizens of San Diego; and

WHEREAS, on July 14, 1998, the Parties agreed to the essential terms and conditions regarding the subject matter described herein to be presented to the electorate, and it is the purpose of this MOU to memorialize such agreements, subject to a vote of the electorate;

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

I. PURPOSE AND INTENT

The purpose and intent of this Memorandum of Understanding ("MOU") is to provide for the establishment of a Ballpark District ("District"), the construction of a Ballpark within the District, and the construction of new development in the District, all within an underdeveloped area of downtown San Diego. It is the intent of the Parties that this MOU and its authorizing ordinance which are being voted on by the electorate constitute the only legislative act necessary to establish policy for the City and the Agency on these matters, and provide the ways and means for the implementation of that policy by such administrative and non-legislative acts as may be necessary and appropriate to carry out the purpose and intent provided for herein.

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It is the further intent of the Parties that this MOU not provide for entitlements in land or development, such entitlements being the subject of other actions by public entities or of permits to be sought at later times. It is also the intent of the Parties that the requirements of the California Environmental Quality Act be fully complied with in the implementation of the matters set forth in this MOU. The Parties intend that the planning, development and construction of the projects set forth in this MOU be a cooperative, mutual endeavor in which the Parties actively participate and work together, in good faith and with due diligence - a public/private partnership.

II. DEFINITIONS

“Agency” means the Redevelopment Agency of the City of San Diego.

“Agency Investment” means the investment of Agency and CCDC funds towards the Ballpark Project as set forth in Section XVII.

“Ancillary Development” means commercial, retail and residential development, including hotels, office buildings and associated parking, to be built within the District.

“Ballpark” means an open-air, natural grass, state-of-the-art baseball facility, with multiple uses, and with approximately 42,000 seats and the Outfield Park, to be constructed in the District, and consisting of the ballpark structure itself, all fixtures and systems, the Outfield Park, and the grounds and walkways immediately surrounding the ballpark structure.

“Ballpark Estimate” means an estimate of the total cost for the development and construction of the Ballpark, including all hard and soft costs but not including any Land Acquisition Costs, Parking Facilities costs or Infrastructure costs.

“Ballpark Project” means the Ballpark, Outfield Park Retail Parcels (as defined in Section XVIII), Infrastructure and Parking Facilities (except for the Phase 1 Parking Facilities to the extent the Developer is responsible for the costs therefor), including Land Acquisition Costs.

“Ballpark Project Estimate” means an estimate of the total cost for the development and construction of the Ballpark Project.

“Bond Counsel Review” means an opinion by bond counsel retained by the City at no expense to the Padres, as to whether an action proposed by the Padres would cause the securities issued by the City not to qualify for tax-exempt status under federal law, such opinion to be rendered within ten (10) business days after notification by the Padres to the City of the proposed

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action.

“Capital Expenditure” means the cost of all labor and materials reasonably required to repair, restore or replace any structural components, systems components or integral parts of the Ballpark, which would customarily be treated as a capital item for federal income tax purposes. By way of example only and not as a limitation: structural components include all foundations, structural members, piers, walls, roofs and ramps; systems components include scoring systems, video boards, heating, ventilating, air conditioning, plumbing, electrical, gas and water systems, escalators and elevators; integral parts include the Public Parking Facilities.

“Capital Expenditure Reserve Fund” means the fund established for Capital Expenditures as set forth in Section XXII.G.

“CCDC” means the Centre City Development Corporation.

“Centre City Redevelopment Project” means that project and area, and its associated plan, established by the City Council on May 11, 1992, by the adoption of Ordinance No. O-17767.

“Centre City Redevelopment Plan” means the plan for the Centre City Redevelopment Project.

“Certification Date” means the date on which the San Diego City Clerk certifies to the City Council that at the statewide general election on November 3, 1998, at least fifty percent plus one votes were cast in favor of a ballot measure placed before the voters by the City Council authorizing the City to enter into this MOU.

“City” means the City of San Diego.

“City Council” means the San Diego City Council.

“City Events” means those events conducted by the City (including City-sponsored 3rd party events) as set forth in Section XXII.C.

“City Investment” means the investment of the City towards the Ballpark Project as set forth in Section XVI, which may include any monies obtained from other public sources, except as set forth in this MOU.

“Concession Rights” means the contractual right to sell any kind of food, beverage or novelties at the Ballpark.

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“C.P.I.” means the San Diego Consumer Price Index for all urban consumers (CPI-U).

“Design & Construction Fund” means the fund described in Section XX.

“Developer” means the master developer for Phase 1 selected by the Padres and reasonably acceptable to the City, Agency and CCDC.

“Developer Rights Fees” means any fees paid by a private developer in consideration for the opportunity to participate in Phase 1.

“District” means the Ballpark District to be established pursuant to this MOU.

“Final Baseline Ballpark Program” means the program for the Ballpark as set forth in Section VII.

“Final Completion of the Ballpark Project” means that the Ballpark Project is ready for the playing and public exhibition of Major League Baseball.

“Force Majeure Event” means any of the following events which prevents a party from performing any obligation under this MOU: any act of God, strike, lockout or other industrial disturbance during the development or construction only of the Ballpark Project, but not including a strike or lockout by Major League Baseball players or umpires; act of public enemy, blockade, war, insurrection, civil disturbance, explosion or riot; epidemic; landslide, earthquake, fire, storm, flood, or washout; any act of God, strike, lockout or other industrial disturbance, including a strike or lockout by Major League Baseball players or umpires (except as expressly provided above); title dispute, or other litigation, including the inability to timely obtain judgments in eminent domain or timely obtain possession through eminent domain; governmental restraint, action or inaction, either federal, state, county, civil or military, including the adoption of any new law materially affecting either the ability of the Parties to proceed or the costs of proceeding (but not including any City laws or ordinances); any initiative or referendum; and failure to obtain any necessary federal, state or county governmental approval.

“Incremental Ballpark Expenses” means specific event related expenses for the respective operations of City Events, and Padres Games and Events at the Ballpark, as set forth in Section XXII.F.

“Infrastructure” means roads, sidewalks, other public facilities, and public utilities related to the Ballpark and Parking Facilities, as listed and set forth in Attachment A.

“Infrastructure Estimate” means an estimate of the total cost for the development and

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construction of Infrastructure but not including any Land Acquisition Costs.

“Joint Ballpark Ownership Expenses” means the shared expense between the City and the Padres of owning and managing the Ballpark, as set forth in Section XXII.E.

“Land Acquisition Costs” means the full cost of all land to be acquired for the Ballpark Project, as set forth and described in Attachment B, either by fee simple title or other control, and either through negotiated purchase or eminent domain, including the cost of legal proceedings in eminent domain, and compensation for relocation, goodwill, fixtures, equipment and related costs.

“Land Acquisition Estimate” means an estimate of Land Acquisition Costs.

“Major Change Order” means any change order exceeding \$750,000 or resulting in a significant programmatic deviation from the Final Baseline Ballpark Program.

“MOU” means this Memorandum of Understanding.

“Naming Rights” means the contractual right to have a name associated with the Ballpark Project, whether for the Ballpark and/or Ballpark Project as a whole or for specific areas within the Ballpark and/or Ballpark Project.

“Opening Date” means the first scheduled home game of the 2002 National League Championship Season (or any exhibition game occurring no more than two weeks prior thereto), or such earlier date as is possible and mutually determined by the Padres and the City.

“Outfield Park” means a park-like area, suitable for picnics and observing events in the Ballpark, set amidst (but not including) a combination of retail, commercial and residential development located adjacent to the Ballpark.

“Padres” means Padres L.P.

“Padres’ Games and Events” means those events conducted by the Padres as set forth in Section XXII.C.

“Padres/Private Investment” means the investment or contribution of private persons or entities, including the Padres, towards the Ballpark Project, as set forth in Section XVIII of this MOU.

“Parking Facilities” means a combination of surface and structured parking facilities

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constructed and configured to provide at least 5,000 revenue-controlled parking spaces to serve patrons of the Ballpark, as listed and set forth in Attachment B.

“Parking Facilities Estimate” means an estimate of the total cost for the development and construction of the Parking Facilities, but not including any Land Acquisition Costs.

“Party” or “Parties” means a party or the parties, respectively, to this MOU.

“Phase 1” means the first phase of Ancillary Development which, subject to the credit available for Substitute Ancillary Development, shall include at least: a) a 150 room extended stay hotel and 700 additional new hotel rooms with associated parking; b) office complexes containing at least 600,000 gross square feet with associated parking; and c) retail development containing at least 150,000 gross square feet.

“Phase 1 Parking Facilities” means the approximately 2,238 parking stalls (which consists of approximately 1,650 stalls for which the Developer will provide the land and improvements and approximately 588 stalls for which the Developer will provide the land and the City will provide the improvements as part of the Infrastructure Estimate) provided by Padres or the Developer as part of Phase 1, as described in Attachment B.

“Public Parking Facilities” means Parking Facilities not including Phase 1 Parking Facilities, as described in Attachment B.

“Stabilization Reserve Fund” means the fund described in Section XXXIV and Attachment F.

“Substantial Completion of the Ballpark Project” means that the Padres’ offices, clubhouse and other exclusive spaces are ready for occupancy, and that all other areas of the Ballpark Project have been finished to the Padres’ reasonable satisfaction, subject only to contractors’ punch lists.

“Substitute Ancillary Development” means development and construction of hotel and/or retail properties by other developers in the area in Centre City East shown on Attachment C, of a type comparable to the Phase 1 hotel and/or retail properties, which hotel and/or retail properties shall be credited against the Padres’ commitment for Phase 1 hotel and/or retail development and construction; provided, however, that the same Transient Occupancy Tax revenue and net available tax increment revenue reasonably expected to be generated by the Substitute Ancillary Development is at least the same as the Transient Occupancy Tax revenue and net available tax increment revenue reasonably expected to be generated by the comparable Phase 1 development. Notwithstanding the above, in no event shall the Phase 1 retail adjacent to the Outfield Park be less than 100,000 gross square feet and the Substitute Ancillary Development shall not include

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any development which has been proposed to CCDC, and for which plans and drawings have been created by the developer but not yet submitted to CCDC, as of August 4, 1998.

“Transient Occupancy Taxes” means taxes paid by users of hotel and motel rooms within the City, as more fully set forth in San Diego Municipal Code section 35.0101, et seq.

“Value Engineering” means a process of reviewing the program, design, plans and specifications for the Ballpark Project for the purpose of reducing costs wherever possible.

III. EFFECTIVE DATE AND TERMINATION

The City Manager shall be directed and authorized to sign this MOU on behalf of the City on the Certification Date. The Padres shall execute this MOU no later than August 3, 1998, and, by its signature on this MOU, the Padres irrevocably accept the terms of this MOU and agree to be bound by it if the Certification Date occurs, in which case the City Manager, the Agency and CCDC shall execute and deliver this MOU to the Padres. This MOU shall become effective upon its execution by all Parties and, unless otherwise agreed to in writing by the Parties, shall expire on March 31, 2000, unless the Conditions Subsequent set forth in Section XXXIII are satisfied, in which case this MOU shall continue in force and effect for the same term as any lease or other agreement for the use and occupancy of the Ballpark entered into between the City and the Padres pursuant to this MOU.

IV. BALLPARK DISTRICT

The City shall establish the District within, but not as a part of, the Centre City East Sub-area of the Centre City Redevelopment Project (“Centre City East”). The District shall be located adjacent to the Gaslamp Quarter and across from the Convention Center expansion. The boundaries of the District shall be established by the City Council, with the participation of the Padres, but shall generally be the boundaries of Centre City East south of Market Street. The Centre City Redevelopment Plan is not amended by this action to incorporate the District within it; however, the Agency and CCDC shall be responsible for the same activities within the District as for the Centre City Redevelopment Project.

The District initially shall be established for planning purposes only, and not as a separate legal entity. However, the City Council shall have the discretion to establish the District as a separate legal entity in the future, and to establish any necessary or appropriate legal entity to oversee planning or activities within the District (provided such entity includes the representation of the Padres), or the Agency may cause the Centre City Redevelopment Plan and Project to be amended to incorporate the District. The City Council may change the District’s boundaries at its sole discretion, when, in its judgement, circumstances warrant or require a change, provided that any change in the boundaries of the District shall not affect the Ballpark Project, the Padres’

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obligations pursuant to the MOU, or Phase 1 without the consent of the Padres.

V. SUMMARY OF BALLPARK PROJECT COSTS AND FUNDING

The following is a summary only of the Ballpark Project costs and funding:

1. Costs:

Ballpark	\$267,500,000
Land Acquisition and Infrastructure	<u>\$143,500,000</u>
Total	\$411,000,000

2. Funding:

Ballpark:

Padres/Private	\$ 81,000,000
City	<u>\$186,500,000</u>
Total	\$267,500,000

Land Acquisition and Infrastructure:

Padres/Private	\$ 34,000,000
City/CCDC	\$ 88,500,000
Other	<u>\$ 21,000,000</u>
Total	\$143,500,000

VI. BALLPARK PROJECT

The Ballpark Project shall be planned and constructed within the District. Subject to the approvals of the City and Agency as required by law, the precise location, orientation, footprint and configuration of the Ballpark Project within this District will be determined by the City and Padres. Any future changes made by the City in the boundaries of the District shall not materially affect either the Ballpark Project or Phase 1 without the mutual consent of the City

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and Padres. The Padres and the City shall collaborate in the planning of the Ballpark Project. The City and the Agency shall be responsible for the adoption of the plans and other legal documents, and the undertaking of the administrative acts within their respective jurisdictions necessary to facilitate construction of the Ballpark Project, as more fully set forth in this MOU.

The Ballpark Project Estimate shall not exceed \$411,000,000. The ability of the Parties to proceed with the Ballpark Project is specifically contingent upon funds in the amount of the Ballpark Project Estimate being secured as more fully set forth in this MOU.

VII. BALLPARK

The Ballpark shall be constructed within the District. The Padres or its agents shall be responsible for the design and construction of the Ballpark, including the selection of architects, contractors and project/construction managers. The Ballpark shall be designed in all its aspects for the playing and public exhibition of Major League Baseball in accordance with plans, designs, and programs approved by the Padres, and developed by or at the direction of the Padres; provided, however, that the City, Agency and CCDC shall have the opportunity to collaboratively participate in the design of the Ballpark, and that the development of the Ballpark shall be subject only to the approvals of the City or Agency as required by law.

The Padres will be responsible for developing all plans, designs, schemes, drawings and programs for the construction of the Ballpark, but the City, Agency and CCDC shall have the right to participate in the planning process. The Padres shall have final approval of the program, design, plans, specifications and timetable for construction of the Ballpark and, not later than February 1, 1999, shall provide to the City, Agency and CCDC a complete set of all documents evidencing and comprising the Final Baseline Ballpark Program. The City shall have the right to further review and comment on the Final Baseline Ballpark Program, and will provide any recommendations to the Padres on or before March 1, 1999.

The Ballpark Estimate shall not exceed \$267,500,000. The Padres shall be solely responsible for any and all development and construction costs for the Ballpark exceeding the Ballpark Estimate. Any change orders to the Final Baseline Ballpark Program during Ballpark construction shall be subject to the Padres' approval. Except for any change orders that cause the cost of the Ballpark to exceed, or that are made once the cost of the Ballpark exceeds, the Ballpark Estimate (which excess cost shall be paid by the Padres), any Major Change Order shall be subject to the City's approval, which will not be unreasonably withheld and which will be given, or presumed, within five (5) business days after written notice to the City of the Major Change Order. Once funds for Ballpark construction have been committed in the amount of \$175,000,000, no such City approval will be required if the change order is deemed necessary to stay within the Ballpark Estimate, provided such change order does not result in a material

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adverse impact on the Ballpark and on the fan's experience at the Ballpark. If the actual cost to develop and construct the Ballpark is less than the Ballpark Estimate, the first \$5,000,000 of any such savings shall be deposited into the Capital Expenditure Reserve Fund; any additional savings over and above the first \$5,000,000 shall be shared equally by the Padres and the City.

The Opening Date shall be in 2002. Notwithstanding the foregoing, but subject to the other terms and conditions of this MOU, the Parties shall work cooperatively and use their best, good faith efforts to accomplish the construction of the Ballpark so that the Ballpark may be open as early as possible. The Padres, City, Agency and CCDC shall each have no liability to the other Parties for failure to meet the Opening Date, provided they proceed with due diligence and in good faith, and meet their respective obligations regarding the acquisition of land and completion of infrastructure for the Ballpark Project as set forth in Sections IX and XI.

VIII. CONSTRUCTION ARRANGEMENTS FOR THE BALLPARK PROJECT

The Padres will select the architect, general contractor and project/construction manager for the Ballpark and Phase 1 Parking Facilities. The City, Agency or CCDC will select the architect, general contractor and construction manager for its Infrastructure and the Public Parking Facilities. The City, Agency or CCDC may elect to use for the construction of Infrastructure and Parking Facilities (to the extent the City is responsible for the construction of such Facilities) the architects and general contractors selected by the Padres. Subject to compliance with applicable law, the Parties will make these selections in order to meet the schedule set forth in Attachment E.

The Parties will provide each other with monthly progress reports and budget comparison statements throughout the Land Acquisition, Infrastructure and Ballpark construction process, and shall meet at least monthly to ensure that the Ballpark Project is on schedule and within budget. The Padres may retain whatever construction expertise they require in connection with the Infrastructure improvements, and the City, Agency and CCDC may retain whatever construction expertise they require in connection with the Ballpark Project. The Parties will ensure that their contractors work together cooperatively.

IX. LAND ACQUISITION COSTS

Subject to the cap set forth in Section XII, and except for the costs to be paid as part of the Padres/Private Investment, the City, Agency or CCDC shall be responsible for all Land Acquisition Costs, using monies available for the Ballpark Project as set forth in this MOU, and for making the land available for the construction of the Ballpark within such time that the Ballpark may be open by the Opening Date. Except as otherwise expressly provided in this MOU, the Padres shall not be responsible, either directly or as guarantor, for any Land Acquisition Costs.

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The Parties acknowledge that it is desirable that the land necessary for the construction of the Ballpark Project be obtained by negotiated purchase, and the Parties shall work cooperatively and in good faith to so acquire such land. However, if the necessary land cannot be acquired by negotiated purchase within such time that the Ballpark may be open by the Opening Date, the City or Agency shall exercise their powers of eminent domain (subject to any requirements of law, including hearings and findings) where necessary to secure the land within such time as is necessary to meet the Opening Date.

The Padres may acquire the necessary land through negotiated purchase at any time, and the Padres will collaborate with the City, Agency and CCDC in this regard. If the Padres acquire any such land, the Certification Date occurs and this MOU becomes effective, to effectuate the purposes of this Section, the Padres shall sell the land, upon the City's request, to either the City, Agency or CCDC for the price for which the Padres purchased the land, plus any customary acquisition and financing costs.

The Padres acknowledge that a significant portion of the land necessary to construct the Ballpark Project may have to be acquired through the exercise of the City's or Agency's power of eminent domain, and that there can be no assurance that the required eminent domain proceedings will be successful or, even if successful, that they will be concluded in a timely fashion or that possession of the necessary land will be obtained in a timely fashion. The necessary eminent domain proceedings shall be subject to the *force majeure* provisions of this MOU.

The Agency and CCDC will continue to perform the services necessary to expedite the Land Acquisition, entitlement process and design of the Ballpark and Phase 1, including (a) performing all site due diligence necessary to complete the EIR, complete the relocation plan, prepare Land Acquisition offers, and complete the environmental studies necessary for Phase 1, (b) preparing the District and Ballpark boundary survey and description, including preparing a base map to be used by the Ballpark design team prior to the start of schematic design, (c) engaging a design/consulting team to design and plan the utility relocations and public roadway improvements, and (d) performing all planning and preparation necessary to commence with condemnation, including preparing all Land Acquisition offers, notices and relocation plans and obtaining all necessary approvals (subject to any requirements of law, including hearings and findings).

Nothing in this MOU shall require the City, Agency or CCDC to incur any expense or obligation (except as expressly provided below) in connection with Land Acquisition Costs under this Section unless and until all the following have occurred:

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A. The City, Agency and CCDC have obtained funds from their financing of choice (i.e. lease revenue bonds, certificates of participation, or other) to meet their respective investment obligations for Land Acquisition Costs, and all applicable statute of limitations for bringing any action challenging the financing have passed, *or* a bridge loan or other interim financing is obtained in an amount sufficient for the City, Agency and CCDC to meet their respective investment obligations for Land Acquisition Costs (which such Parties will use their best efforts to obtain) until such time as funds from their financing of choice are obtained.

B. The Padres have provided the security for the Padres/Private Investment as set forth in Section XVIII.

C. The City receives sufficient assurances from the Padres and/or others that Phase 1 (including any Substitute Ancillary Development) and the 1,000 room Convention Center Expansion hotel will proceed and have the potential to generate the required new public revenue to help finance the City and Agency Investments.

X. PARKING

Subject to the cap set forth in Section XII, the City, Agency or CCDC shall be responsible for all costs incurred in connection with the development and construction of the Parking Facilities, except for those costs to be paid by the Developer for the Phase 1 Parking Facilities. Except as otherwise expressly provided herein, the Padres shall not be responsible, either directly or as guarantor, for the development or construction of the Public Parking Facilities. The design, configuration and operation of the Parking Facilities shall be subject to the Padres' reasonable approval. For the duration of the Ballpark occupancy agreement, the Public Parking Facilities shall accept validation, for 2 hours, at no cost to the Padres and/or their customers and/or patrons, to accommodate visitors to the Padres' offices and purchasers of Padres' merchandise and advance tickets. In addition, for the first 15 years of the Ballpark occupancy agreement, Lot P1 of the Public Parking Facilities shall accept validation, for 3 hours, at no cost to the Padres, the Developer, the Phase 1 retail tenants and/or their customers and/or patrons, to accommodate customers and patrons of the retail portions of Phase 1.

Subject to Bond Counsel Review, the Padres shall be responsible for selecting and contracting with any third-party operator(s) engaged to operate the Parking Facilities year-round. Any fee paid by such parking operator(s) for the right to operate the Parking Facilities shall be retained by the Padres.

Subject to Bond Counsel Review, any amounts invested by a parking operator in the construction, installation or equipping of the Public Parking Facilities may be applied on a dollar-for-dollar basis toward the satisfaction of the Padres' obligation to make the Padres/Private Investment.

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The Padres shall establish all prices for parking at the Parking Facilities during Padres' Games and Events. The City shall establish all prices for parking at the Public Parking Facilities during City Events, with the Padres' reasonable concurrence.

The Padres shall cause the Public Parking Facilities to be open to the public for general parking at non-event times, at competitive prices established by the City with the Padres' reasonable concurrence.

All expenses associated with the operation of the Public Parking Facilities, including all fees and expenses owed to the parking operator, shall be paid out of the gross revenue from the Public Parking Facilities. The contract with the parking operator shall provide that any expenses that exceed revenue are the parking operator's sole responsibility.

Net revenue from the operation of the Public Parking Facilities (i.e. gross revenue less all fees and operating expenses incurred in compliance with the parking operator's agreement) shall be shared, with the City retaining such revenue from City Events (on a net basis, after payment of all Incremental Ballpark Expenses for such events), and the Padres retaining such revenue from Padres' Games and Events. Parking revenue generated through any use of the Phase 1 Parking Facilities shall be retained by the Padres or the Developer. During the term of the Padres' occupancy of the Ballpark, the first \$250,000 (increased every five (5) years by cumulative C.P.I. since the previous C.P.I. increase (if any)) of annual net parking revenue generated through any non-event public use of the Public Parking Facilities, shall be deposited into the Capital Expenditure Reserve Fund; any excess in such annual net parking revenue shall be paid to the City.

XI. INFRASTRUCTURE

Subject to the cap set forth in Section XII, the City, Agency and CCDC shall be responsible for the planning and construction of, and all costs for, Infrastructure, as defined and set forth in Attachment A; provided, however, that the franchise utilities shall be responsible for making certain Infrastructure improvements (i.e., dry utility relocation) that are included within the Padres/Private Investment. The City agrees to work with the Padres and the private franchise utilities and take all steps necessary to provide that the private franchise utilities will relocate their respective systems and pay all costs therefor. In the event that such costs exceed the amount allocated for such costs on Attachment A, and the private franchise utilities pay for the full amount of such costs, the Ballpark Project Estimate and the Padres/Private Investment shall each be increased by the amount of such excess. In the event that such costs are less than the amount allocated for such costs on Attachment A, and the private utilities pay for the full amount of such costs, the Ballpark Project Estimate and the Padres/Private Investment shall each be reduced by the amount of such difference. In the event the amount of costs paid by the private

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franchise utilities is less than the total amount of such costs, such difference shall (a) be paid for out of the Padres/Private Investment to the extent that the total amount of such costs is less than the amount allocated for such costs on Attachment A and (b) be treated in the same manner as the other Infrastructure costs to the extent that the total amount of such costs exceeds the total amount allocated for such costs on Attachment A. Except as otherwise expressly provided herein, the Padres shall not be responsible, either directly or as guarantor, for any Infrastructure. The City or the Agency may contract with any entity for the construction of Infrastructure and may use a guaranteed maximum price contract.

XII. CAP ON EXPENSES FOR LAND ACQUISITION, PARKING AND INFRASTRUCTURE

The total of the Infrastructure Estimate and Land Acquisition Estimate shall be \$143,500,000. Except as specifically provided in this MOU, the City, Agency, CCDC and Padres shall collectively not be required to spend more than \$143,500,000 for Land Acquisition Costs and Infrastructure. If actual costs will exceed this cap, the City, Agency, CCDC and Padres shall endeavor cooperatively to locate additional funding. If actual costs are less than this cap, the City, Agency and CCDC shall (a) use any such savings to pay any Excess Land Cost (as defined in Section XXXI.C), (b) with any remaining savings being used to pay Off-Site Costs (as defined in Section XXXI.E), and (c) with any remaining savings being retained by the City, Agency and CCDC. Notwithstanding the cap on the total cost of Land Acquisition and Infrastructure set forth in this Section, the City shall be obligated to provide the Parking Facilities (other than any costs associated with the Phase 1 Parking Facilities to be paid by the Developer).

XIII. PREPARATION OF ESTIMATES

On or before January 1, 1999, the Padres will develop and submit to the City the Ballpark Estimate. On or before January 1, 1999, the City, Agency or CCDC will develop and submit to the Padres the Infrastructure and Land Acquisition Estimates, and estimate for the Public Parking Facilities. Prior to the establishment of these estimates, the program, design, plans and specifications for the Ballpark and the Infrastructure, Land Acquisition and Public Parking Facilities shall have been Value Engineered by the City and Padres.

XIV. TIMETABLE FOR DEVELOPMENT AND CONSTRUCTION

Subject to all other provisions of this MOU, the general target timetable for the development and construction of the Ballpark Project shall be as set forth in Attachment E, which may be amended by mutual agreement of the Parties from time to time.

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XV. CITY INVESTMENT

Subject to the other provisions of this MOU, the City shall provide not more than \$225,000,000 towards the construction of the Ballpark Project. These funds shall be provided based upon the financing of the City's choice (i.e., lease revenue bonds, certificates of participation, or other). The City shall determine in its sole discretion the sources of revenue to support its investment; however, existing sources of revenue in the City's general fund, and other non-general fund sources are available to support its investment. Any additional agreements between the Parties for Land Acquisition Costs, Infrastructure, Parking Facilities and the ownership, operation, maintenance, use and occupancy of the Ballpark shall be structured in such a manner that any financing of the City Investment for the Ballpark Project will be on a fully tax-exempt basis. The City Investment is also contingent upon the City receiving the assurances set forth in Section IX.C and XXXIII.B.

XVI. CITY FINANCING PLAN

The City's current pro forma for its investment in the Ballpark Project includes an annual financing payment to support a lease-revenue type financing, such as lease revenue bonds. The City's annual financing payment would be based in part upon certain existing revenue in the City's general fund and certain new revenue to the City's general fund as a result of Phase 1. The City believes that additional new development will occur in and around the District, including additional new hotel development on and around the San Diego Unified Port District's 10th Avenue Marine Terminal, which will provide new revenue to the City's general fund not currently in the City's pro forma. Such additional new hotel development is not confirmed or committed at the present time, and thus cannot support the City's annual financing payments; however, the City believes it appropriate that, in the future, its annual financing payment be based, to the greatest extent possible, upon revenue equal to an amount of new revenue to the City's general fund.

Accordingly, the City reserves the right to adjust its pro forma and the boundaries of the District in the future, provided that any such adjustments have no adverse effect on the Padres' rights or obligations. Any such adjustments would enable the City to base its annual financing payments, in part, upon an amount of revenue equal to amounts of additional new revenue to the general fund resulting from development on and around the 10th Avenue Marine Terminal, rather than an amount equal to an amount of existing revenues or growth in those existing revenues. For this reason, and because of the general benefits additional new development on and around the 10th Avenue Marine Terminal will bring to the City, the City and Padres conceptually support efforts of the Port District to stimulate or undertake such additional new development. Because Phase 1, guaranteed by the Padres, is a predicate and critical to the overall financing of the City and Agency Investments in the Ballpark Project, nothing in this

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Section modifies or alters the obligation of the Padres with respect to Phase 1 (including any Substitute Ancillary Development).

XVII. AGENCY INVESTMENT

Toward the Ballpark Project, the Agency and CCDC shall provide not more than \$50,000,000. The Agency Investment shall be a combination of equity and real property tax increment financing. Agency or CCDC money shall only be invested in Infrastructure and/or used for Land Acquisition Costs. Any additional agreements between the Parties for Land Acquisition Costs, Infrastructure, Parking Facilities and the ownership, operation, maintenance, use and occupancy of the Ballpark shall be structured in such a manner that any financing of the Agency Investment for the Ballpark Project will be on a fully tax-exempt basis. The Agency Investment is also contingent upon the receipt of the assurances set forth in Section IX.C and XXXIII.B.

XVIII. PADRES/PRIVATE INVESTMENT

Towards the Ballpark Project, the Padres and the private sector shall make an investment of \$115,000,000. The Padres/Private Investment may include, but may not necessarily be limited to, monies from Naming Rights; sponsorships; Concession Rights; vendors; founding partners and other fan programs; capitalized Padres' revenue and/or other Padres' sources; capitalized property and/or possessory interest taxes, net of all currently existing set-aside requirements (e.g., housing, county and school district); Developer Rights Fees; Padres' equity; private franchise utility contributions for utility relocations and equipment; and private donations and grants; and also interest on all such monies, and amounts expended by the Padres for the costs referred to in Section XLII (to the extent such costs are included in the Ballpark Project Estimate). Specific funding levels by source will be determined by the Padres and private sector.

The City shall assist and collaborate with the Padres in the effort to obtain such private sector funds. The sale by the Padres of any rights relating to the Ballpark Project (i.e., Naming Rights and Concession Rights) shall not extend beyond the Padres' term of occupancy of the Ballpark.

The City shall cause the financing of obligations secured by certain of these private payments (which may at least include, at the Padres' discretion, Padres' revenue and/or other Padres' sources, and net possessory interest and/or net property taxes), provided that the financing is reasonably acceptable to the City and the Padres provide appropriate assurances of such payments reasonably acceptable to the City, its bond underwriters, rating agencies and bond insurers; reimburse the City for the reasonable and necessary financing costs; and do not, during the term of any financing, contest the imposition or amount of any taxes used as security for such financing if the effect of success on such contest would render the City, in the City's discretion, unable to satisfy all obligations therefrom and coverage requirements associated with such a

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financing. The City shall maximize the amount of such proceeds from this financing by issuing the obligations at market rates, including only usual and customary financing charges and reserves, and on mutually agreed-upon terms. At the Padres' request, the City shall consider approving the refinancing of such obligations in the future if market conditions allow for improved borrowing terms, provided that the Padres reimburse the City for the reasonable and necessary financing costs of such refinancing. If the Padres elect to finance all or any part of the Padres/Private Investment without City involvement, payment of all debt service associated with such borrowings shall be the Padres' sole responsibility.

Approximately \$81,000,000 (30% of the Ballpark Estimate) of the Padres/Private Investment will be used for Ballpark construction; the balance will be used for Infrastructure and Land Acquisition Costs in a mutually agreed upon manner, but will include the private franchise utility contributions for utility relocation and equipment, and acquisition of the Outfield Park retail parcels (parcels R1, R2, R3, R4, and R5), as shown and referred to on Attachment B ("Outfield Park Retail Parcels"). If acquired in accordance with the terms of this MOU, title to the Outfield Park Retail Parcels will be conveyed to the Padres in consideration for the Padres' investment in Land Acquisition Costs as set forth in this Section XVIII. Retail Parcels R-3 and R-5 will be delivered to the Padres with the existing buildings on APN 535-352-12 and APN 535-353-11 in an "as is condition," and Retail Parcels R-1, R-2 and R-4 and the balance of Retail Parcels R-3 and R-5 will be delivered to the Padres as a clean site, ready for development. The Outfield Park Retail Parcels and Outfield Park will be subject to mutually agreed-upon appropriate reciprocal easement agreements, and operating and maintenance covenants to protect the respective interests of the Parties.

On or before April 1, 1999, the Padres will provide the City with a first priority lien on the Padres' National League franchise, to be released promptly upon the deposit by the Padres/private sector of \$50,000,000 in the Design & Construction Fund.

XIX. OTHER REQUIRED FINANCING INVESTMENTS

The City and the Padres will cooperatively endeavor to obtain from other public and quasi-public sources commitments to provide funds or financing for land, parking, transportation, infrastructure improvements, or other value reasonably acceptable to the Parties, sufficient to provide the \$21 million in added value needed to reach the Ballpark Project Estimate of \$411 million. The Parties will also work collaboratively to obtain other general assistance from other public and quasi-public sources.

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XX. DESIGN & CONSTRUCTION FUND

The City and the Padres shall establish the Design & Construction Fund as an interest bearing account. All payments for the costs of the Ballpark Project shall be made out of the Design & Construction Fund unless otherwise specifically agreed to in writing by the Parties. Within the Design & Construction Fund, separate accounts will be established for the Padres/Private Investment and the City Investment. The Agency Investment will be deposited into a separate fund. The City and the Padres will control the investments in their respective accounts; provided, however, that the City shall control the investments in the Padres' account to the extent such investments are allocated to Land Acquisition and Infrastructure. Expenditures for the Ballpark out of the Design & Construction Fund shall be under the joint control of the City and the Padres; provided, however, that the City and Padres shall establish, no later than December 1, 1998, a mechanism to ensure that all obligations approved by the Padres are satisfied in a timely and efficient manner. With the exception of other costs to be paid as part of the Padres/Private Investment, and the expenditures for the Ballpark out of the Design and Construction Fund, all other expenditures shall be under the sole control of the City. The City Investment and Agency Investment shall be deposited into their respective funds as soon as available. Notwithstanding the foregoing, the City will deposit, from its initial financing proceeds, at least \$215,000,000 into the Design & Construction Fund by the later of May 31, 1999, or 30 days after the certification of the Environmental Impact Report for the Ballpark and any necessary land use changes; provided, however, that the City, Agency and Padres shall use their best efforts to obtain such certification and financing proceeds as soon as reasonably possible. The Padres/Private Investment shall be deposited into the Design & Construction Fund in eight (8) equal quarterly payments commencing in June, 2000, subject to acceleration for any exigencies in the financing plan as reasonably determined by the City and the Padres. Interest earned on each account within the Design & Construction Fund shall count towards the Parties' respective funding requirements. The Parties will confer in good faith and agree, no later than December 1, 1998, on an estimated schedule of cash disbursements from the Design & Construction Fund, including the timing and amount of the bridge loan, to be provided or arranged by the City, Agency or CCDC necessary to meet the requirements of the schedule, but in no event shall such funds be disbursed prior to the Certification Date. As soon as expenses for the design and construction of the Ballpark Project are incurred, but no earlier than the Certification Date, payments of such expenses shall be funded by Agency equity and/or a bridge loan or other interim financing obtained by the City, Agency and CCDC (the type of financing to be at the City's discretion) to meet their respective investment obligations for the Ballpark Project, until such time as funds from their financing of choice are obtained. In the event the Padres elect not to proceed with the Ballpark Project on or before April 1, 1999, reimbursement shall take place based on the Parties' pro rata share of the Ballpark Project Estimate less the amount of other required financing investments as described in Section XIX.

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In the event the Conditions Subsequent set forth in Section XXXIII have not been satisfied by March 31, 2000, or such other date as the Parties mutually agree in writing, any funds remaining in the Design & Construction Fund accounts shall be returned to the respective Parties and any assets purchased for a Party with such Party's funds will be distributed to such Party.

XXI. OWNERSHIP OF THE BALLPARK

The Ballpark shall be owned by the City and the Padres. The Padres shall have a 30% divided minority interest, and the City shall have a 70% divided majority interest. The specific Ballpark components owned by the Padres will be determined by mutual agreement and set forth in the Final Baseline Ballpark Program, but will generally include the facilities made available to suite licensees and other premium seat owners, Padres' offices and other spaces, and Ballpark fixtures and equipment, as well other items to be determined in accordance with this Section XXI. The City and Padres will each be entitled to the tax benefits, if any, with respect to its ownership interest in the Ballpark.

The Padres' ownership interest in the Ballpark will transfer automatically to the City, without further consideration, and free and clear of all encumbrances, upon the expiration of the Padres' occupancy agreement for the Ballpark. To effectuate the purpose of this provision, the Padres shall execute and escrow the necessary documents upon execution of the Ballpark occupancy agreement.

Property and general liability insurance for the Ballpark shall be obtained in conjunction with the operation and management of the Ballpark, and the expense of such insurance shall be shared, as set forth in Section XXII.E.

XXII. OCCUPATION, OPERATION AND MANAGEMENT OF BALLPARK

A. Term of Occupancy

The Padres will commit to play Major League Baseball games at the Ballpark for the duration of the financing instrument used by the City to finance (and refinance, provided that such refinancing does not increase the term of the financing instrument or adversely affect in any other way the Padres' obligations) the Ballpark Project, or for thirty (30) years, whichever period expires first; provided that in no event shall the Padres' occupancy be for less than twenty-two (22) years. The Padres shall have two (2) five (5) year options to extend the lease term on the same terms (but without additional options) and conditions. To exercise these options, the Padres must provide one (1) year prior written notification to the City.

The Padres will be prohibited from relocating the Padres' franchise to a location other

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than San Diego, or from playing home games at any facility other than the Ballpark except as expressly provided herein and except for temporary relocation necessitated by casualty damage to the Ballpark, for the duration of any agreement for occupancy of the Ballpark between the Padres and the City.

The Padres will have the right to transfer ownership of the Padres' franchise during the term of any occupancy agreement for the Ballpark to the extent permitted by Major League Baseball, without any restrictions imposed by the City, so long as the new franchise owner agrees in writing prior to the transfer to assume all of the Padres' obligations under the occupancy agreement for the Ballpark for the balance of its term.

B. Rent

The Padres shall pay as rent to the City, for the right to use and occupy the Ballpark, the sum of \$500,000 each Padres' fiscal year (pro-rated, based on the Opening Date through November 1, in the year of the Opening Date) in equal semi-annual payments in July and December, commencing in the first year of the Padres' occupancy of the Ballpark and increased every five (5) years by cumulative C.P.I. since the previous C.P.I. increase (if any).

C. General Operation and Use of the Ballpark

The Padres will manage and operate the Ballpark, for both Padres' Games and Events and City Events as provided herein. The Padres shall have the right to use the Ballpark for up to 125 days each calendar year for Padres' Games and Events, including without limitation Padres' games, fantasy camps, baseball games and clinics, concerts and other events conducted by Major League Baseball clubs, each calendar year. The City shall have the right, without obligation to pay rent, to use the Ballpark for 240 days each calendar year for City Events, including without limitation Convention Center and other public uses, subject to priority of scheduling as described below.

The Padres will play all of their home games, whether exhibition, regular season or post-season, at the Ballpark, except that: 1) the Padres may play up to three (3) home games each season outside the continental U.S., such as in Hawaii or Mexico; and 2) the Padres may play, every three (3) years, one home series not exceeding five (5) games (in lieu of five (5) home games) in Asia.

No amateur or professional football games shall be played at the Ballpark. City Events shall not include any professional softball or baseball games. City Events may include amateur or high school softball or baseball games with the reasonable consent of the Padres.

City Events may take place year-round, provided that no City Events shall be held on the

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playing field during the Major League Baseball season or during the period from February 1 until opening day of each season (to protect spring turf growth on the playing field) without the Padres' reasonable consent. City Events shall have scheduling priority during the off-season and the Padres shall have scheduling priority during the period February 1 until the end of the Major League Baseball season (including the post-season if the Padres are participants therein). The Padres will actively assist the City in operating City Events so as to maximize the City's net revenue from those events.

The Padres will not schedule, without the City's prior written consent (which shall not be unreasonably withheld), any Padres' non-game events at the Ballpark estimated to attract more than 10,000 spectators on days that events have previously been scheduled at Qualcomm Stadium.

The Padres will make every reasonable effort to keep Major League Baseball an affordable family recreation activity at the Ballpark and will provide attractive and meaningful programs designed to keep Major League Baseball affordable for families in San Diego, including providing senior, military and children discount programs during each year of the Padres' occupancy of the Ballpark.

D. Management Responsibilities

The Padres shall be responsible for operating and managing the Ballpark for all events at the Ballpark in a first class manner. Subject to Bond Counsel Review, the Padres may, at their option, establish a separate management company owned and controlled by the Padres for the purpose of providing management services for the Ballpark in accordance with the terms set out herein. The expense of such operation and management shall be shared as set forth herein. Any rights fees paid by third-party contractors for the acquisition of rights to provide services in connection with the Ballpark Project shall be retained by the Padres. The Padres shall not enter into any contract or grant any rights with respect to the operation of the Ballpark Project that extend beyond the Padres term of occupancy of the Ballpark or are not terminable by the City upon default by the Padres under any agreement for the occupancy of the Ballpark.

E. Joint Ballpark Ownership Expenses

The City and the Padres shall share Joint Ballpark Ownership Expenses based on their respective ownership percentages, with the City paying 70% of those expenses and the Padres paying 30%; provided, however, that the City's annual share of such expenses shall be limited to \$3,500,000 in the first year of operation, and increased annually thereafter by the C.P.I. Payments by the City of its share of Joint Ballpark Ownership Expenses shall be made in 2 equal payments, on February 1 (or 3 months after the start of the Padres' fiscal year) and August 1 (or 6 months after the first payment) of each year based on the Padres' good faith estimate of the

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total Joint Ballpark Ownership Expenses and the City's share thereof; provided, however, that the City's payment for Joint Ballpark Ownership Expenses in the year of the Opening Date shall be paid on a pro rata basis (based on the Opening Date through November 1) in two equal payments on July 1 and November 1 in the year of the Opening Date. The Padres shall provide such estimate to the City on or before December 15 of the prior calendar year. The Padres will provide the City with a final reconciliation of the total Joint Ballpark Ownership Expenses and the City's share thereof together with any refund or request for additional payment within sixty (60) days after the end of the Padres' fiscal year. Joint Ballpark Ownership Expenses consist of: 1) salaries and benefits for year-round Ballpark supervisory staff; 2) property and general liability insurance for the Ballpark and its fixtures; 3) professional fees, including legal and accounting fees and expenses, for professional services paid to unaffiliated third parties directly related to the management of the Ballpark; 4) salaries and benefits for year-round event operations supervisors who supervise all Ballpark events; 5) utility costs for the Ballpark; 6) salaries and benefits for year-round repair and maintenance staff; 7) repairs and maintenance for the Ballpark and its fixtures, equipment and systems; 8) routine maintenance and upkeep for the Ballpark, including year-round cleaning and janitorial costs; 9) year-round security costs; 10) year-round field maintenance and landscaping costs; and 11) any other customary year-round, non-event specific expenses.

F. Incremental Ballpark Expenses

The City and the Padres shall each be responsible for the Incremental Ballpark Expenses for their own events. The Padres shall be responsible for Incremental Ballpark Expenses incurred in connection with Padres' Games and Events, and which consist of the following: 1) wages, benefits and incidentals paid to all event-day staff, including, without limitation, ushers, ticket-takers, ticket-sellers and fan assistance personnel; 2) event security; 3) on-site first aid and ambulance service; 4) event publicity and marketing; 5) concession services; 6) required licenses and permits; 7) event liability insurance; 8) video board and scoreboard event staff, entertainment and event production costs; 9) public address system operations; 10) post-event cleaning and trash removal; 11) custodial staff and maintenance personnel during events, such as electricians, plumbers, and air-conditioning, elevator and escalator service personnel, sound system and field crew, and scoreboard and video board maintenance personnel; 12) any costs for the preparation and set-up for games and events, including the cost for one-time upgrades to the facility such as the provision of electricity to a particular location; and 13) any other event expenses not part of Joint Ballpark Ownership Expenses.

The City shall be responsible for all Incremental Ballpark Expenses incurred in connection with City Events, including all event expenses of the type listed above for Padres' Games and Events. Incremental Ballpark Expenses incurred for City Events shall be paid in the first instance out of the revenue received by the City from that event (i.e., ticket, concession and

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parking revenue generated by City Events). The City shall also be responsible for all usual and customary City operations in connection with all Ballpark events, including traffic and public safety personnel outside the Ballpark in accordance with current practice.

G. Capital Expenditures

The City will designate all Capital Expenditures, if any, with the Padres' reasonable concurrence. Such Capital Expenditures shall be paid for in the first instance with funds on deposit in the Capital Expenditure Reserve Fund, to be established and controlled by the City and Padres. Capital Expenditures shall be made to preserve the Ballpark in first-class Major League Baseball condition. The Padres shall submit to the City, on or before November 1 of each year, a proposed budget of anticipated Capital Expenditures for the succeeding year. The proposed budget shall provide a detailed statement of the need for and cost of proposed Capital Expenditures. The City shall provide its response to the proposed budget on or before January 1 of the succeeding calendar year. In the event of an emergency requiring a Capital Expenditure or other Capital Expenditure not identified in the budget, the Padres shall notify the City as soon as possible after the discovery of the emergency or need for the Capital Expenditure, and the Padres and the City shall work together in good faith to address the need for the Capital Expenditure.

The first \$5,000,000 in Ballpark construction cost savings below the Ballpark Estimate shall be deposited into the Capital Expenditure Reserve Fund. The first \$250,000 (increased every five (5) years by cumulative C.P.I. since the previous C.P.I. increase (if any)) in net annual parking revenue generated through any non-event public use of the Public Parking Facilities shall be deposited by the City into the Capital Expenditure Reserve Fund. Interest income generated by the Capital Expenditure Reserve Fund shall constitute part of such fund. Any funds on balance in the Capital Expenditure Reserve Fund at the expiration of the Padres' occupancy agreement for the Ballpark shall belong to the City.

The Padres shall be responsible for Capital Expenditures that cannot be paid for in full out of the then remaining balance in the Capital Expenditure Reserve Fund. Any such amounts paid by the Padres shall be treated as an interest-free loan to the Capital Expenditure Reserve Fund, which shall be repaid to the Padres the following year using deposits made by the City, subject to the limitations set forth above, provided and to the extent that the balance in the Capital Expenditure Reserve Fund exceeds \$500,000. At the conclusion of the term of the Padres' occupancy agreement for the Ballpark, the Padres shall ensure through an independent qualified third party that all necessary capital improvements have been completed and that there are no deferred maintenance items.

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XXIII. CONCESSIONS

The Padres will select and contract with one or more concessionaires to provide concession services for all events at the Ballpark. To the extent legally permitted, the Ballpark concessionaires selected by the Padres shall have the exclusive right to offer concession services within the entire Ballpark Project, including the walkways surrounding the admissions gates and the Parking Facilities. Any amounts invested by a concessionaire in the construction, installation or equipping of the concession facilities for the Ballpark may be applied on a dollar-for-dollar basis toward satisfaction of the Padres/Private Investment.

The Ballpark concessionaires shall pay the same rates of commissions for concessions at City Events as are paid at Padres' Games and Events. The Padres shall determine all food, beverage and novelty items to be sold by the Ballpark concessionaires, and shall approve all prices for such products. The Padres shall consult with the City before approving products and prices for sale at City Events. The City shall have the right to sell its novelties at its events.

All fees paid to obtain Concession Rights within the Ballpark Project shall be retained by the Padres. All concession commissions payable in connection with concessions at Padres' Games and Events shall be paid to the Padres. Subject to any commissions due to the Padres from the sale of Padres' related merchandise, all concession commissions payable in connection with concessions at City Events shall be paid to the City on a net basis, after payment of all Incremental Ballpark Expenses for such events.

XXIV. ADVERTISING

The Padres shall have the exclusive right to sell advertising within all parts of the Ballpark Project, including (subject to all applicable laws) outside the Ballpark and on the exterior structure of the Ballpark and/or its systems. Unless otherwise determined by the Padres in its contracts with advertisers, all advertising sold by the Padres shall be displayed at the Ballpark Project at all events.

Advertising sold and/or otherwise provided by the Padres for display in or within the Ballpark may not be covered or obstructed without the Padres' consent. The City's Events shall not have title sponsors who are competitors of the exclusive Ballpark advertisers or sponsors. No sponsor of a City Event may remove or obstruct any Ballpark advertising sold by the Padres, or display temporary advertising signage of any type that conflicts with the Padres' advertising arrangements for the Ballpark.

All revenue from the sale of advertising and sponsorships within the Ballpark shall be retained by the Padres, except for permissible temporary advertising and sponsorships in connection with City Events.

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XXV. NAMING RIGHTS

Funds obtained from Naming Rights shall be retained by the Padres. The Padres shall have the exclusive right to solicit for and contract with persons or entities interested in purchasing Naming Rights (except with respect to the Public Parking Facilities). Any name proposed to be associated with the Ballpark shall be tasteful and not be a cause for embarrassment to the City and, to ensure this protection shall be subject to the City's consent (which will not be unreasonably withheld or delayed).

XXVI. UTILITIES

The Padres will be responsible for contracting with utility companies to provide all utility services for the Ballpark. Any rights fees or other revenue generated by those arrangements shall be retained by the Padres.

XXVII. PRIVATE SUITES

The Padres will have the exclusive right to license the private suites in the Ballpark for all events at the Ballpark, and to retain all resulting licensing revenue. The Padres shall determine the amount of all suite license fees and the costs of related amenities.

The Padres may grant private suite licensees the exclusive right to use their suites during all Ballpark events. Suite licensees will have the option, but not the obligation, to buy tickets to City Events as part of the suite license package, provided that such licensees shall not be admitted to such events without purchasing such tickets.

Revenue, if any, from the sale of admission tickets to the exterior seats of such private suites will be shared, with the City receiving such revenue from City Events on a net basis (after payment of all Incremental Ballpark Expenses for such events), and the Padres receiving such revenue for Padres' Games and Events.

XXVIII. PREMIUM SEATS

The Padres shall have the exclusive right to establish premium seat ownership rights at the Ballpark, and to determine all license fees and ticket prices for such seating, including but not limited to club seat ownership fees, one-time founders' fees or construction contributions associated with the purchase of such seating. All revenue from all premium seat ownership fees, founders' fees or related construction contributions shall be retained by the Padres.

Revenue from the sale of admission tickets to premium seating will be shared, with the City receiving such revenue for City Events on a net basis (after payment of all Incremental

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Ballpark Expenses for such events), and with the Padres receiving such revenue for Padres' Games and Events.

XXIX. USER FEES

The Padres shall have the exclusive right to charge a per-ticket user fee per paid admission for tickets to Padres' Games and Events. If the Padres charge such fee, they shall be accounted for separately by the Padres. Any such fee may be used for the purpose of providing funding for the Padres/Private Investment, either directly or by functioning as collateral for financing.

XXX. COMPLIANCE WITH LAWS

Each Party shall be responsible for compliance with all laws and regulations that may apply to the construction, use and operation of the Ballpark Project to the extent that such Party is responsible for that aspect of the Ballpark Project. The Padres shall have the lead responsibility during the Ballpark design and construction for ensuring compliance with all licensing, permitting and construction requirements, and with the design and access requirements of the federal Americans with Disabilities Act and any similar laws. To the extent the Parties purchase insurance or obtain contract protection with respect to construction of the Ballpark Project, the Padres and the City shall each ensure that the other Party has the same protections available to it with respect to coverage, including insurance and contract protection from general contractors, architects and other Ballpark Project professionals, from claims resulting from the Americans with Disabilities Act and any similar laws (if such protection can be obtained without significant additional cost; however, each Party may elect to pay any such significant additional cost); provided, however, that the Padres shall be responsible for any such claims in the event that the City provides the Padres with written notice of a violation of such laws and the Padres have the responsibility to remedy such violations and fail for any reason to remedy such violations. All actions required by this MOU shall be subject to all requirements of law, including any required hearings and findings.

All Parties to this MOU shall assure that equal opportunities are provided in contracting, sub-contracting and employment regardless of race, color, religion, sex, sexual orientation or national origin.

XXXI. CONSTRUCTION OF PHASE 1 AND OTHER ANCILLARY DEVELOPMENT

A. Components of Ancillary Development.

The Ancillary Development will include the construction of hotels, office buildings, retail

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space, as well as residential development and associated parking. The Developer will have the right to fine-tune its mix of hotel, office, retail, residential and other development space within the District at any time prior to the completion of Phase 1 (provided the Developer completes Phase 1 as required by this MOU) in order for the development program to respond to market conditions, subject only to the following sentence. The Developer's right to fine-tune the mix of development properties is conditioned upon (1) the Transient Occupancy Tax generated by, and the assessed values of, the Ancillary Development being at the completion of Ballpark construction at least what such amounts would have been as agreed upon by the parties on or before February 14, 1999 (although the Parties shall endeavor to agree on an interim preliminary pro forma with respect to such amounts on or before November 30, 1998) and (2) to the extent the property for Phase 1 was acquired from the Agency, any such changes being consistent with the fair reuse value analysis for the properties; provided that any such changes after the execution of the DDA shall be subject to any applicable laws. The Padres/Developer shall have the right to transfer all or part of these rights and obligations to an entity reasonably acceptable to the City and Agency, and the parties recognize that market demand shall be the critical determinant in the ability of the Padres/Developer to commit by April 1, 1999 to the high level of Phase 1 development contemplated. The Developer shall substantially complete Phase 1 and obtain an appropriate certificate of occupancy on or before March 31, 2002, and shall use its good faith, best efforts to accomplish this on or before January 31, 2002.

B. Location of Phase 1.

Phase 1 will be located within the boundaries of the District. The overall size and location of Phase 1, and the locations and configurations for each structure comprising it, will be designed by the Padres and/or the Developer, subject to negotiations with CCDC, and the City's and Agency's approval as required by law. The Substitute Ancillary Development must be located in the area set forth on Attachment C.

C. Developer's Purchase of Land.

If the Agency purchases or uses its powers of eminent domain to acquire all or any part of the land needed for Phase 1, and the Developer approves the terms on which such purchases are to be made, the Developer agrees to advance to the Agency, after the Certification Date, sufficient funds necessary to pay all costs for such purchase not to exceed \$25,000,000 in the aggregate ("Loans"). The Agency shall not be required to exercise its powers of eminent domain to acquire any property needed for Phase 1 to the extent that the cost of such property exceeds the available Loan proceeds. The Parties shall use their good faith best efforts in attempting to structure the Loans so that they are fully tax-exempt and are collateralized by a deed of trust. Costs shall include all funds necessary to pay for the land, including without limitation buildings, improvements, fixtures, equipment, relocation costs, goodwill and other costs associated with the

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acquisition of the properties ("All-In Costs").

In the event Phase 1 does not proceed for any reason, the Agency agrees to repay the Loans together with interest at a market rate, from funds available to the Agency amortized over a 10 year period. The Loans will be secured by a deed of trust on the properties purchased with the proceeds of such Loans; be the obligation of the Agency; and contain such other terms as are reasonably acceptable to the Agency and the Developer. The Developer and the Agency will use their good faith best efforts in attempting to structure the financing so as to make the Loans salable by the Developer in the secondary market.

In the event Phase 1 does proceed, the Agency (after review of all information customarily submitted by a developer) will permit the Developer to purchase the land at the lowest of its fair market value, its fair reuse value, or the Agency's All-In Costs, in accordance with and to the fullest extent permitted by law. If the Agency's All-In Costs turn out to be the lowest of those three amounts, but applicable law does not permit a sale at less than the lower of fair market value or fair reuse value, then the Agency will utilize the amount of the excess paid by the Developer over the All-In Costs ("Excess Land Cost"), on a parcel-by-parcel and dollar-for-dollar basis, for infrastructure and public improvement costs within the District (excluding dry utility costs), and for other development by the Developer, consistent with applicable law. Notwithstanding the foregoing, if there is one developer of Phase 1, the Excess Land Cost may be determined on an aggregate and dollar-for-dollar basis, for infrastructure and public improvement costs within the District (excluding dry utility costs), and for other development by the Developer, consistent with applicable law, as determined by the Developer. In the event of excess credit pursuant to the previous provision, the Agency and the Developer shall in good faith reach an equitable solution, to the fullest extent permitted by applicable law. The Agency and the Developer shall work cooperatively to determine the fair reuse value of such land within thirty (30) days after the Agency receives all information customarily required by the Agency. If the price for the land paid by the Developer is less than the Agency's All-In Costs for such land, the Developer shall finance such difference on the same terms as the Loans (including interest at a market rate); provided, however, that the Agency shall replace the trust deed with other collateral reasonably acceptable to the Developer (e.g., a pledge of tax increment) (for the Agency will no longer own the land previously encumbered by the trust deed), and the Loans re-collateralized in that manner again will be the obligation of the Agency; and contain such other terms as are reasonably acceptable to the Agency and the Developer. The Developer and the Agency will use their good faith best efforts in attempting to structure the financing so as to make the Loans salable by the Developer in the secondary market, which the Parties acknowledge is a material term of the loans.

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D. Developer Rights within the District.

For a period from the date of the MOU until three (3) years after the Opening Date, the Agency shall consult with the Developer on any Request For Proposal/Request For Qualifications ("RFP/RFQ") prior to issuance on the nature and scope of the RFP/RFQ. Such consultation shall apply for the blocks shown on Attachment D. For a period from the date of the MOU until three (3) years after the Opening Date, the Developer shall have an option (subject to Agency approval as provided below) to submit a proposal to acquire a site (or sites) from the Agency for development consistent with applicable law within the area shown on Attachment D, but only after Agency's review of all information customarily submitted by a developer, and only if such development is consistent with the applicable Planned District Ordinance ("PDO") requirements, and is economically feasible for the Agency in its judgment. If the Agency determines not to enter into a DDA on the terms proposed by the Developer on any such site(s), for a period of one year after such determination, if the Agency offers any incentives for development to any other developer on such site(s) that are greater than that which was offered to the Agency by the Developer, then the Developer shall have a Right Of First Refusal ("ROFR") for such development on such site(s) and with such incentives; provided, however, that if the Agency makes a counter offer to the Developer, which the Developer rejects, then the Agency may also offer to any other developer on such site(s) the same incentives (or less favorable incentives) as counter-offered to and turned down by the Developer, without being subject to the Developer's ROFR. The foregoing is subject to the provisions of Section XXXI.P.

E. Land Acquisition Process for Phase 1.

Except with respect to land purchased by the Padres/Developer, the Agency shall purchase and/or use its powers of eminent domain (subject to any requirements of law, including hearings and findings) to acquire title to or full control of all land required for Phase 1 (and if agreed upon between the City and the Developer after a request by the Developer and good faith consideration by the Agency, also for subsequent related development).

Regardless of whether the Agency or Developer purchases the land required for Phase 1, the Agency and Developer agree to negotiate in good faith for the payment of the Off-Site Costs (as defined below) based on the fair reuse value of each individual project parcel. If, based on a reasonable fair reuse value analysis conducted by the Agency, the Developer's project is deemed to be unable to sustain the Off-Site Costs, then the Agency shall pay such Costs if the combined Land Acquisition and Infrastructure Estimates exceed the actual costs for Land Acquisition and Infrastructure; if there is no such excess the Agency will treat the Developer as it customarily treats other developers with respect to other issues. Off-Site Costs consist of only the costs for the streetscape improvements adjacent to the Developer's individual projects and the costs of any wet utility relocations not paid by other sources.

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F. Master Developer.

The Padres shall have the right to select and contract with the Developer, including the right to negotiate for and retain all Developer Rights Fees and to include such fees in the Padres/Private Investment. The City agrees that the Padres may act as principal in the Developer to be formed by the Padres and other entities.

G. Necessary Development Agreements.

The City, Agency and the Padres, or the City, Agency and the Developer, shall promptly negotiate and enter into either (a) a Development Agreement and a separate Disposition and Development Agreement concerning Phase 1, or (b) a combined DA/DDA, on or before the date the PDO is adopted. These agreements shall give the Padres/Developer all requisite authority allowed under law to contract with developers for Phase 1. To the extent not previously accomplished, following the execution of those agreements, the Parties shall proceed expeditiously to process any remaining necessary land use changes, acquire the parcels needed for Phase 1 and to design and begin construction. The Padres and/or the Developer may request an amendment to the existing Centre City PDO generally consistent with the ROMA Urban Plan 4g Draft such that the Ballpark Project and Phase 1 development can be built. The amended PDO may establish standards for design within the District. The amended PDO may also provide flexibility to select among multiple alternative uses of blocks, and may permit the transfer of FAR among blocks in order to respond to market conditions, each with CCDC's concurrence, which will not be unreasonably withheld. The City agrees to consider expeditiously (but no later than 2 weeks before the date by which the Developer has to commit to Phase 1) and in good faith the adoption of the requested amendment. If the City does not adopt an amendment acceptable to the Padres and Developer, the Padres and Developer may decline to proceed with Phase 1, in which case the City and/or Padres may decline to proceed with the Ballpark Project.

H. Parity in Development Rights and Opportunities.

The Parties recognize the importance of the success of Phase 1 to the redevelopment of Centre City East, and the Parties therefore commit to each other to treat Phase 1 as projects of the highest priority. Accordingly, from the execution of the DA/DDA through the completion of Phase 1, the Agency and CCDC will treat the Developer as the primary and best development partner with which such Parties work. If the Agency or CCDC enters into a DA, DDA, owner participation agreement and/or similar development incentive agreement with a developer regarding development of a product type comparable to that required for Phase 1 that, when taken as a whole and fairly considered, contain rights more favorable than those given to the Developer, the Agency shall adjust the Developer's rights accordingly.

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I. Tax Issues.

Subject to any requirements of law (including any hearings and findings), the City or its designees agree to use the tax increment or an equivalent amount, net of any currently existing set-asides, pass through agreements and other obligations of the Agency, generated by Phase 1, including incremental property taxes, and Transient Occupancy Tax receipts, first to defray the public cost of the Ballpark Project to the extent required in this MOU and thereafter will consider in good faith such funds for reinvestment for public improvements within the District.

J. Fee and Tax Waivers.

In connection with the construction of Phase 1, and to the fullest extent permitted by law, the City and Agency shall waive and/or discount for the Developer the imposition of all taxes and fees customarily imposed on developers in their capacity as developers and/or their projects.

K. Limitations on New Taxes.

For the duration of the Ballpark occupancy agreement, if the City imposes, either directly or indirectly, any new or increased taxes, fees or assessments against the Padres with respect to the Ballpark Project (such as new or increased admission, ticket or entertainment taxes, sales taxes on admissions or tickets, parking taxes, transportation taxes or assessments, utility taxes, facility benefit assessments, possessory interest taxes or personal property taxes) above and beyond those already required to be paid under or already established by existing law as of August 4, 1998, then the Padres shall receive full credit for the amounts of such new or increased taxes, fees or assessments paid by the Padres against sums otherwise owed to the City under the Ballpark occupancy agreement or the DA/DDA (or other consideration in the event such sums are not sufficient to offset the required credit). The previous sentence shall not apply to (a) any new or increased taxes, fees or assessments already required to be paid under or already established by existing law as of August 4, 1998; (b) any assessments imposed pursuant to a favorable vote of taxpayers within an assessment district including the Ballpark Project, in which the Padres participate as a voter; and (c) any new or increased taxes, fees or assessments which are "generally applicable." In order to qualify as "generally applicable," a new or increased tax, fee or assessment (1) must apply City-wide; (2) must be payable by a substantial number of taxpayers in addition to the Padres; and (3) must not be an admission, ticket, entertainment or similar tax, fee or assessment.

L. Development Assistance.

The City shall promptly enter into an Economic Incentive Agreement with the Developer under City Council Policy 900-12, through which all permitted Enterprise Zone and other incentives, to the extent the proposed development meets the required criteria, including permit

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assistance and (as allowed by law) housing-impact fee waivers, shall be made available to the Developer, to the fullest extent allowed by law. The Agency agrees to give favorable consideration, to the extent permitted by applicable law (if all other applicable criteria are also met), to proposals from the Developer for the development of low and moderate income housing in the District, by which the Developer may use an amount equivalent to that portion of the Agency's 20% set-aside housing fund attributable to tax increment from Phase 1, for the year in which the proposal is made. In all cases, however, such proposals shall be subject to Agency review and approval as required by applicable law and as considered economically feasible in the Agency's judgement.

M. Expedited Development Processing.

To the fullest extent permitted by law, the City and CCDC shall expedite and give first-priority status to its processing of the Developer's land use, zoning and permit applications, the Developer's construction drawings, plans and specifications, and all similar or related submissions by the Developer concerning Phase 1.

N. Ballpark Protection Zone.

As part of the Centre City PDO amendment described above, the City and CCDC shall, subject to any necessary public hearings and compliance with applicable law, establish a zone extending around the entire perimeter of the Ballpark, as set forth in Attachment G, which will be treated as a "Ballpark Protection Zone" for purposes of Phase 1 and all further development subsequently authorized by the City. Within this zone, architectural and development controls will be addressed to protect the sight lines, shadow impact, general operation, architectural image and commercial value and integrity of the Ballpark.

O. Further Actions.

The DA/DDA(s) for Phase 1 will contain a provision stating that the Padres, Developer, City and CCDC/Agency agree to take any and all further actions as may be reasonably required or appropriate to evidence or effect the intent and purposes of the rights and obligations regarding Phase 1 and any subsequent related development, including without limitation collaborating to ensure the success of the redevelopment of Centre City East, Phase 1 and any subsequent related development, and collaborating with public and/or quasi-public entities and/or private landowners to obtain their support for Phase 1 and any subsequent related development.

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P. Sports Arena.

If the City/CCDC/Agency decides to construct a sports arena in San Diego, and the Padres (and/or any entity in which the Padres and/or its principals have an ownership interest) have a commitment from the NBA, NHL or team owner for an existing NBA or NHL franchise to relocate to San Diego or any NBA or NHL expansion franchise to be located in San Diego within 3 years after the date of such commitment ("Commitment"), the City shall (subject to any existing right of the current sports arena operator to operate and manage a new sports arena in San Diego) negotiate exclusively with the Padres concerning the rights to own, construct, use and/or operate that sports arena before conducting discussions of those issues with any other potential owners, developers, operators, managers or occupants. In the event the negotiations between the City and Padres do not lead to an agreement, the City/CCDC/Agency shall provide the Padres with a right of first refusal with respect to any such agreement to be entered into between the City and a third party, provided that at the time of the exercise of such a right, the Padres have a Commitment and are not in default under the Ballpark occupancy agreement. The rights of negotiation and first refusal under this paragraph must be exercised, if at all, during the first 10 years of the Padres occupancy of the Ballpark.

XXXII. EXTENSION OF TERM AT QUALCOMM STADIUM

The Padres will extend their use and occupancy of Qualcomm Stadium through the end of the 2001 Major League Baseball season or until the Ballpark opens for play. Such extension shall be governed by the same terms as apply to the Padres' current occupancy of Qualcomm Stadium, as reflected in the September 25, 1996, agreements between the Padres and the City, as modified by mutually agreed-upon financial terms to address the consequences of the City-Chargers arrangements for the 2000 season and beyond. The City and Padres acknowledge the existence of the City-Chargers agreement, and agree that the agreed-upon modifications for this extension, which will be contained in a fully integrated agreement not subject to any other agreement, cannot be inconsistent with the terms of the City-Chargers agreement. Unless otherwise agreed upon, the necessary agreement for the extension will be reached no later than October 1, 1998.

After the Padres occupy the Ballpark, the Padres will have, at no additional cost, access to the current Padres store (subject only to any agreement the City reaches with the National Football League for use of facilities for any Super Bowl), parking at Qualcomm Stadium (as provided below), and appropriately equipped ticket windows at Window C and offices to allow patrons of Qualcomm Stadium to buy tickets to Padres' games and other Ballpark events. On days Padres Games or Events are scheduled at the Ballpark, 2,500 parking spaces shall be available for patrons of the Padres (subject to Chargers' games and other high attendance events at Qualcomm Stadium); on all other days, a reasonable number of parking spaces shall be

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available to accommodate purchasers of tickets and patrons of the Padres store.

XXXIII. CONDITIONS SUBSEQUENT

A. The respective obligations of the Parties as set forth in this MOU are contingent upon the following (unless waived by the Parties):

1. The City's and Agency's ability to obtain financing for the Ballpark Project on terms reasonably acceptable to the City and on a fully tax-exempt basis, except for such financing based upon certain limited, agreed-upon Padres/Private Investment payments (which may at least include, at the Padres' discretion, Padres' revenue and/or other Padres' sources, and net possessory interest and/or net property taxes). Notwithstanding anything to the contrary contained in this MOU, the Parties will work together to maximize the amount of tax-exempt financing.
2. Occurrence of the Certification Date.
3. Full compliance with the California Environmental Quality Act has occurred.
4. The feasibility of completing Land Acquisition, environmental approvals, Parking Facilities and Infrastructure for the Ballpark Project within the cap set forth in Section XII is confirmed by April 1, 1999.
5. The ability of the City and Padres to obtain by April 1, 1999, sufficient additional financing investments, as set forth in Section XIX, to fund the Ballpark Project, or the Padres' agreement by that date to reduce the size of the Ballpark Project in light of the available funds.
6. The City and Padres agreeing on financial terms for the extension of the use and occupancy agreement for Qualcomm Stadium by October 1, 1998, as set forth in Section XXXII.
7. The Padres' continued good standing in Major League Baseball and Major League Baseball's approval of the terms of the MOU and the terms of any Ballpark occupancy agreement (to the extent such agreements exist on or before March 31, 2000).
8. The Padres' continued ability to pay its debts when and as due, and avoid insolvency or any form of voluntary or involuntary bankruptcy.

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9. The Parties reaching agreement on the schedule of disbursements from the Design & Construction Fund, as set forth in Section XX.

B. The obligations of the City, Agency and CCDC, as set forth in this MOU, are additionally contingent upon the following (unless waived by the City, CCDC and the Agency):

1. The City receives from the Padres and/or others, by April 1, 1999, the assurances set forth in Section IX.C.

2. The City receives from the Padres and/or Developer, by April 1, 1999, assurances that Phase 1 (including any Substitute Ancillary Development) will be substantially complete on or before March 31, 2002, and have the potential to generate the tax increment and Transient Occupancy Tax revenue necessary to help support the City and Agency Investments.

3. The Padres/Private Investment is secured as set forth in Section XVIII.

4. The State of California, on or before September 1, 1999, not eliminating Vehicle License Tax revenues (or any alternative revenue source substituted for such revenues as a result of negotiations between the State legislature and Governor, or as determined by the State legislature) to the City, or reducing those revenues to the City in an amount constituting more than 5% of the City's general fund budget at the time the reduction is effective; provided, however, that if this condition subsequent is not satisfied, the City shall reimburse the Padres in full for any out-of-pocket expenses incurred by the Padres up to that time for the Ballpark Project. Upon any such reimbursement, the Padres shall assign and deliver to the City all designs, plans, reports, renderings and other materials owned or controlled by the Padres and relating to the Ballpark Project to the extent any such materials were paid for by the reimbursement.

C. The obligations of the Padres, as set forth in this MOU, are additionally contingent upon the following (unless waived by the Padres):

1. The Padres commitment by April 1, 1999, to fund or obtain financing for all or part of the Padres/Private Investment.

2. Land acquisition is completed as set forth in Attachment E.

3. The initial City financing is executed as set forth in Attachment E.

EXHIBIT A

4. The Padres' ability to provide the necessary assurances to the City by April 1, 1999, that Phase 1 (including any the Substitute Ancillary Development) will proceed.

XXXIV. CREDIT ENHANCEMENT

The City intends to establish a Stabilization Reserve Fund for its financing of choice for the Ballpark Project. The Padres shall deposit certain sums into the Stabilization Reserve Fund from time to time under the circumstances and terms set forth in Attachment F.

XXXV. PADRES COVENANTS

In the unlikely event that the Padres file for bankruptcy protection, this MOU, and any lease or other agreement between the Parties regarding the Ballpark Project or Ballpark shall immediately be null and void, and the Padres' ownership in the Ballpark shall immediately revert to the City, unless specifically agreed to in writing by the City, Agency and CCDC.

In the construction of the Ballpark and Phase 1, the Padres shall use its good faith efforts to maximize the use of local contractors, sub-contractors and workers.

Should the City decide to transfer its ownership interest in the Ballpark Project, or lose that ownership interest as a result of foreclosure or similar action, the Padres will attorn to the finance instrument holders, or to any other transferee of the City who acquires the City's ownership, so long as the Padres are provided with a non-disturbance agreement in form and substance reasonably acceptable to the Padres.

XXXVI. CITY AND AGENCY COVENANTS

The City and the Agency covenant that, if there is no default of any lease or other agreement for the Padres' use and occupancy of the Ballpark beyond any applicable grace and cure periods, during the term of any such agreement the Padres shall quietly enjoy possession of the Ballpark pursuant to this MOU or any such agreement without hindrance or interference by the City or Agency, or any party claiming by, through or under them, on the dates and during the times it is entitled to such possession pursuant to the terms of such occupancy agreement, except as otherwise required by law.

XXXVII. OPTION TO PURCHASE AND RIGHT OF FIRST REFUSAL

If, at any time during the term of a lease or other agreement between the City and the Padres for the use and occupancy of the Ballpark, the City proposes to sell its interest in the Ballpark to a third party, the City shall first give the Padres a written offer to sell the City's

EXHIBIT A

interest in the Ballpark to the Padres on the same terms and conditions on which the City proposes to sell its interest in the Ballpark to such third party. The Padres shall have a period of 90 days to accept or reject the City offer. In addition, if at any time during the term of any lease or other agreement, the Padres wish to purchase the City's interest in the Ballpark and/or the City contemplates a sale of its interest in the Ballpark, the City shall negotiate exclusively and in good faith with the Padres to sell its interest in the Ballpark to the Padres for a period of 60 days before negotiating with other potential purchasers of the City's interest.

If, at any time during the term of any occupancy agreement for the Ballpark, the Padres propose to sell its interest in the Ballpark to a third party, other than in connection with a sale of the Padres' franchise or to an entity controlled by the Padres and/or its partners, the City shall have a right to approve such sale.

XXXVIII. MODIFICATIONS TO MOU

Except as specifically set forth in this MOU, this MOU may not be modified or amended without the affirmative vote of a majority of the electorate of the City voting at an election held for that purpose. The City Council may agree to amend or modify this MOU without a vote of the electorate only if such amendments or modifications do not materially: 1) decrease the rights or increase the obligations of the City; 2) increase the financial commitments of the City; or 3) decrease revenue to the City. Any modifications or amendments to this MOU must be in writing and signed by all the Parties.

XXXIX. IMPLEMENTATION

Subject to compliance with the California Environmental Quality Act and any other applicable laws, the Parties shall take all lawful actions, and enter into all legal agreements, within their respective jurisdictions, necessary to implement the purpose and intent of this MOU. Unless specifically directed or prohibited to act in a particular manner by this MOU, each Party shall have the discretion, within its respective jurisdiction, to implement this MOU in the manner that, in its best judgement, is in its best interests.

Prior to the Certification Date, the Padres shall have obtained such consents and approvals of Major League Baseball as may be necessary for the Padres to enter into and perform its obligations under this MOU and the additional documents required by this MOU (to the extent such documents exist at such time).

In light of the public vote and the Padres' guarantee of various aspects of the City's financing plan, the City shall share with the Padres the composition of the public funding sources and the Padres shall share with the City, on or before the Certification Date, the composition of the private funding sources.

EXHIBIT A

XL. BINDING EFFECT AND ENFORCEABILITY

Although the planning, construction, operation, management, use and occupancy of the Ballpark, Ballpark Project and Phase 1 shall be subject to the terms of more definitive agreements, which will encompass issues not addressed in this MOU, the Parties agree that the terms of this MOU will be incorporated into such other agreements. The Parties further acknowledge and agree that this MOU reflects the basic business deal between the Parties and is intended to be binding on the Parties, their respective successors and assigns; however, this MOU shall be binding on the Parties only as to the matters set forth in this MOU, and shall not bind the Parties regarding any other future proposal for the construction of a ballpark or other development anywhere in the City.

XLI. FORCE MAJEURE

Should any of the Parties be delayed in or prevented, in whole or in part, from performing any obligation or condition required by this MOU by reason of a Force Majeure Event, that Party shall be excused from performing that obligation or condition for so long as the Party is delayed or prevented from performing, and for a period of thirty calendar days thereafter, and any affected deadlines shall be similarly extended.

XLII. COSTS FOR NEGOTIATIONS AND PREPARATION OF DOCUMENTS

Each Party shall be solely responsible for its own legal, accounting, consulting and other professional fees and expenses incurred in connection with the planning and negotiation process for the Ballpark Project, and the negotiation and preparation of all agreements and documents required to implement the terms herein. If the Ballpark Project proceeds, the City, Agency, CCDC and Padres will be entitled to receive out of the Design and Construction Fund any existing development expenses and other soft costs, including those set forth in this Section XLII, related solely to the Ballpark Project (to the extent such costs are included in the Ballpark Project Estimate).

XLIII. NOTICE

Any notice, demand, complaint, request, or other submission under this MOU shall be in writing and shall be given by personal delivery to the persons designated below, with copies delivered as indicated, or by US Mail, Certified, return receipt requested, with copies mailed as indicated.

For the City: City Manager
 202 "C" Street
 San Diego, CA 92101

EXHIBIT A

Copy: City Attorney
1200 Third Avenue, Suite 1620
San Diego, CA 92101

For the Agency: Executive Director
202 "C" Street
San Diego, CA 92101

Copy: General Counsel
1200 Third Avenue, Suite 1620
San Diego, CA 92101

For CCDC: President
225 Broadway, Ste. 1100
San Diego, CA 92101

Copy: Bea Kemp, General Counsel
Kemp & Pratt
550 West C Street
San Diego, CA 92101

For the Padres: Lawrence Lucchino, President & Chief Executive Officer
San Diego Padres
8880 Rio San Diego Drive, Suite 400
San Diego, CA 92108
P.O. Box 122000
San Diego, CA 92112

EXHIBIT A

Copy: Alan Ostfield, Vice President & General Counsel
San Diego Padres
8880 Rio San Diego Drive, Suite 400
San Diego, CA 92108
P.O. Box 122000
San Diego, CA 92112

XLIV. COUNTERPARTS

This agreement may be executed in any number of separate counterparts and by each of the Parties in separate counterparts, each counterpart constituting an original, and all such counterparts constituting but one and the same agreement.

XLV. POSSESSORY INTEREST TAXES

The use and occupancy of the Ballpark or Ballpark Project may create possessory interests subject to taxation by the State of California. The City, Agency and CCDC shall have no liability for such possessory interest taxes. Any further or additional agreements regarding the Ballpark or Ballpark Project shall contain a provision that relieves the City, Agency and CCDC of any liability for possessory interest taxes for the use or occupancy of the Ballpark or Ballpark Project.

XLVI. REVIEW AND AUDIT

At its own cost and expense, each Party shall have the right to review and audit, upon reasonable notice, the books and records of any other Party concerning any monies due and owing to the requesting Party, or concerning the expenditure of funds received from the requesting Party. This right does not extend to books and records that do not, in any way, relate to or concern the accounting of monies as may be owed to the Parties from each other, or the expenditure of monies received from any other Party. Any additional agreement contemplated or required by this MOU shall contain appropriate provisions to implement this Section.

XLVII. OTHER PROVISIONS

The other documents required or contemplated by this MOU shall contain such other provisions, representations, warranties, covenants and indemnities as are customarily included in similar documents related to the development, construction and operation of Major League Baseball facilities.

EXHIBIT A

XLVIII. SUCCESSORS AND ASSIGNS

This MOU shall be binding upon and shall inure to the benefit of the Parties and their respective assigns; provided, however, that the Padres shall have no right to assign this MOU or its rights hereunder prior to the Opening Date.

XLIX. GOVERNING LAW

This MOU shall be governed by and construed according to the laws of California.

SAN DIEGO PADRES

CITY OF SAN DIEGO

By: _____

By: _____

Lawrence Lucchino
President & Chief Executive Officer

Michael T. Uberuaga
City Manager

REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO

CENTRE CITY DEVELOPMENT
CORPORATION

By: _____

By: _____

Michael T. Uberuaga
Executive Director

Peter Hall
President

EXHIBIT A

I HEREBY APPROVE the form and legality of the foregoing Memorandum of Understanding this ____ day of _____, 1998.

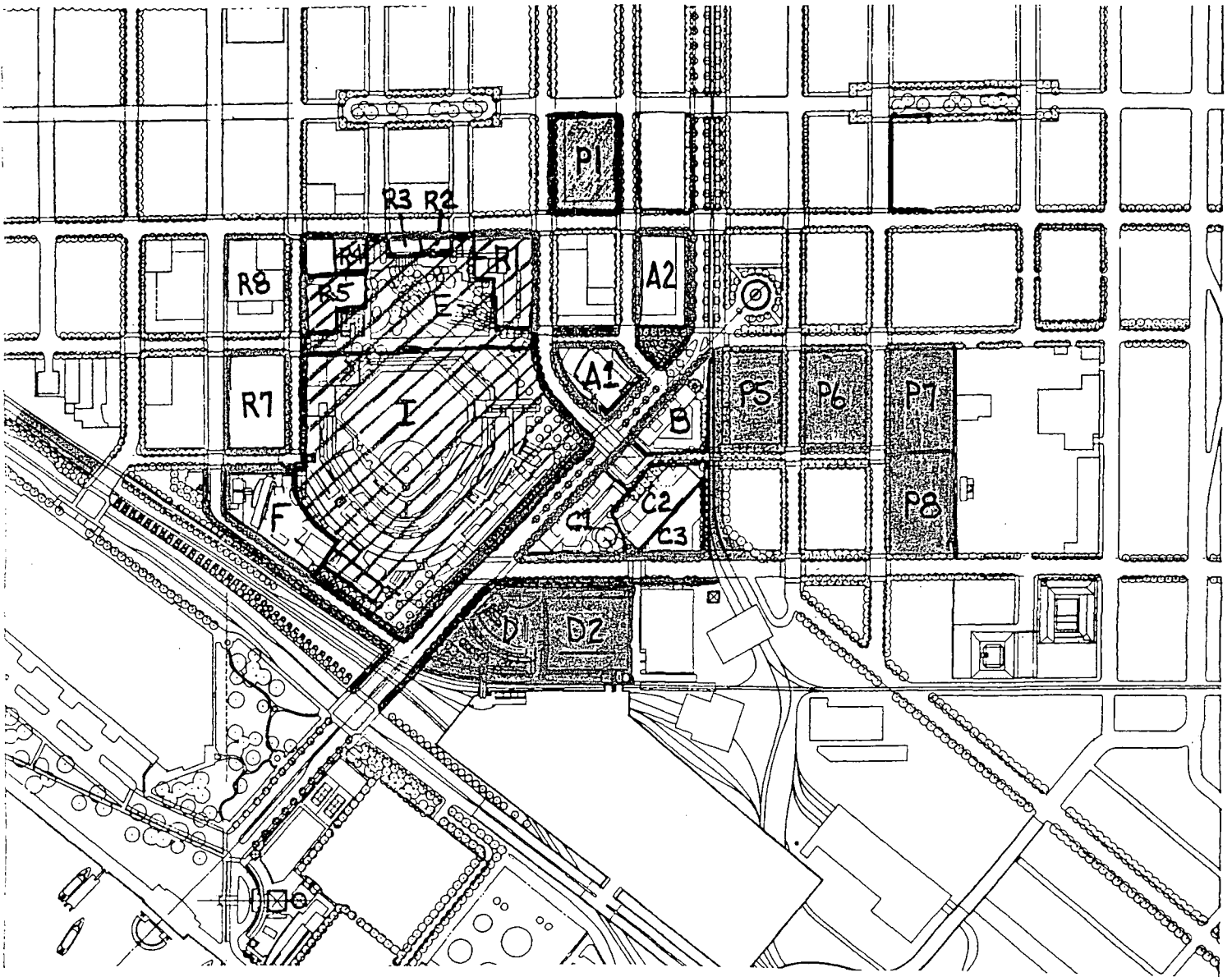
CASEY GWINN, City Attorney

By: _____

Leslie J. Girard
Assistant City Attorney

EXHIBIT A

**ATTACHMENT A
MAP OF INFRASTRUCTURE IMPROVEMENTS**



A BALLPARK DISTRICT FOR SAN DIEGO

INFRASTRUCTURE IMPROVEMENTS

- City/Ballpark Project Road Improvements and Utilities Relocation
- City/Ballpark Project Streetscape Improvements
- Private Developer /CCDC Streetscape Improvements
- City/Ballpark Project Park & Plaza Improvements (striped is sitework only)
- Surface Parking Lots – Phase I
- Structured Parking – Phase I
- Coaster Improvements

ATTACHMENT A - 1

BALLPARK PROJECT AREA

INFRASTRUCTURE EXPENSE SUMMARY

Project Infrastructure Improvements		Total Project Costs
1. Public Roadways		\$8,265,196
2. Ballpark parcel Site Work (Demo & Abatement)		\$2,190,015
3. Park and Plaza Site Work & Improvements		\$2,553,735
4. Parking Improvements		
Surface Parking Improvements		
D1	\$646,000	
D2	\$530,000	
P5	\$500,000	
P6	\$500,000	
P7	\$500,000	
P8	\$500,000	
Bldg. Abatement & Demo for P1& P5-P8 lots	\$1,811,500	
Structured Parking Improvements (P1)	\$10,000,000	
Parking Equipment Allowance	<u>\$750,000</u>	
Parking Improvements Subtotal:		\$15,737,500
5. Subsurface Hazardous Materials Allowance		\$1,000,000
6. Transit System Improvements		\$400,000
7. Site Utilities		\$14,376,000
8. Permits & Fees	3%	\$1,335,673
9. Architecture & Engineering	8%	\$3,561,796
10. Escalation	10%	\$4,452,245
11. Planning & Predevelopment		\$2,590,000
12. City Project Administration		\$1,281,000
13. Contingency		<u>\$3,845,740</u>
Total Infrastructure Costs		\$61,588,900

ATTACHMENT A-2

ROADWAY IMPROVEMENT DETAIL

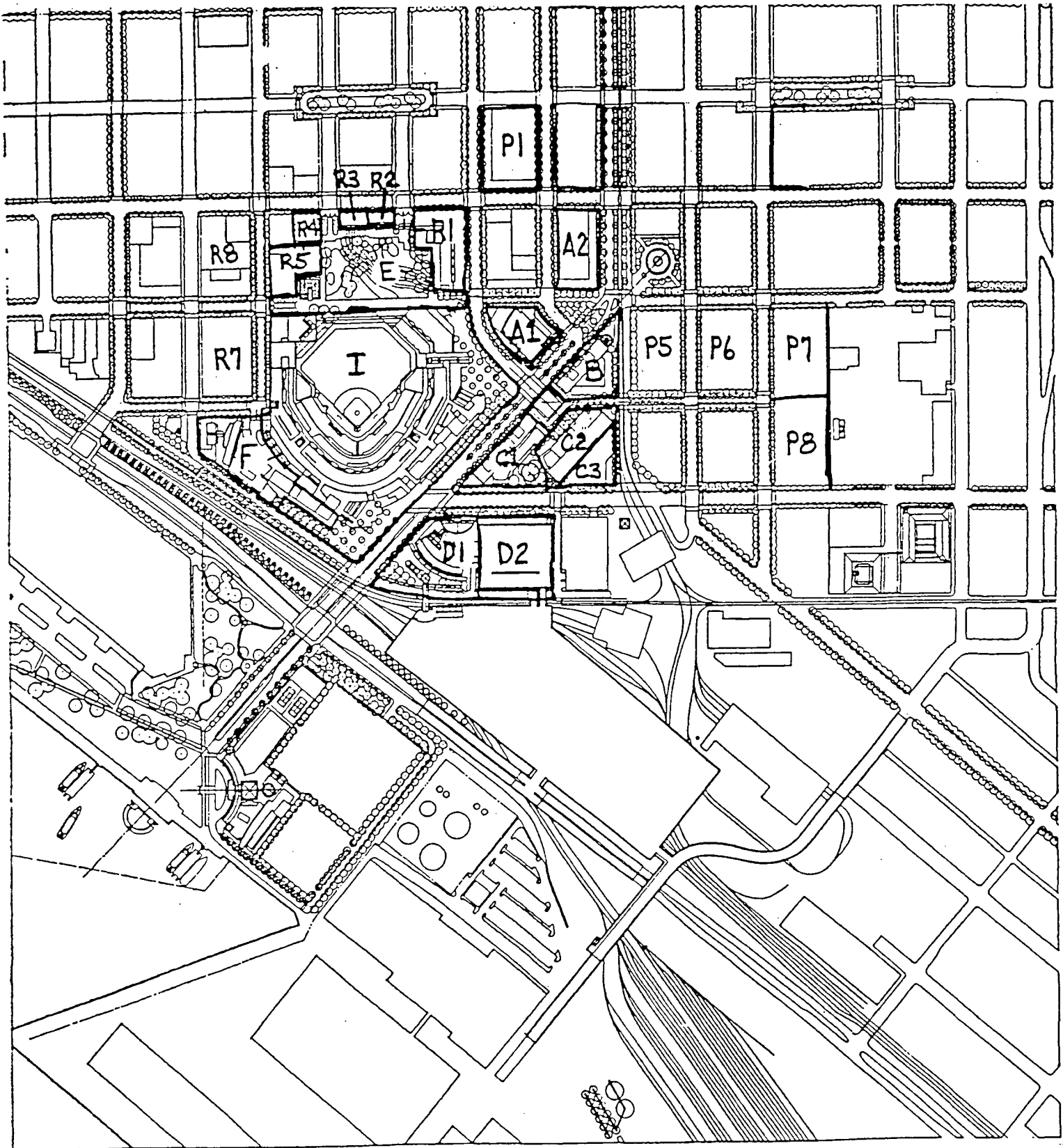
Ballpark Project:

Street	Segment	Direction
J St	7th - 8th (1/2)	south
	10th - 11th	north
	Intersection	8/J
	Intersection	9/J
	Intersection	10/J
	Intersection	11/J
	roadway	7th - 8th
	roadway	8th - 9th
	roadway	9th - 10th
	roadway	10th - 11th
	roadway	11th - Park
K St	10th - 11th	north
	roadway	10th - 11th
L St	6th - 7th (1/3)	south
Drop Off Dr.	L St - Park (1/2)	north-east
	L St - Park	south-west
	roadway	L - Park
Imperial	Park - Trolley	south
	roadway	Park/Trolley
Park Blvd	Drop Off - Imperial	north-west
	Intersection	Park/Imperial
	Imperial - 10th	north-west
	Intersection	10th/Park
	Intersection	11th/Park
	11th - K St	north-west
	Intersection	K/Park
	roadway	Drop - Imperial
	roadway	Imperial - 10th
roadway	10th - K	

ATTACHMENT A-2

Street	Segment	Direction
Park Blvd (cont.)	median Demo & Abatement Intersection Intersection Drop Off Dr - Imperial	diagonal Park Blvd. Harbor/Park Trolley/Park south-east
11th Ave	Island - J St K St - Park roadway roadway	west east J - K K - Park
10th Ave	Island - J St K St - Park intersection roadway roadway	east west 10/K J - K K - Park
7th Ave	K St - L St L St - Hotel roadway roadway roadway J - K St (existing bldg)	east east J - K K - L L - Hotel east

ATTACHMENT B
LAND ACQUISITION PARCELS



A BALLPARK DISTRICT

Prepared by ROMA Design Group

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ATTACHMENT B - 1

BALLPARK PROJECT AREA

LAND ACQUISITION EXPENSE SUMMARY

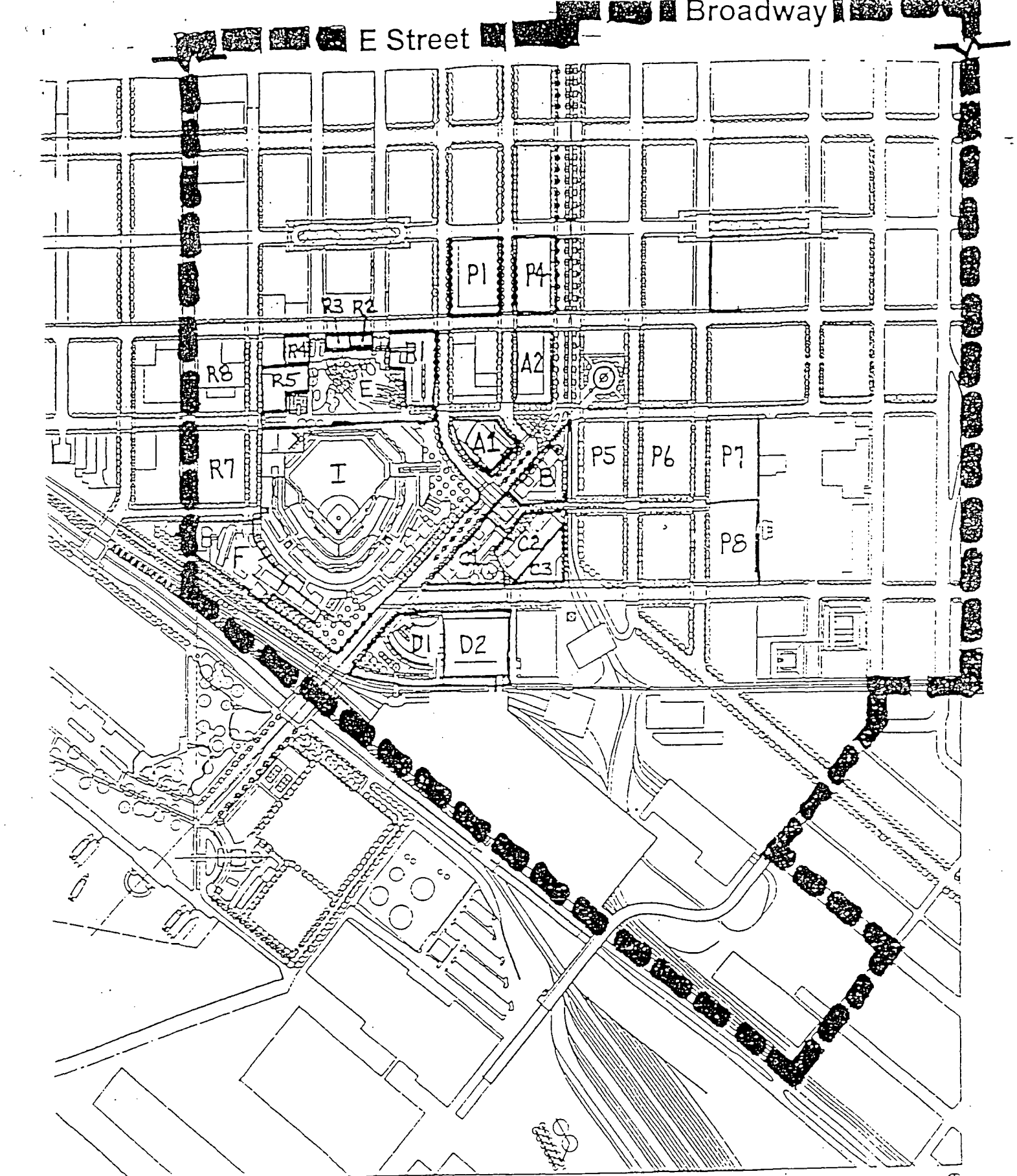
Project Parcel Acquisition	Estimated Acquisition Cost
Base Project - Ballpark, Outfield Park and Outfield Park Retail Parcels - Parcels I, E and R1-R5 respectively	\$49,583,000
Base Parking - Parcels P1, P5, P6, P7 and P8	<u>\$12,556,000</u>
Total Land Cost Before Contingency	\$62,139,000
Land Cost Contingency	<u>\$19,772,100</u>
Total Land Acquisition Costs	\$81,911,100

ATTACHMENT B-2

**SUMMARY OF 5,000 PARKING SPACES *
REQUIRED TO BE PROVIDED BY THE CITY
IN ADDITION TO OTHER PRIVATELY OWNED SPACES**

	<u>Site</u>	<u># Spaces</u>
1,800 publicly purchased land and developed surface and structured spaces:		
	P1	1,000
	P5	200
	P6	200
	P7	200
	P8	<u>200</u>
Subtotal		1,800
588 privately purchased land, publicly developed spaces:		
	D1	323
	D2	<u>265</u>
Subtotal		588
1,000 other existing spaces:		1,000
1,650 privately purchased and developed structured spaces:		
	A1	350
	A2	800
	C1	150
	C3	<u>350</u>
Subtotal		1650
TOTAL		<u>5,038</u>

* There are approximately 12,000 additional parking spaces within a 15 minute walk of the Ballpark for a total of over 17,000 stalls.



SOUTH EMBARCADERO CONCEPT

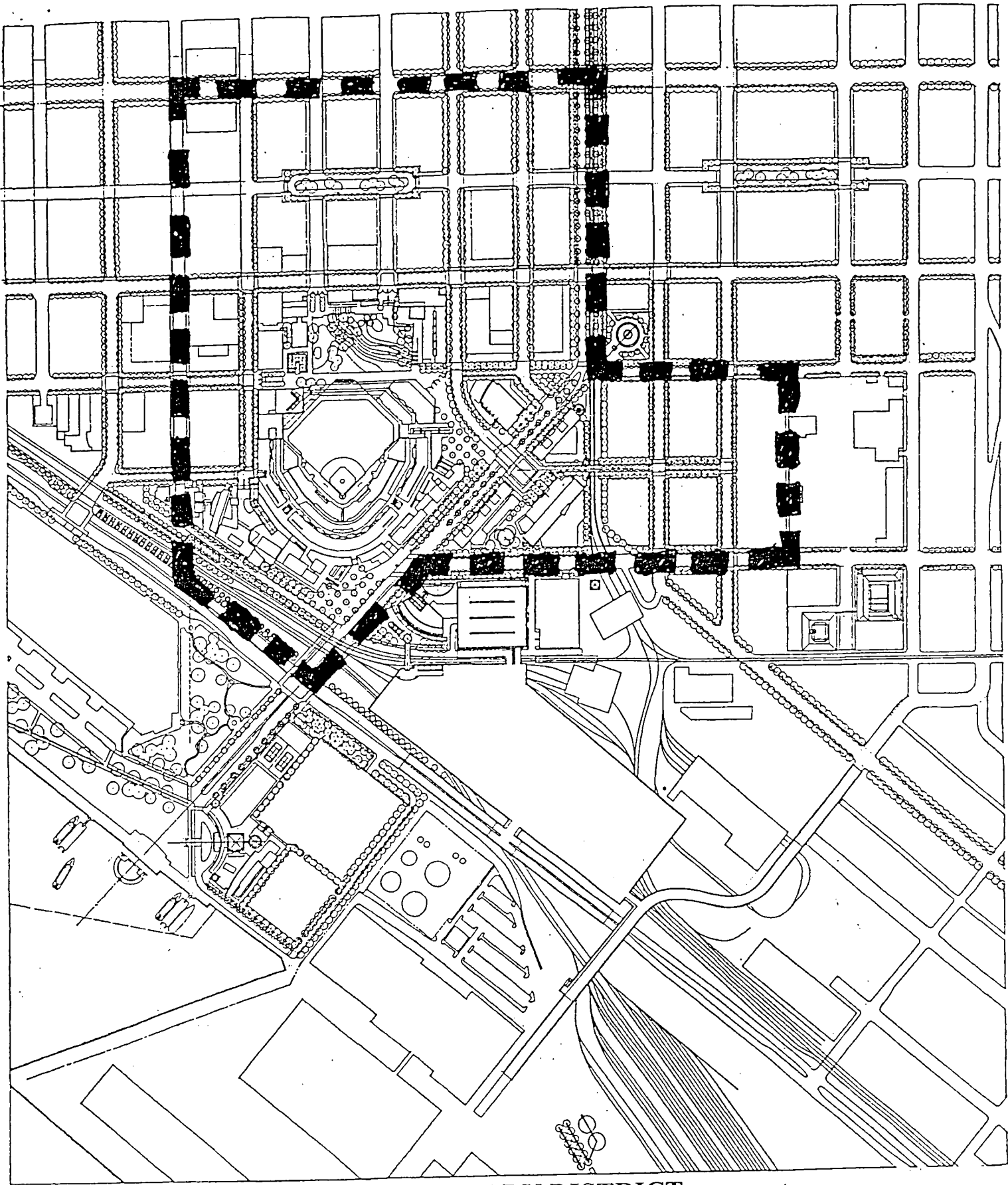
A BALLPARK DISTRICT

Prepared by ROMA Design Group

JUNE 1991

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ATTACHMENT C
HOTEL CREDIT ZONE 0-18565



A BALLPARK DISTRICT

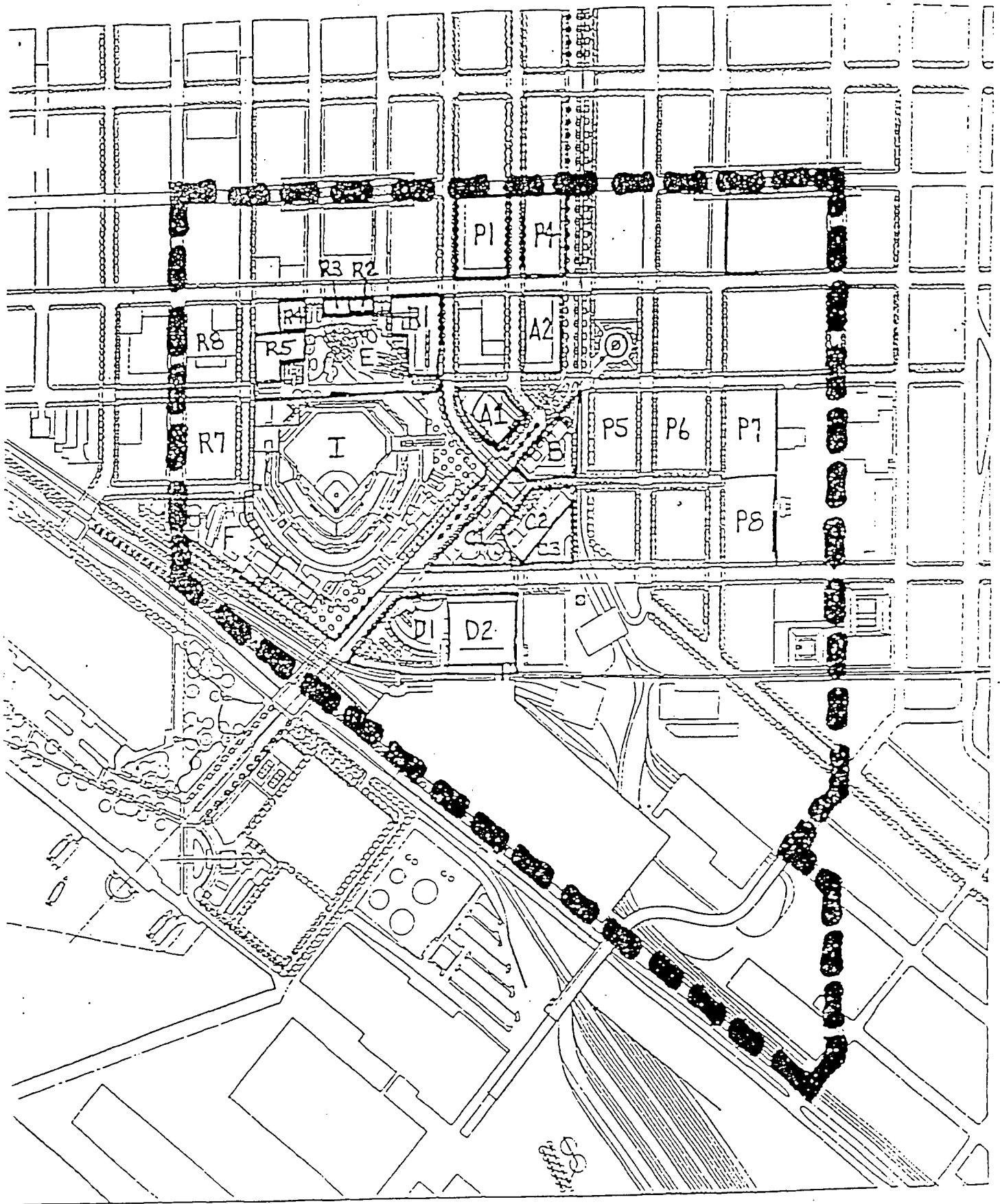
Prepared by ROMA Design Group

3 June 1998

Attachment C-1
Substitute Ancillary Retail Development

DRAFT

0-18565



A BALLPARK DISTRICT

Prepared by ROMA Design Group

3 June 1998

DRAFT

Attachment D
RFP/RFQ Zone

0-18565

GENERAL TARGET TIMETABLE

8/3/98	Padres execute MOU.
8/4/98	City Council approves ballot measure for submission to voters.
10/1/98	Terms agreed for extension at Qualcomm Stadium.
11/3/98	Ballpark Project vote.
12/3/99	Certification Date.
1/1/99	Budget Estimates for Ballpark, Land, Public Parking and Infrastructure finalized.
2/1/99	Finalize Baseline Ballpark Program and minimum design standards.
2/14/99	Finalize estimate of property/possessory interest tax and Transient Occupancy Tax revenue for Ballpark and Phase 1.
3/15/99	City comments on Final Baseline Ballpark Program and minimum design standards.
4/1/99	Finalize binding agreement with Padres, Developer and/or others for Phase 1 and receive assurances for Substitute Ancillary Development (if any) and 1,000 room Convention Center Expansion hotel.
4/1/99	Receive commitments for Other Required Financing Investments (\$21 million).
4/1/99	Receive Padres first priority lien on National League Franchise.
4/1/99	Execution of DDA or DA for Phase 1.
4/1/99	Begin land acquisition.
TBD	Finalize EIR and PDO amendment (if any).
TBD	Ballpark groundbreaking.

TBD	Execute City financing - 45 days after latter of certification of EIR, or adoption of PDO amendment.
6/1/00	Padres deposit first of eight (8) quarterly payments - subject to acceleration.
2/1/02	Substantial Completion of Ballpark Project.
3/1/02	Operational start-up of Ballpark.
3/31/02	Substantial Completion and Certificate of Occupancy for Phase 1.
4/1/02	Opening Date.
10/1/02	Deposit Ballpark construction savings (if any), up to \$5 million, into Capital Expenditure Reserve Fund.

**BALLPARK AND REDEVELOPMENT PROJECT
PADRES PROTECTION OF REVENUES**

Term: Ten years (FY 2002 through FY 2011 – using FY 2000 as the first base year for the rolling three-year calculation)

Termination Events: Construction and operation of 2,500 hotel rooms on the 10th Avenue Marine Terminal property, including the Campbell Shipyard Hotel

Maximum Total Guarantee: \$8 million over 10 years

Maximum Annual Guarantee: \$2.0 million

Purpose: Replenish the City Stabilization Reserve Fund (the “Fund”), which is equivalent to one-half the annual financing payment. The Fund is established to offset any fluctuations in revenue sources used to support the payment on the financing.

The Padres protection would provide funds to replenish the Fund in the event that the average revenue growth over the three previous years is less than 8% and it is necessary to use the Fund to make a portion of the annual payment on the financing.

Padres Payment: The Padres payment amount would be the lesser of the following calculation on the current fiscal year or on the last three years as illustrated in Exhibit 1 of this Attachment and would be made ninety (90) days after written notice to the Padres of the amount determined by the 1year/3year formula, as illustrated by Exhibit 1.

The Padres payment would be based on the ratio of the annual financing payment to the total receipts from the tax on hotel rooms. This ratio would then be applied to the shortfall in receipts from the tax on hotel rooms. The shortfall would be the difference between actual receipts from the tax on hotel rooms and the projected receipts from the tax on hotel rooms based upon an annual growth rate of 8%.

**BALLPARK AND REDEVELOPMENT PROJECT
PADRES PROTECTION OF REVENUES**

Reimbursement to the Padres: The Padres will be reimbursed with interest (at the Padres lowest cost of capital as certified by an independent certified public accountant) when receipts from the tax on hotel rooms grows at a rate greater than 8%.

The reimbursement to the Padres will be based on the ratio of the annual financing payment to the total receipts from the tax on hotel rooms. This ratio would then be applied to the surplus in receipts from the tax on hotel rooms. The surplus would be the difference between actual receipts from the tax on hotel rooms and projected receipts from the tax on hotel rooms based upon an annual growth rate of 8%.

Annual Payment Adjustments: To maintain the tax exempt status on any financing by any Party, any and all payment adjustments called for herein will be made through monetary additions to (or subtractions from) the Joint Ballpark Ownership Expenses provided for in Section XXII of the MOU, provided said adjustments shall be identical to the amounts called for herein.

Conditions to the Padres
Protection of Revenues:

- i) The City is not in default on any City obligations under the agreement for use and occupancy of the ballpark.
- ii) Any Padre payment does not exceed the maximum annual protection amount of \$2 million.
- iii) The sum of the current year Padre payment plus previous payments does not exceed the maximum aggregate protection amount of \$8 million.

**BALLPARK AND REDEVELOPMENT PROJECT
PADRES PROTECTION OF REVENUES**

Exhibit 1

Example:

If in 2005, growth in receipts from the tax on hotel rooms is 6% and the average growth in receipts from the tax on hotel rooms for the preceding three Fiscal Years was less than 8%, then a payment by the Padres to the Stabilization Reserve Fund would be required.

Year	Projected Receipts	Percent Change	Actual Receipts	Percent Change	Shortfall
2002	\$120.1		\$120.1		\$0
2003	\$129.7	8%	\$126.1	5%	(\$3.6)
2004	\$136.2	8%	\$134.9	7%	(\$1.3)
2005	\$145.7	8%	\$143.0	6%	(\$2.7)
3-Year Total					(\$7.6)

Padres Payment would be the lesser of the following calculations:

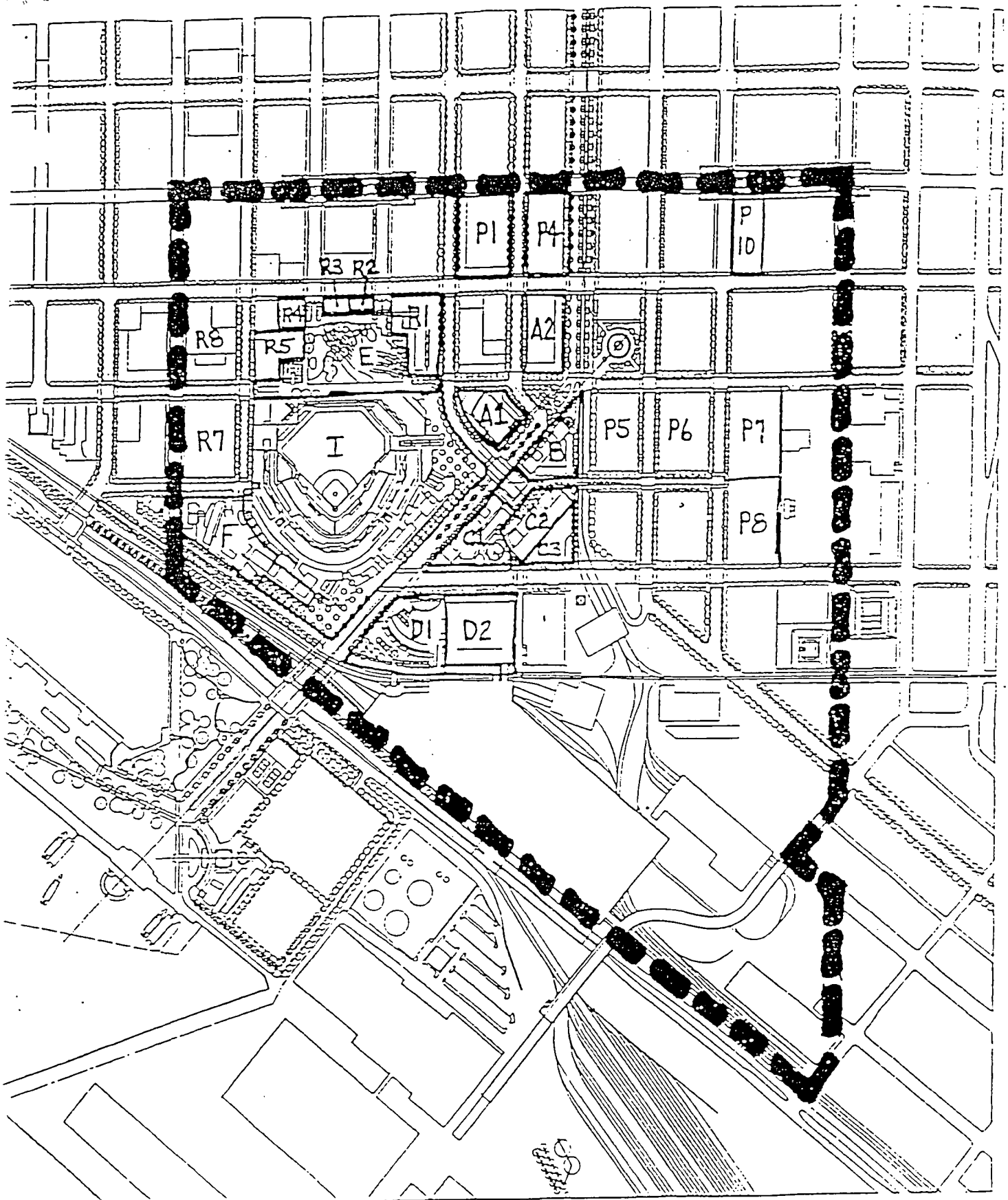
Hypothetical Option 1:

- (1) The Shortfall between projected receipts and actual receipts equals \$2.7 million for 2005.
- (2) The project financing payment (\$20.7 million) is 14% of total receipts from the tax on hotel rooms (\$143 million) in 2005.
- (3) **The Padre Payment would equal \$380,000, which is 14% of the \$2.7 million Shortfall.**

Hypothetical Option 2

- (1) The Shortfall between projected receipts and actual receipts for three years (2003 through 2005) is \$7.6 million.
- (2) The project financing payment (\$20.7 million) is 14% of total receipts from the tax on hotel rooms (\$143 million) in 2005.
- (3) **The Padre Payment would equal \$1.06 million, which is 14% of the \$7.6 million Shortfall.**

Thus, under these scenarios, the Padres would pay \$380,000, which is the lesser of the two options.



A BALLPARK DISTRICT

Prepared by ROMA Design Group

3 June 1998

DRAFT

Attachment G
Ballpark Protection Zone

0-18565