



PLANNING AND PRESERVATION COMMISSION

REGULAR MEETING NOTICE AND AGENDA

JUNE 5, 2018 – 6:30 P.M.

COUNCIL CHAMBERS
117 MACNEIL STREET
SAN FERNANDO, CA 91340

CALL TO ORDER

ROLL CALL

Chair Theale E. Haupt
Vice-Chair Alvin Durham, Jr.
Commissioner Yvonne G. Mejia
Commissioner Aida Montes
Commissioner Jennifer Perez-Helliwell

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

June 5, 2018

PUBLIC STATEMENTS – WRITTEN/ORAL

There will be a three (3) minute limitation per each member of the audience who wishes to make comments relating to City Business. Anyone wishing to speak, please fill out a form located at the Council Chambers entrance and submit it to the Commission Chair. When addressing the Planning and Preservation Commission please speak into the microphone and voluntarily state your name and address.

CONSENT CALENDAR

Items on the Consent Calendar are considered routine and may be disposed of by a single motion to adopt staff recommendation. If the Planning and Preservation Commission wishes to discuss any item, it should first be removed from the Consent Calendar.

- 1) Approval of the Planning and Preservation Commission minutes from April 3, 2018 meeting.**

CONTINUED BUSINESS

None

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1)	<p>SUBJECT: Site Plan Review 2017-019 and Variance 2017-002</p> <p>APPLICANT: Gensler, Inc. c/o James Spencer 4675 MacArthur Court, Suite 100, Newport Beach, CA 92660</p> <p>PROPOSAL: The proposed project is a request for approval of Site Plan Review 2017-019 for a parking lot reconfiguration, and Variance 2017-002 in order to allow for a portion of the required off-street parking spaces for the property located at 456 S. Brand Boulevard to be satisfied by an off-site parking agreement. The subject site is currently used as a Citibank commercial bank institution. The subject site consists of a parcel containing the off-street surface parking lot and a second parcel improved with an approximately 5,986 sq. ft. commercial building. In aggregate, the two parcels total approximately 20,445 sq. ft. land. The subject site is located along the east side of the 400 block of South Brand Boulevard, between Hollister Street and Coronel Street, within the C-1 (Limited Commercial) zone.</p> <p>RECOMMENDATION: Staff recommends that, subsequent to the presentation and consideration of any public comment, the Planning and Preservation Commission approval Resolution 2018-004 (Attachment No. 1) approving Site Plan Review 2017-009 and Variance 2017-002 which allows for a portion of the required off-street parking spaces to be satisfied by on off-site parking agreement for the property at 456 S. Brand Boulevard, subject to the conditions of approval attached as "Exhibit A" to the resolution.</p>
2)	<p>SUBJECT: Discussion Regarding City Procedure for Determination of Public Convenience or Necessity for Alcoholic Beverage Control License Issuance</p> <p>RECOMMENDATION: Subsequent to discussion by the Planning and Preservation Commission, staff seeks direction regarding forwarding recommendations to the City Council, if any, regarding the City's process for making a determination that public convenience or necessity would be service by</p>

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the issuance of a State of California Department of Alcoholic Beverage Control (ABC) license authorizing the sale and/or serving of alcoholic beverages.

If, in the future, you wish to challenge the items listed above in Court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Planning and Preservation Commission at, or prior to, the Public Hearing. Decisions of Planning and Preservation Commission may be appealed to the City Council within 10 days following the final action.

STAFF COMMUNICATIONS

None

COMMISSIONER COMMENTS

ADJOURNMENT

July 3, 2018

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.

Signed and Posted: Date and time

Agendas and complete Agenda Packets (including staff reports and exhibits related to each item) are posted on the City's Internet Web site (www.sfcity.org). These are also available for public reviewing prior to a meeting at the Community Development Department Public Counter. Any public writings distributed by the Planning and Preservation Commission to at least a majority of the Commissioners regarding any item on this regular meeting agenda will also be made available at the Community Development Department Public Counter located at 117 Macneil Street, San Fernando, CA, 91340 during normal business hours. In addition, the City may also post such documents on the City's Web Site at www.sfcity.org. In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification/accommodation to attend or participate in this meeting, including auxiliary aids or services please call the Community Development Department at (818) 898-1227 at least 48 hours prior to the meeting.



**CITY OF SAN FERNANDO
PLANNING AND PRESERVATION COMMISSION**

**DRAFT MINUTES OF THE
APRIL 3, 2018 MEETING
CITY HALL COUNCIL CHAMBER**

THE FOLLOWING MINUTES ARE A SUMMARY OF ACTIONS TAKEN BY THE PLANNING COMMISSION. AUDIO OF THE ACTUAL MEETING ARE AVAILABLE FOR LISTENING AT: <http://ci.san-fernando.ca.us/commissions-boards/#1477946968325-c2faf7a0-5a49>

CALL TO ORDER

The meeting was called to order by at 6:30 p.m. by Theale Haupt

ROLL CALL

The following persons were recorded as present:

PRESENT:

Chairperson Theale Haupt, Vice-chair Alvin Durham, Commissioners Yvonne Mejia, and Aida Montes

ABSENT:

Commissioner Jennifer Perez-Helliwell

ALSO PRESENT

City Attorney Richard Padilla, Community Development Director Timothy Hou, Community Development Secretary Michelle De Santiago, Building and Safety Supervisor Francisco Villalva, and Planning Intern Sam Dominguez

PLEDGE OF ALLIGENCE

Led by Vice-chair A. Durham

APPROVAL OF AGENDA

Vice-chair A. Durham moved to approve the agenda of April 3, 2018 meeting. Seconded by Commissioner Y. Mejia the motion carried with the following vote:

AYES:	A. Durham, Y. Mejia, A. Montes, and T. Haupt
NOES:	None
ABSENT:	J. Perez-Helliwell
ABSTAIN:	None

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PUBLIC STATEMENTS

Mike Traba – 1601 Lucas Street – Mr. Traba stated that he has lived at his place of residence for the past 42 years and he asked about the project timeline for street resurfacing. He stated that the only activity on his street to address the potholes has been quick patches which are only temporary repairs.

T. Haupt suggested that he attend the City Council meetings and ask that his street be considered for resurfacing.

CONSENT CALENDAR

Vice-chair A. Durham moved to approve the minutes of the Special Planning and Preservation Commission Meeting of January 17, 2018 and the Regular Planning and Preservation Commission Meeting of March 6, 2018. Seconded by Commissioner Y. Mejia, the motion carried with the following vote:

AYES:	A. Durham, Y. Mejia, A. Montes, and T. Haupt
NOES:	None
ABSENT:	J. Perez-Helliwell
ABSTAIN:	None

UNFINISHED BUSINESS

None

PUBLIC HEARING

Site Plan Review 2015-017 (SPR 2015-017), Conditional Use Permit 2016-001 (CUP 2016-001), and Variance 2016001 (VAR 2016-001) – 925 Harding Avenue, San Fernando, CA 91340 – St. George Church, (Edgar Aramouni) – The proposal is a request to rehabilitate an existing 4,290 square foot sanctuary building for St. George Church by adding 355 square feet to the front entrance and to reconfigure the on-site restroom facilities and ADA ramps for the subject site at 925 Harding Avenue. In addition to the existing sanctuary building the subject site is improved with a 4,606 square foot single story fellowship hall, 66 on-site parking spaces and approximately 6,969 square feet of perimeter landscaping. The subject site is a through lot with street frontage along its easterly and westerly property lines facing Harding Avenue and Workman Avenue, respectively. The project would require the reaffirmation of a previously approved variance from City Code Section 106-822(b)(6) to allow for the construction of 355 square feet to the front of the existing church sanctuary without providing the required number of on-site parking spaces. Additionally, the project would require the reaffirmation of a previously approved conditional use permit for the continued operation of the existing church use in the R-1 (Single Family Residential) zone, pursuant to City Code Section 106-353(1).

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STAFF PRESENTATION

Community Development Director Timothy Hou gave the staff presentation recommending that the Planning and Preservation Commission approve Site Plan Review 2015-017, Conditional Use Permit 2016-001, and Variance 2016-001, which amend and modifies the previously approved Site Plan Review 2003-001, Conditional Use Permit 1992-10 and Variance 2003-007, respectively, to allow for the construction of an approximate 355 square foot single story addition to the existing church sanctuary facility and to allow for the continued operation of a church use at 925 Harding Avenue, subject to the conditions of approval attached as Exhibit “A” to the resolution

PUBLIC COMMENT

Edgar Aramouni stated that he is representing the church and that he has read and accepts all of the conditions being imposed on the project and is available if the Commission has any questions.

Mike Traba – 1601 Lucas Street – Mr. Traba stated there ongoing parking issues with the parishioners who block the driveways of the neighboring residence and those who park on the corners of the streets causing an obstruction of view.

Louis De La Cerda – 1409 Warren Street – Mr. De La Cerda stated that he has had to contact the Police Department because of the cars parked in front of the fire hydrant and parking on the corners cause traffic hazards of vehicles having to drive into oncoming traffic to get around the double parked cars. He would like the commission to take into consideration his concern with the traffic and parking issues associated with the activities at the church.

Jill De La Cerda – 1409 Warren Street – Ms. De La Cerda indicated that she has been blocked in her driveway in the past. She indicted that there is already a parking issue with the close proximity of Pioneer Park and the traffic and parking associated with little league games or festivities. She indicated that she does not oppose the church but that the parishioners should respect the surrounding neighbors.

Richard Olivares – 1412 Warren Street – Mr. Olivares indicated that the parking issues are a result of poor planning on behalf of the church. He indicated that all of the activities at the church are private functions, that there are no community activities or at least he doesn’t feel welcomed to attend any of the functions at the church. He stated that he is glad that they have a place of worship but that parishioners should be respectful of the neighborhood.

Enrique Arias – 1405 Warren Street – Mr. Arias stated that there should be mutual respect between residents and church members.

Andy Swan – Vice-President of the Board of Trustees for Saint George’s Church – Mr. Swan stated that he is surprised by the comments that are being made about the church not being welcoming to guests. He wants to make it clear that the church is open to everyone and the doors are always open. He thanked the City and the community for allowing the church and it’s

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members to have a place to practice their religion. He wants to assure the public that he will address and resolve and problems that may arise associated with this proposal and all of the issued that have been expressed at tonight's meeting with professionalism.

COMMISSION DISCUSSION

A. Montes commended the church for maintaining and creating a beautiful proposal. She indicated that she has never experienced any negativity from the church or its members. She stated that parking is a city-wide issue and it may be an on-going issue with all of the churches within the City.

Y. Mejia thanked the resident for the attendance at tonight's meeting, she indicated that parking is an issue in all of the residential areas and it may be attributed to the additional housing that is being allowed to be developed. She stated that she is concern with the hazards that are being created with vehicles parking at the corner of the streets. She asked if the church has considered "Valet Parking" or a "Carpool Service".

R. Padilla indicated that the project proposal will not intensify the current use.

Y. Mejia indicated that she wants to make sure that the community's concerns are being addressed.

A. Durham asked how the church can help with the on-site parking issues.

A. Montes stated that the homes in the City were originally built when there only existed one-car households. She stated that nowadays home have at least three cars per household if not more.

T. Haupt stated that the vehicles parked on the corners will be towed. He asked if the church has considered stacked parking. He stated that the church and its members need to be good neighbors. He agreed that there is a city-wide parking issue and that his decision is not based on the street conditions or the lack of parking city-wide. He indicated that maybe the church can have lot attendant.

A. Swan indicated that there are members of the church who are training scouts who are parking attendants.

R. Padilla indicated that if the Commission is in agreement you can impose the valet parking as a condition of approval. Additionally, you can request a stacked parking plan to be submitted for on-site parking with the conditions of approval.

T. Haupt asked Mr. Swam if he can commit to submit a parking plan and have scouts on the street and all vehicles parked causing a hazard will be towed.

A. Swan stated that you have his word on those items as well as that the church congregation is shrinking in size because the church has recently opened another parish.

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Subsequent to discussion Commissioner Y. Mejia moved to approve Planning and Preservation Commission Resolution 2018-003 approving Site Plan Review 2015-017, Conditional Use Permit 2016-001, and Variance 2016-001 which amends and modifies the previously approved Site Plan Review 2003-001, Conditional Use Permit 1992-10, and Variance 203-007, respectively, to allow for the construction of an approximate 355 square foot single story addition to the existing church sanctuary facility and to allow for the continued operation of a church use at 925 Harding Avenue, subject to the conditions of approval attached as “Exhibit A” to the resolution including additional language for street scouts and a stacked parking plan that will be due within 30 days. Seconded by Commissioner A. Montes, the motion carried with the following vote:

AYES:	Y. Mejia, A. Montes, A. Durham, and T. Haupt
NOES:	None
ABSENT:	J. Perez-Helliwell
ABSTAIN:	None

STAFF COMMUNICATIONS

T. Hou introduced Sam Dominguez and informed the Commission about the two department vacancies (Part Time Code Preservation Officer and Associate Planner), top candidates have been selected and should be on board soon.

COMMISSION COMMENTS

Y. Mejia wrote a memo requesting that the Commission review the Public Convenience and Necessity requirements and language in the code.

A. Durham asked about the school on Fourth Street and the lack of parking enforcement for the cars that are parked along Fourth Street during the school hours.

PUBLIC STATEMENTS

None

ADJOURNMENT

Vice-Chair A. Durham moved to adjourn to the Regular Meeting date of May 1, 2018. Second by Commissioner A. Montes, the motion carried with the following vote:

AYES:	A. Durham, A. Montes, Y. Mejia, and T. Haupt
NOES:	None
ABSENT:	J. Perez-Helliwell
ABSTAIN:	None

7:38 P.M.

Planning Commission Secretary



MEETING DATE: June 5, 2018

COMMISSION CONSIDERATION:

1. CHAIRPERSON TO OPEN THE ITEM AND REQUEST STAFF REPORT
2. STAFF PRESENTS REPORT
3. COMMISSION QUESTIONS ON STAFF REPORT
4. OPEN THE PUBLIC HEARING
5. CLOSE THE PUBLIC HEARING
6. PLANNING AND PRESERVATION COMMISSION DISCUSSION
7. RECOMMENDED ACTION:

a. To Approve:

"I move to approve Planning and Preservation Commission Resolution No. 2018-004 approving Site Plan Review 2017-009 and Variance 2017-002 which allow for a portion of the required off-street parking spaces to be satisfied by on off-site parking agreement for the property at 456 S. Brand Boulevard, subject to the conditions of approval attached as "Exhibit A" to the resolution"... (Roll Call Vote)

b. To Deny:

"I move to deny Site Plan Review 2017-009 and Variance 2017-002, based on the following..." (Roll Call Vote)

c. To Continue:

"I move to continue Site Plan Review 2017-009 and Variance 2017-002, to the following date..." (Roll Call Vote)

Moved: _____

Seconded: _____

Roll Call: _____

ITEM 1:
SITE PLAN REVIEW 2017-009 (SPR 2017-009)
AND
VARIANCE 2017-002 (VAR 2017-002)



AGENDA REPORT

To: Planning and Preservation Commission Chairperson Haupt and Commissioners

From: Timothy Hou, Director of Community Development

Date: June 5, 2018

Subject: **Site Plan Review 2017-019 and Variance 2017-002**
456 S. Brand Boulevard, San Fernando, CA 91340
Los Angeles County Assessor Parcel No.: 2522-013-018, 019

Proposal: The proposed project is a request for approval of Site Plan Review 2017-019 for a parking lot reconfiguration, and Variance 2017-002 in order to allow for a portion of the required off-street parking spaces for the property located at 456 S. Brand Boulevard to be satisfied by an off-site parking agreement. The subject site consists of a parcel containing the off-street surface parking lot and a second parcel improved with an approximately 5,986 sq. ft. commercial building. In aggregate, the two parcels total approximately 20,445 sq. ft. land. The subject site is located along the east side of the 400 block of South Brand Boulevard, between Hollister Street and Coronel Street, within the C-1 (Limited Commercial) Zone.

Applicant: Gensler, Inc., c/o James Spencer
4675 MacArthur Court, Suite 100, Newport Beach, CA 92660.

RECOMMENDATION:

Staff recommends that, subsequent to the presentation and consideration of any public comment, the Planning and Preservation Commission approve Resolution No. 2018-004 (Attachment No. 1) approving Site Plan Review 2017-019 and Variance 2017-002 which allow for a portion of the required off-street parking spaces to be satisfied by an off-site parking agreement for the property at 456 S. Brand Boulevard, subject to the conditions of approval attached as "Exhibit A" to the resolution.

PROJECT OVERVIEW:

The proposed project is a request for approval of Site Plan Review 2017-019 for a parking lot reconfiguration and Variance 2017-002 to allow for nine (9) of the required off-street parking spaces for the subject property at 456 S. Brand Boulevard to be provided for by means of an

off-site parking agreement. On May 17, 2017, James Spencer, on behalf of the Applicant, submitted a Site Plan Review and Variance application (Attachment No. 2) seeking to allow for parking restriping, a new trash enclosure, and for nine (9) designated off-site parking spaces to be located at 411 S. Brand Boulevard. The subject site consists of a parcel containing the off-street surface parking lot and a second parcel improved with an approximately 5,986 sq. ft. commercial building that is in use as a Citibank retail bank branch (Attachment No. 3). In aggregate, the two parcels total approximately 20,445 sq. ft. of land.

Previously, the Citibank used off-street parking available at an adjacent surface parking lot at the northwest corner of Chatsworth Drive and Hollister Street (Assessor Parcel Numbers 2522-013-012 & 013). The property owner of these lots has prepared the lots for potential redevelopment, thus making them no longer available for parking for the Citibank. As a result, the subject site no longer provides enough space for the code required 20 off-street parking spaces.

Thus, the purpose of the site plan review is to restripe the remaining parking lot for 13 parking spaces, installation of a new trash enclosure, and removal of a trellis at the rear entry which encroaches on the adjoining parcel, and the purpose of the Variance request is to allow for nine (9) designated off-street parking spaces to be provided through a parking agreement with the property located at 411 S. Brand Boulevard. With approval of the Variance, the 22 provided parking spaces would thus exceed the 20 required parking spaces.

Existing Conditions:

1. Location: The project site at 456 S. Brand Boulevard is a corner lot with street frontage along its northerly and westerly property lines facing S. Brand Boulevard and Hollister Street, respectively (Attachment No. 4). Similarly zoned C-1 (Limited Commercial) lots are located along S. Brand Boulevard surrounding the project site as well as the project site's southerly and easterly property lines. Also, R-1 (Single Family Residential) zoned lots are located across Workman Street to the west and Harding Avenue to the east.
2. Lot Size: The project site consists of a rectangular-shaped lot (153.50 feet wide by 133.20 feet deep) located in the C-1 (Limited Commercial) zone, with an area totaling approximately 20,445 square feet.
3. Zoning and General Plan Designation: The property's zoning of C-1 (Limited Commercial) is consistent with its General Plan Land Use Designation of Central Business District (CBD).
4. Environmental Review: Staff has conducted the appropriate environmental analysis in compliance with the requirements of the California Environmental Quality Act (CEQA). Based on that assessment, the project has been determined to be Categorically Exempt

from further environmental review documentation under Categorical Exemption Class 1 (Existing Facilities) of the City's adopted Local CEQA Guidelines.

ANALYSIS:

Minor Modifications

Under Site Plan Review 2017-019, the applicant proposes minor modifications as a result of the parking lot change (Attachment No. 5). These modifications include parking stall re-striping, installation of new ADA compliant truncated domes, a new trash enclosure, and demolition of an existing rear entry trellis and columns which now encroach onto the former adjoining parking lot parcel.

Parking

The subject site includes 13 on-site parking spaces. Pursuant to City Code Sections 106-822, the total existing building floor area of approximately 5,986 square feet requires 20 on-site parking spaces. Pursuant to San Fernando Municipal Code Section 106-827 which discusses the location of parking, a Variance request to allow for the provision of required off-street parking spaces through an off-site parking agreement requires Planning and Preservation Commission review and approval.

City Code Section 106-827(a) further states that the conditions for granting a variance require findings that the variance will be an incentive to, and a benefit for, the proposed nonresidential development and that public transit facility is available for providing public transit patrons access to the nonresidential development. The subject site is notably well placed for access to existing public transit rider stops as Metro Local Bus Line 234 route has both a northbound and a southbound stop at the corner of S. Brand Boulevard and Hollister Street. In addition, the San Fernando Trolley service, provided by the City of San Fernando to link the City's residential and commercial areas, includes a stop at the corner of S. Brand Boulevard and Hollister Street.

Lastly, City Code Section 106-827(c) states that facilities used for off-site parking shall require a written agreement between property owners specifying the term of the agreement, the number of spaces to be provided, and the location of the parking facility. The applicant has provided the proposed off-site parking lease agreement with the lessor of 411 S. Brand Boulevard which meets these conditions (Attachment No. 6).

The off-site parking agreement would allocate nine (9) of the 42 existing parking spaces at 411 S. Brand Boulevard for Citibank's use. The 42-space surface parking lot at 411 S. Brand Boulevard is utilized by the Mission View Public Charter School. In 2015, the Planning and Preservation Commission approved Site Plan Review 2015-010 and Conditional Use Permit 2015-007, which only required 28 on-site parking spaces. Thus, the 411 S. Brand Boulevard

provided 14 additional spaces, and the proposed off-site parking agreement with Citibank would take reserve (9) of those parking spaces.

Variance Criteria

A variance is a permit issued by the Planning and Preservation Commission to a property owner to deviate from a development standard or to build a structure not otherwise permitted under the current development standards. The statutory justification for a variance is that the owner would otherwise suffer a unique hardship under the general zoning regulations because his particular parcel is different from the others to which the regulation applies due to the size, shape, topography or location. As a result the Planning and Preservation Commission should base their decision of approval on five principals that must be applied in the consideration of an application for a variance.

- There must be circumstances surrounding the applicant's situation, limited to the physical conditions of the property, which are unique in that other property in the area does not have the same conditions. The unique circumstances must cause hardship to the property owner to justify the authorization of a variance.
- A variance may not, however, be granted if it will adversely affect the interest of the public or the interests of other residents and property owners within the vicinity of the premises in questions.
- A variance must be consistent with the objectives of the general plan and the zoning ordinance.
- The mere existence of a peculiar situation that will result in unnecessary hardship to the applicant if the ordinance is enforced does not necessarily require granting of a variance.

A variance is subject to discretionary review by the Planning and Preservation Commission, which permits the Commission to review individual cases for proposed uses of the land and either attach conditions or deny approval. Conditions imposed on the applicant through the discretionary review process may call for anything reasonably related to the project. These principals are applied in the form of seven findings, which the Planning and Preservation Commission must meet in making their decision. All findings must be justified and upheld in the affirmative for approval of the Variance. Only one finding requires a negative response to uphold a denial.

Staff believes that the findings for approval of the Variance can be made in this instance based on the aforementioned discussion, and as explained below.

- **There are special circumstances or exceptional characteristics applicable to the property involved, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under the identical zoning classification:**

The subject site is currently developed with a commercial building within the C-1 (Limited Commercial) zone. For both residential and non-residential development, every use of property is required to provide the number of off-street parking spaces which satisfies the needs of the use, pursuant to City Code Section 106-822. The subject site was originally developed with a supplementary adjoining surface parking lot that helped satisfy the retail bank branch's required parking spaces. However, the adjoining lot has been prepared for redevelopment and no longer provides parking for the retail bank branch. Thus, only 13 parking spaces remain on-site to serve the subject site.

Pursuant to City Code Section 106-827, an applicant may request a Variance to allow for required off-street parking to be satisfied by means of an off-site parking agreement. The proposed off-site parking agreement would provide nine (9) of the required off-street parking spaces across the street at a surface parking lot at 411 S. Brand Boulevard, less than 500 feet away from the subject site.

In terms of public transit patron access, the subject site is notably well placed for access within feet of existing public transit rider stops. The Metro Local Bus Line 234 route has both a northbound and a southbound stop at the corner of S. Brand Boulevard and Hollister Street. The San Fernando Trolley service, provided by the City of San Fernando to link the City's residential and commercial areas, includes a stop at the corner of S. Brand Boulevard and Hollister Street as well.

The ability of a commercial use to request a Variance for an off-site parking agreement to satisfy parking requirements is a privilege afforded to all non-residential uses in the City and it is staff's assessment that this finding can be made.

- **The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone in which the property is located:**

The granting of the proposed Variance to allow for nine (9) of the required off-street parking spaces to be satisfied by means of an off-site parking agreement would allow the retail bank branch use to continue providing required parking for both its patrons and employees. Thirteen on-site parking spaces will most likely serve exclusively patrons while the off-site parking agreement will allocate nine (9) off-site parking spaces across the street on S. Brand Boulevard for Citibank employees. The total of 22 parking spaces provided would exceed by two spaces the 20 required parking spaces. The requested Variance may be granted pursuant to City Code Section 106-827. The existing site provides for the required vehicle ingress and egress and would not be detrimental or injurious to the property or improvements in the same vicinity and C-1 (Limited Commercial) zone.

- **The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals and programs of the General Plan:**

Pursuant to City Code Section 106-827, a Variance may be granted to allow for a deficiency in on-site parking spaces to be satisfied by means of an off-site parking agreement. The subject site is well situated for access within feet of existing public transit rider stops. The Metro Local Bus Line 234 route has both a northbound and a southbound stop at the corner of S. Brand Boulevard and Hollister Street. In addition, the San Fernando Trolley service, provided by the City of San Fernando to link the City's residential and commercial areas, includes a stop at the corner of S. Brand Boulevard and Hollister Street as well. Thus, it is staff's assessment that the Variance request is not in conflict with City Code.

The proposed Variance aligns with the General Plan's purpose to, "promote economic viability of commercial areas." By supporting an existing retail banking branch use, the proposed Variance also supports the General Plan's objective to attract new or retain existing commercial activities, particularly within the downtown area. Furthermore, the retail bank branch use and Variance request are consistent with the General Plan's Central Business District Land Use intent as a major retail area of community-wide significance.

- **The variance request is consistent with the purpose and intent of the zone in which the site is located:**

The retail bank branch use and Variance request to satisfy a deficiency in on-site parking spaces for a nonresidential use by means of an off-site parking agreement are consistent with the purpose and intent of the C-1 (Limited Commercial) zone. Pursuant to City Code Section 106-827, a Variance may be granted to nonresidential development to allow for a deficiency in on-site parking spaces to be satisfied by an off-site parking agreement.

- **The subject site is physically suitable for the proposed variance:**

The subject site consisting of a rectangular-shaped lot (153.50 feet wide by 133.20 feet deep), with an area totaling approximately 20,445 square feet is suitable to accommodate the existing commercial building. The existing commercial building meets all applicable development standards with the exception of providing for all of the required off-street parking on-site. Pursuant to City Code Section 106-827, a Variance may be granted to allow for a deficiency in on-site parking spaces to be satisfied by means of an off-site parking agreement.

- **There are adequate provisions for water, sanitation and public utilities and services to ensure that the proposed variance would not be detrimental to public health and safety:**

The existing building is adequately served by existing water, sanitation and public utilities. No new construction adding square footage is being proposed. The proposed Variance to allow for nine (9) of the required off-street parking spaces would not have an adverse impact to water, sanitation and public utilities and services and would not be detrimental to public health and safety. Any infrastructure and utility upgrades required as part of the project proposal would be developed in compliance with the requirements of the City's building code.

- **There will be adequate provisions for public access to service the property which is the subject of the variance:**

The site will continue to provide public and emergency access to the subject property. Existing driveway approaches provide ingress and egress to the subject site for emergency access, and each driveway approach provides for on-site traffic circulation and the safety of pedestrians traffic traveling on the adjacent public sidewalks along S. Brand Boulevard and Hollister Street.

CONCLUSION:

In light of the analysis, it is staff's assessment that the proposed Variance is warranted. The subject site is conveniently located for public transit access and the off-site parking lies within close proximity. The proposed Variance supports a retail banking branch, which is a vital retail use in the community that is compatible with the downtown commercial business district and neighborhood in the immediate vicinity.

Staff recommends that the Planning and Preservation Commission approve Site Plan Review 2017-019 for a parking lot reconfiguration and Variance 2017-002 allowing for a portion of the required off-street parking spaces for the property located at 456 S. Brand Boulevard to be satisfied by an off-site parking agreement, pursuant to Planning Commission Resolution 2018-004 and Conditions of Approval attached as Exhibit "A".

Attachments:

1. Planning and Preservation Commission Resolution 2018-004 and Exhibit "A": Conditions of Approval
2. Site Plan Review and Variance Applications

3. Vicinity Map
4. Project Site Photos
5. Site Plan and Floor Plans
6. Proposed Off-Site Parking Agreement at 411 S. Brand Boulevard

RESOLUTION NO. 2018-004**A RESOLUTION OF THE PLANNING AND PRESERVATION COMMISSION OF THE CITY OF SAN FERNANDO APPROVING SITE PLAN REVIEW 2017-019 AND VARIANCE 2017-002 WHICH ALLOW FOR A PORTION OF THE REQUIRED OFF-STREET PARKING SPACES TO BE SATISFIED BY AN OFF-SITE PARKING AGREEMENT FOR THE PROPERTY AT 456 S. BRAND BOULEVARD**

WHEREAS, on May 17, 2017, an application was filed by James Spencer of Gensler, Inc., on behalf of Citibank, N.A. (“Applicant”) with the City pursuant to City Code Sections 106-822(c)(7) and 106-827(a) and (c), to request approval from the San Fernando Planning and Preservation Commission (“Commission”) for a variance to allow for a portion of the required off-street parking spaces for the Citibank retail bank branch use located at 456 S. Brand Boulevard to be satisfied by an off-site parking agreement for a parking lot located at 411 S. Brand Boulevard within the C-1 (Limited Commercial) Zone; and,

WHEREAS, an environmental assessment was performed for the Project, pursuant to the California Environmental Quality Act (“CEQA”). Based on that assessment, the project has been determined to be Categorically Exempt under Class 1 (Existing Facilities) of the City’s adopted Local CEQA Guidelines.

WHEREAS, the Commission has considered all of the evidence presented in connection with the project, written and oral, at the public hearing held on June 5, 2018.

NOW, THEREFORE, BE IT RESOLVED that the Commission finds as follows:

SECTION 1: Pursuant to Zoning Ordinance Section 106-295, the Planning and Preservation Commission finds that the following findings for Variance 2017-002 have been justified and upheld in the affirmative because of the recommended conditions of approval of the on-site parking variance including the proposed operating procedures, site improvements and on and off-site safety measures, the Planning and Preservation Commission finds that:

- 1. There are special circumstances or exceptional characteristics applicable to the property involved, including size, shape, topography, location, or surroundings such that strict application of the zoning ordinance deprives such property of privileges, enjoyed by other property in the vicinity and under the identical zoning classification:**

The subject site is currently developed with a commercial building within the C-1 (Limited Commercial) zone. For both residential and non-residential development, every use of property is required to provide the number of off-street parking spaces which satisfies the needs of the use, pursuant to City Code Section 106-822. The subject site was originally developed with a supplementary adjoining surface parking lot that helped satisfy the retail bank branch’s required parking spaces. However, the adjoining lot has been prepared for redevelopment and no longer provides parking for the retail bank branch. Thus, only 13 parking spaces remain on-site to serve the subject site.

Pursuant to City Code Section 106-827, an applicant may request a Variance to allow for required off-street parking to be satisfied by means of an off-site parking agreement. The proposed off-site parking agreement would provide nine (9) of the required off-street parking spaces across the street at a surface parking lot at 411 S. Brand Boulevard, less than 500 feet away from the subject site.

In terms of public transit patron access, the subject site is notably well placed for access within feet of existing public transit rider stops. The Metro Local Bus Line 234 route has both a northbound and a southbound stop at the corner of S. Brand Boulevard and Hollister Street. The San Fernando Trolley service, provided by the City of San Fernando to link the City's residential and commercial areas, includes a stop at the corner of S. Brand Boulevard and Hollister Street as well.

The ability of a commercial use to request a Variance for an off-site parking agreement to satisfy parking requirements is a privilege afforded to all non-residential uses in the City and it is staff's assessment that this finding can be made.

2. The granting of such variance will not be detrimental to the public interest, safety, health or welfare, and will not be detrimental or injurious to the property or improvements in the same vicinity and zone in which the property is located:

The granting of the proposed Variance to allow for nine (9) of the required off-street parking spaces to be satisfied by means of an off-site parking agreement would allow the retail bank branch use to continue providing required parking for both its patrons and employees. Thirteen on-site parking spaces will most likely serve exclusively patrons while the off-site parking agreement will allocate nine (9) off-site parking spaces across the street on S. Brand Boulevard for Citibank employees. The total of 22 parking spaces provided would exceed by two spaces the 20 required parking spaces. The requested Variance may be granted pursuant to City Code Section 106-827. The existing site provides for the required vehicle ingress and egress and would not be detrimental or injurious to the property or improvements in the same vicinity and C-1 (Limited Commercial) zone.

3. The granting of such variance will not be contrary to or in conflict with the general purposes and intent of this Chapter, nor to the goals and programs of the General Plan:

Pursuant to City Code Section 106-827, a Variance may be granted to allow for a deficiency in on-site parking spaces to be satisfied by means of an off-site parking agreement. The subject site is well situated for access within feet of existing public transit rider stops. The Metro Local Bus Line 234 route has both a northbound and a southbound stop at the corner of S. Brand Boulevard and Hollister Street. In addition, the San Fernando Trolley service, provided by the City of San Fernando to link the City's residential and commercial areas, includes a stop at the corner of S. Brand Boulevard and Hollister Street as well. Thus, it is staff's assessment that the Variance request is not in conflict with City Code.

The proposed Variance aligns with the General Plan's purpose to, "promote economic viability of commercial areas." By supporting an existing retail banking branch use, the proposed Variance also supports the General Plan's objective to attract new or retain existing commercial activities, particularly within the downtown area. Furthermore, the retail bank branch use and Variance request are consistent with the General Plan's Central Business District Land Use intent as a major retail area of community-wide significance.

4. The variance request is consistent with the purpose and intent of the zone in which the site is located:

The retail bank branch use and Variance request to satisfy a deficiency in on-site parking spaces for a nonresidential use by means of on off-site parking agreement are consistent with the purpose and intent of the C-1 (Limited Commercial) zone. Pursuant to City Code Section 106-827, a Variance may be granted to nonresidential development to allow for a deficiency in on-site parking spaces to be satisfied by an off-site parking agreement.

5. The subject site is physically suitable for the proposed variance:

The subject site consisting of a rectangular-shaped lot (153.50 feet wide by 133.20 feet deep), with an area totaling approximately 20,445 square feet is suitable to accommodate the existing commercial building. The existing commercial building meets all applicable development standards with the exception of providing for all of the required off-street parking on-site. Pursuant to City Code Section 106-827, a Variance may be granted to allow for a deficiency in on-site parking spaces to be satisfied by means of an off-site parking agreement.

6. There are adequate provisions for water, sanitation and public utilities and services to ensure that the proposed variance would not be detrimental to public health and safety:

The existing building is adequately served by existing water, sanitation and public utilities. No new construction adding square footage is being proposed. The proposed Variance to allow for nine (9) of the required off-street parking spaces would not have an adverse impact to water, sanitation and public utilities and services and would not be detrimental to public health and safety. Any infrastructure and utility upgrades required as part of the project proposal would be developed in compliance with the requirements of the City's building code.

7. There will be adequate provisions for public access to service the property which is the subject of the variance:

The site will continue to provide public and emergency access to the subject property. Existing driveway approaches provide ingress and egress to the subject site for emergency access, and each driveway approach provides for on-site traffic circulation and the safety of pedestrians traffic traveling on the adjacent public sidewalks along S. Brand Boulevard and Hollister Street.

BE IT FURTHER RESOLVED that based upon the foregoing, the Planning and Preservation Commission hereby approves Site Plan Review 2017-019 and Variance 2017-002, subject to the conditions to be attached as Exhibit "A".

PASSED, APPROVED AND ADOPTED this 5th Day of June 2018.

THEALE E. HAUPT, CHAIRPERSON

ATTEST:

TIMOTHY HOU, SECRETARY TO THE PLANNING AND PRESERVATION COMMISSION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF SAN FERNANDO)

I, TIMOTHY HOU, Secretary to the Planning and Preservation Commission of the City of San Fernando, do hereby certify that the foregoing Resolution was duly adopted by the Planning and Preservation Commission and signed by the Chairperson of said City at a meeting held on the 5th day of June 2018; and that the same was passed by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

TIMOTHY HOU, SECRETARY TO THE PLANNING COMMISSION

EXHIBIT “A”
CONDITIONS OF APPROVAL

PROJECT NO. : **Variance 2017-002**

PROJECT ADDRESS : 456 South Brand Boulevard and 411 South Brand Boulevard, San Fernando, CA 91340
(Los Angeles County Assessor’s Parcel No’s.: 2522-013-019 and 2522-013-025)

PROJECT DESCRIPTION: The proposed project is a request for review and approval of applications to allow for an off-site parking facility. The project site at 456 S. Brand Boulevard located on the north-easterly corner of Brand Boulevard and Hollister Street, within the C-1 (Limited Commercial) zone is an approximate 20,446-square-foot lot located within the C-1 (Limited Commercial) zone and the proposed off-site parking lot at 411 S. Brand Boulevard is an approximate 26,700-square-foot lot which is located on the southwesterly corner of Brand Boulevard and Pico Street and is located within the C-1 (Limited Commercial) zone.

The following conditions shall be made a part of the approval of the project, and shall be complied with in their entirety, as determined by the Community Development Department:

1. Variance Entitlement. The variance is granted for the land described in this application and any attachments thereto including but not limited to site plan, exterior elevations, floor plans, and landscape plan (See “Attachment 1” of these Conditions of Approval), as reviewed by the Planning and Preservation Commission on June 05, 2018, except as herein modified to comply with these Conditions of Approval.
2. Indemnification. The property owner and developer shall indemnify, protect, hold harmless and defend the City and any agency or instrumentality thereof, and/or any of its officers, employees and agents from any and all claims, actions, or proceedings against the City to attack, set aside, void, annul, seek monetary damages resulting from an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board or legislative body including actions approved by the voter of the City, concerning the entitlement application. City shall promptly notify both the property owner and developer of any claim, action, or proceeding to which this condition is applicable and shall further cooperate fully in the defense of the action. The City reserves its right to take any and all action the City deems to be in the best interest of the City and its citizens in regard to such defense. The property owner and developer shall defend, indemnify and hold harmless the City for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as an environmental impact report or related environmental assessment) if made necessary through the initiation of the project.
3. Occupancy per Approval. The subject property shall be improved in substantial conformance with the site plan, exterior elevations, floor plans, and landscape plan, as reviewed by the Planning and Preservation Commission on June 05, 2018, except as herein modified to comply with these Conditions of Approval.

4. Public Works Requirements. The applicant shall comply with all Public Works Department requirements, as specified in a Public Works Department Checklist.
5. Construction Plans. A copy of the Conditions of Approval shall be printed on the final building plans submitted to the Community Development Department prior to the issuance of a building permit for construction and redesign of existing on-site parking facilities.
6. Building Code Requirements. The applicant shall comply with all applicable building and construction requirements of the City of San Fernando's building codes, as specified by the Community Development Department.
7. Design. The construction plans shall provide details as necessary to accomplish the architectural design intent conveyed by the conceptual plans reviewed and approved by the Planning and Preservation Commission on June 05, 2018, in a manner consistent with the adopted *San Fernando Commercial, Mixed-Use, and Institutional Design Guidelines*. Any proposed variations or modifications to the site plan, exterior elevations, landscape plan, and grading and drainage plan approved by the commission on June 05, 2018, shall require prior review and approval by the Community Development Department.
8. Landscape. All proposed on-site and off-site plantings shall be kept in a healthy and growing condition, consistent with the design of a landscape and irrigation plan approved by the Community Development Department. Fertilization, cultivation, tree pruning shall be a part of regular maintenance. Good horticultural practices shall be followed in all instances. The landscape design shall be further refined as necessary to improve the level of design quality by focusing on important design principles. Further landscape design refinements shall address, but not be limited to, the following:
 - a) All proposed landscaped areas shall be served by well-balanced automatic irrigation system operated by an electrically timed controller station set for early morning irrigation and maintained in a manner consistent with the approved landscape plan. The final landscape/irrigation plan shall identify the size and location of all landscape materials and irrigation equipment. Water conservation measures shall be incorporated in the irrigation plan;
 - b) A backflow preventer device shall be installed, tested, and inspected by the Public Works Department to protect water supplies from contamination or pollution.
 - c) Within 15 feet of the edge of a driveway, all vertical landscaping shall not exceed a maximum height of three (3) feet to maintain adequate visibility of pedestrians walking on the sidewalks abutting the project site.
9. Trash Enclosure. The trash enclosure shall include obscured doors with an exterior wall finish that is complementary to the overall design of the existing building on-site. Trash and recycling bins shall be kept within the trash enclosure area only, and the trash area shall be kept free of trash overflow and maintained in a clean manner at all times with no trash visible from the public right-of-way.
10. Lighting. All exterior lighting shall be decorative cut-off fixtures (where no light is emitted above the

horizontal plane) with the light source fully shielded or recessed to preclude light trespass or pollution up into the night sky. Also, any building-mounted luminaries shall be attached to walls or soffits, and the top of the fixture shall not exceed the height of the roof. All proposed light fixtures shall be designed in a manner that is consistent with the overall design of the building and shall not disturb or create glare towards neighboring properties. In addition, any decorative uplighting, such as those that illuminate building facades or landscaping, shall be operated on timers that turn off illumination no later than 12 midnight, nightly. The Community Development Department shall review and approve all light fixtures prior to installation. In addition, all lighting shall also comply with the following requirements:

- a) The equivalent of one foot-candle of illumination shall be provided throughout the parking area;
- b) All lighting shall be on a time-clock or photo-sensor system;
- c) All lighting shall be designed to confine direct rays to the premises. No spillover beyond the property line shall be permitted; and,
- d) Illumination shall not include low or high pressure sodium lighting.

11. Mechanical and Utility Equipment. All roof-mounted and/or ground mounted mechanical and utility equipment, including but not limited to transformers, terminal boxes, risers, backflow devices, gas meters, electric meters, meter cabinets, and heating, ventilation, and air conditioning (HVAC) units shall be screened from public view and treated to match the materials and colors of the building. All Electrical service facilities and equipment on or adjacent to the site shall be planned and located, relocated or modified in a manner consistent with Southern California Edison Company guidelines to minimize human exposure to electromagnetic fields on the site and on adjacent properties, and with any other applicable requirements or guidelines of the California Public Utilities Commission or any other agency with jurisdiction, unless otherwise specified by the Community Development Department. All mechanical and utility equipment locations and screening/treatment shall be approved by the Community Development Department prior to installation or modification.
12. Property Maintenance. The subject site and its immediate surrounding area shall be maintained in a clean, neat, quiet and orderly manner at all times and shall comply with the property maintenance standards as set forth in the San Fernando City Code.
13. Graffiti Removal. The property owner(s), operator and all successors shall comply with the graffiti removal and deterrence requirements of the San Fernando City Code. The property owner(s), operator and all successors shall provide for the immediate removal of any graffiti vandalism occurring on the property and, where applicable, the restoration of the surface on which the graffiti exists. Such restoration shall entail repainting or refinishing of the surface with a color or finish that matches the color or finish of the remaining portions of the structure being painted, and including treatment of the surface or site with measures to deter future graffiti vandalism as approved or required by the Community Development Department. Unless removed by the property owner or their designee within the specified time frame required by city code, property owner(s), operator and all successors shall grant the right of access to authorized agents of the City of San Fernando to remove graffiti from any surface on the property that is open and accessible from city property or public right-of-way, at the expense of the owner(s) or operator and all successors.

14. Window Signage. No signage, graphics, or similar business advertisement shall be installed or placed directly on the surface of a window. All windows where graphic signage is to be displayed, as noted on Sheets A-3.0 and A-3.1 of the set of plans shall be converted into functional display cases to display business merchandise. Graphic signage may serve as a backdrop to the displayed merchandise, but at no time may graphic signage be permitted within an empty display case not used for the active display of merchandise. The proposed display case dimensions shall be reviewed and approved by the Community Development Director prior to its installation.
15. On-Site Signage. The tenant shall provide a sign that reads “NO STOPPING AT ANYTIME” within the designated exit lane in order to provide adequate circulation at all times.
16. Existing Trellis. The existing trellis located at the rear entry of the building shall be removed in its entirety and a new walkway shall be provided. A certificate of occupancy for the associated site improvements shall not be issued until the trellis is removed and pathway established.
17. Directional Signage. Directional signage that is clearly visible, legible and unobstructed shall be installed within the on-site parking lot at 456 S. Brand Boulevard and the off-site parking facility at 411 S. Brand Boulevard. The directional signage shall inform all patrons of the business that the use of the crosswalk located at the intersection of Brand Boulevard and Hollister Street is required to travel to and from the retail store.
18. Site Inspections. Prior to the issuance of a Certificate of Occupancy, the Community Development Department and Public Works Department shall inspect the site to assure compliance with these Conditions of Approval. Subsequent to occupancy, owners and all successors shall grant the right of access to authorized agents of the City of San Fernando to conduct periodic inspections of the property.
19. Modifications. Unless the Community Development Department approves a proposed change to the approved plans, all other modifications to the development plan, including these Conditions of Approval, shall require review and approval by the Planning and Preservation Commission.
20. Encroachment Permit. Under no circumstances shall any public right-of-way be obstructed during construction by materials, vehicles, equipment or other related objects without prior approval from the Public Works Department. An Encroachment Permit must be obtained from the Public Works Department prior to any demolition and/or new construction activity that would require staging and/or construction within the public right-of-way.
21. General Compliance. The applicant shall comply with all requirements of applicable federal, state, or local law, ordinance, or regulation.
22. Surface Runoff. All requirements of the National Pollutant Discharge Elimination System (NPDES) shall be complied with and an NPDES permit, including but not limited to the installation of any required clarifiers and/or on-site infiltration system, must be obtained prior to any occupation or use of the site. During construction, the project site shall comply with all applicable Best Management Practices (BMPs).

23. Construction Hours. Construction activity on Mondays through Saturdays shall comply with the current San Fernando City Code Section 34-28(10) standards for construction in commercial zones.
24. Acceptance. Within thirty (30) days of approval of Variance 2017-002, the property owner(s) or their duly authorized representatives shall certify the acceptance of the conditions of approval or modifications thereto by signing a statement using an acceptance affidavit form provided by the Community Development Department that acknowledges acceptance and shall be bound by all of the conditions of project approval.
25. Recordation of Conditions of Approval. Prior to the issuance of a Certificate of Occupancy, the applicant shall provide the Community Development Department with proof that the Conditions of Approval have been recorded with the Los Angeles Registrar Recorder/County Clerk's Office. Recordation of the Conditions of Approval shall occur on both 456 S. Brand Boulevard and 411 S. Brand Boulevard.
26. Recordation of Parking Agreement. Prior to the issuance of a Certificate of Occupancy, the applicant shall provide the Community Development Department with a conformed copy and proof that the Parking Agreement for the off-site parking spaces at 411 S. Brand Boulevard has been recorded with the Los Angeles Registrar Recorder/County Clerk's Office.
27. Expiration. Variance 2017-002 shall be subject to expiration and Site Plan Review 2017-019 shall become null and void unless exercised by submitting construction plans in application for a building permit within twelve (12) months of final approval or until such additional time as may be granted by the Community Development Department, upon receipt of a written request for an extension received prior to such expiration date. Subsequent failure to obtain and exercise an active building permit shall also cause expiration of the variance and site plan review approvals.

SITE PLAN REVIEW/ PLANNING REVIEW APPLICATION

APPLICANT INFORMATION		
APPLICANT NAME <i>James Spencer</i>		PHONE NUMBER <i>949.260.8655</i>
MAILING ADDRESS <i>4675 MacArthur Court Suite 100. Newport Beach, CA 92660</i>		
EMAIL ADDRESS <i>james_spencer@bensler.com</i>		FAX NUMBER
PROJECT INFORMATION		
SITE ADDRESS <i>456 S. Brand Blvd. San Fernando, CA 91340</i>		
REQUEST (WHAT IS BEING APPLIED FOR) <i>Planning Review for Exterior Improvements to existing Parking lot including but not limited to demolition of existing rear trellis/columns, parking lot restriping & pavement work, and new trash enclosure.</i>		
ASSESSORS PARCEL NUMBER(S) "APN" <i>2522-013-019</i>		
BUILDING SIZE <i>5,986 S.F.</i>		
BUILDING ADDITION (IF ANY) <i>N/A</i>		
PARKING AVAILABLE (NUMBER) <i>13 + 9 off site = 22</i>		
LANDSCAPING PROVIDED (IN SQUARE FEET) <i>2,476 S.F. (Existing)</i>		
PROPERTY OWNER INFORMATION		
PROPERTY OWNER NAME <i>Cabrillo Investment Company - LB-HATCH</i>		PHONE NUMBER <i>661.904.8209</i>
MAILING ADDRESS <i>28413 Knoll Court, Castaic, CA 91384</i>		
EMAIL ADDRESS <i>mrshatchie@gmail.com</i>		FAX NUMBER
SIGNATURES		
APPLICANT SIGNATURE <i>James Spencer</i>		PROPERTY OWNER SIGNATURE
FOR OFFICE USE ONLY		
DATE FILED <i>5/19/17</i>		ACCEPTED BY <i>H.Q.</i>
CASE NO. <i>SPR 2017-019</i>	ZONING <i>C-1</i>	GPA



Community Development Department

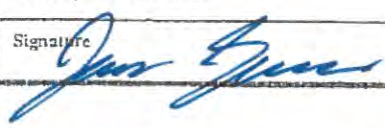
117 Macneil Street San Fernando, CA 91340 • (818) 898-1227 • Fax: (818) 898-7329

Variance Application

PROJECT INFORMATION

Site Address(es) 456 S. BRAND BLVD.	
Assessor's Parcel Number(s) 'APN' 2522-013-019	
Lot Size 20,446 S.F.	Existing Building (Square Footage) 5,986 S.F.
Proposed Addition (Square Footage) NONE	Total Parking Spaces (On-site/Off-site) (13) ON-SITE + (9) OFF-SITE = 22
Proposed Use(s) BANK (NO CHANGE)	Landscaping (Square Footage) 2,476 S.F.
Project Description/Type of Variance Request (Include any additional information on separate sheet and attach to the back of this application.) VOLUNTARY PARKING STRIPPING, NEW TRASH ENCLOSURE, AND REMOVAL OF TRELLIS AT BACK ENTRY. REQUESTING 9 DESIGNATED OFF-SITE PARKING SPACES LOCATED AT 411 S. BRAND BLVD.	

APPLICANT INFORMATION

Applicant Name JAMES SPENCER		Phone Number 949.260.8655
Mailing Address 4675 MACARTHUR COURT, STE 100; NEWPORT BEACH, CA 92660		
Fax Number 949.553.1676	Email Address james_spencer@gensler.com	Signature 

PROPERTY OWNER INFORMATION

Applicant Name CAROLINA INVESTMENT COMPANY-UB HATCH		Phone Number 661 904-8209
Mailing Address 28413 KNOLL COURT CASTAILE, CA 91304		
Fax Number	Email Address MRSHATCHIE@GMAIL.COM	Signature 

For Office Use Only

VAR. Application \$2,567.00	Zone	General Plan Area	File Number
APAS Surcharge \$ 156.70	Date Filed		VAR No. _____
Environmental \$ 204.00	Accepted By		AIMS No. _____
Notification \$ 120.00			Cross Reference
Publishing \$ 600.00			SPR No. _____
Total Fee \$3,747.70			CUP No. _____
Comments			OTHER _____

Vicinity Map

Project Site: 456 S. Brand Boulevard
Off-Site Parking: 411 S. Brand Boulevard



456 S. BRAND BLVD. SITE PICTURES

ATTACHMENT NO. 4



CORNER VIEW OF BRAND BLVD. & HOLLISTER ST.



HOLLISTER ST. VIEW

456 S. BRAND BLVD. SITE PICTURES



CORNER VIEW OF HOLLISTER ST. & CHATSWORTH DR.



S. BRAND BLVD. VIEW



CHATSWORTH DR. VIEW

411 S. BRAND BLVD.

SITE PICTURES



CORNER VIEW OF BRAND BLVD. & CORONEL ST.



CORNER VIEW OF BRAND BLVD. & PICO ST.



CORNER VIEW OF CARLISLE ST. & PICO ST.

411 S. BRAND BLVD. SITE PICTURES



CORNER VIEW OF CARLISLE ST. & CORONEL ST.



CARLISLE ST. VIEW

SURROUNDING NEIGHBORHOOD SITE PICTURES



SURROUNDING NEIGHBORHOOD SITE PICTURES





BRANCH #647
456 S. BRAND BLVD
SAN FERNANDO, CA 91340

FIRE DEPARTMENT NOTES

- THE PROJECT SHALL COMPLY WITH THE CURRENTLY ADOPTED CALIFORNIA BUILDING CODE, CALIFORNIA FIRE CODE, AND OTHER CODES, STANDARDS, REGULATIONS AND REQUIREMENTS AS ENFORCED BY THE CITY OF SAN FERNANDO FIRE AUTHORITY. APPROVAL OF THESE PLANS SHALL NOT PERMIT THE VIOLATION OF ANY CODE OR LAW.
- FOR PROJECTS INVOLVING NEW STRUCTURES, ADDITIONS TO EXISTING STRUCTURES, INSTALLATION OF GATES/WALLS/FENCES, OR ALTERATION OF VEHICULAR ACCESS, A FIRE MASTER PLAN SHALL BE SUBMITTED TO AND APPROVED BY THE FIRE MARSHALL PRIOR TO SUBMITTAL OF ARCHITECTURAL PLANS. AN APPROVED FIRE MASTER PLAN SHALL BE SUBMITTED WITH THE ARCHITECTURAL PLANS.
- ALL WEATHER FIRE ACCESS ROADS SHALL BE APPROVED BY THE CITY OF SAN FERNANDO FIRE DEPARTMENT AND BE IN PLACE BEFORE ANY COMBUSTIBLE MATERIALS ARE PLACED ON THE SITE. ACCESS ROADS SHALL BE MAINTAINED CLEAR OF OBSTRUCTIONS DURING AND AFTER CONSTRUCTION.
- ADDRESS NUMBERS SHALL BE PROVIDED FOR ALL NEW AND EXISTING BUILDINGS, BE A MINIMUM TWELVE INCHES HIGH WITH A 1-1/2" STROKE, CONTRAST WITH THEIR BACKGROUND, AND BE PLAINLY VISIBLE FROM THE ROADWAY THE BUILDING IS ADDRESSED ON OR AS OTHERWISE ALLOWED BY CITY OF SAN FERNANDO FIRE DEPARTMENT GUIDELINES. CONFORM TO CITY OF SAN FERNANDO MUNICIPAL FIRE PREVENTION CODE.
- NO SMOKING OR COOKING IS ALLOWED IN STRUCTURES WHERE COMBUSTIBLE MATERIALS ARE EXPOSED OR WITHIN 25' OF COMBUSTIBLE MATERIALS STORAGE AREAS. CUTTING, WELDING, OR OTHER HOT WORK SHALL BE IN CONFORMANCE WITH CFC CHAPTER 35.
- LOCATIONS AND CLASSIFICATIONS OF EXTINGUISHERS SHALL BE IN ACCORDANCE WITH THE COR TITLE 19. AT LEAST ONE EXTINGUISHER SHALL BE PROVIDED DURING CONSTRUCTION ON EACH FLOOR AT EACH STAIRWAY, IN EACH STORAGE AND CONSTRUCTION SHED, IN LOCATIONS WHERE FLAMMABLE OR COMBUSTIBLE LIQUIDS ARE STORED OR USED, OR WHERE SIMILAR HAZARDS ARE PRESENT. BEFORE FINAL OCCUPANCY, AT LEAST ONE 2A:10B:C EXTINGUISHER SHALL BE PROVIDED SO THAT NO POINT IS MORE THAN 75' TRAVEL DISTANCE FROM THE EXTINGUISHER. EXTINGUISHERS SHALL BE LOCATED ALONG THE PATH OF EGRESS TRAVEL AND IN A READILY VISIBLE AND ACCESSIBLE LOCATION, WITH THE BOTTOM OF THE EXTINGUISHER AT LEAST 4' ABOVE THE FLOOR. ADDITIONAL EXTINGUISHERS MAY BE REQUIRED BY THE INSPECTOR AND FINAL PLACEMENT IS SUBJECT TO APPROVAL.
- WALL, FLOOR AND CEILING FINISHES AND DECORATIVE MATERIALS SHALL NOT EXCEED THE FLAME SPREAD CLASSIFICATIONS IN CBC/CFC CHAPTER 8. DECORATIVE MATERIALS SHALL BE PROPERLY TREATED BY A PRODUCT OR PROCESS APPROVED BY THE STATE FIRE MARSHAL. SUCH ITEMS SHALL BE APPROVED AND INSPECTED PRIOR TO INSTALLATION.
- KNOX BOXES/KEY CABINETS SHALL BE PROVIDED FOR ALL POOL ENCLOSURES, GATES IN THE PATH OF FIREFIGHTER TRAVEL TO STRUCTURES, SECURED PARKING LEVELS, DOORS GIVING ACCESS TO ALARM PANELS AND/OR ANNUNCIATORS, AND ANY OTHER STRUCTURES OR AREAS WHERE IMMEDIATE ACCESS IS REQUIRED OR IS UNDULY DIFFICULT.
- DUMPSTERS AND TRASH CONTAINERS EXCEEDING 1.5 CUBIC YARDS SHALL NOT BE STORED IN BUILDINGS OR PLACED WITHIN 5 FEET OF COMBUSTIBLE WALLS, OPENINGS OR COMBUSTIBLE ROOF EAVE LINES UNLESS PROTECTED BY AN APPROVED SPRINKLER SYSTEM OR LOCATED IN A TYPE I OR IIA STRUCTURE SEPARATED BY 10 FEET FROM OTHER STRUCTURES. CONTAINERS LARGER THAN 1 CUBIC YARD SHALL BE OF NON- OR LIMITED-COMBUSTIBLE MATERIALS OR SIMILARLY PROTECTED OR SEPARATED. CFC 304.3
- EXITS, EXIT SIGNS, FIRE ALARM PANELS, HOSE CABINETS, FIRE EXTINGUISHER LOCATIONS, AND STANDPIPE CONNECTIONS SHALL NOT BE CONCEALED BY CURTAINS, MIRRORS, OR OTHER DECORATIVE MATERIAL. THE EGRESS PATH SHALL REMAIN FREE AND CLEAR OF ALL OBSTRUCTIONS AT ALL TIMES. NO STORAGE IS PERMITTED IN AISLES.
- EXIT DOORS SHALL BE OPENABLE FROM THE INSIDE WITHOUT THE USE OF A KEY OR ANY SPECIAL KNOWLEDGE OR EFFORT. DOORS SHALL NOT BE PROVIDED WITH THUMB-TURN LOCKS OR DEADBOLTS THAT DO NOT UNLATCH IN TANDEM WITH THE NORMAL OPERATING LEVER. RATED DOORS SHALL BE SELF-CLOSING AND LATCHING; SUCH DOORS SHALL NOT BE EQUIPPED WITH DOOR STOPS OR OTHERWISE PROPPED OPEN.
- SPRINKLER AND ALARM SYSTEMS SHALL BE PROVIDED WHEN REQUIRED BY CBC/CFC CHAPTER 9 AND LOCAL ORDINANCE. IN STRUCTURES OF UNDETERMINED USE, THE MINIMUM FIRE SPRINKLER DESIGN DENSITY REQUIRED SHALL BE ORDINARY HAZARD (GROUP 2) WITH A DESIGN AREA OF 3000 SQUARE FEET.
- EXISTING SPRINKLER AND ALARM SYSTEMS IN SPACES UNDERGOING REMODELING SHALL BE EVALUATED BY A LICENSED CONTRACTOR KNOWLEDGEABLE IN SUCH SYSTEMS TO DETERMINE WHETHER CHANGES WILL BE NECESSARY TO MAINTAIN THESE SYSTEMS IN CONFORMANCE WITH APPLICABLE STANDARDS. IF MODIFICATIONS ARE NECESSARY, PLANS SHALL BE SUBMITTED TO THE CITY OF CARLSBAD FIRE DEPARTMENT FOR REVIEW AND APPROVAL PRIOR TO MODIFICATION OF THE SYSTEM. SPRINKLER AND ALARM SYSTEMS SHALL BE SUPERVISED BY A UL-LISTED CENTRAL ALARM STATION.
- HAZARDOUS MATERIALS EQUIPMENT, PROCESSES, STORAGE, DISPENSING, OR USE SHALL COMPLY WITH CBC AND CFC REGULATIONS AND SHALL BE REVIEWED AND APPROVED BY THE CITY OF SAN FERNANDO FIRE DEPARTMENT PRIOR TO SUCH MATERIALS OR EQUIPMENT BEING BROUGHT ON SITE.
- STORAGE AREAS GREATER THAN 500 SQ.FT. WITH HIGH HAZARD MATERIALS STORED HIGHER THAN SIX FEET AND OTHER MATERIALS STORED HIGHER THAN TWELVE FEET ARE NOT PERMITTED WITHOUT FIRST SUBMITTING PLANS TO AND OBTAINING APPROVAL FROM THE CITY OF CARLSBAD FIRE DEPARTMENT.
- A NEW HVAC UNIT EXCEEDING A 2,000 CFM CAPACITY SHALL BE PROVIDED WITH A DUCT SMOKE DETECTOR. THIS DETECTOR SHALL SHUT DOWN ONLY THE AFFECTED INDIVIDUAL HVAC UNIT UPON SMOKE DETECTION. THIS DETECTOR MUST ALSO BE INTERFACED TO AN EXISTING FIRE ALARM SYSTEM. THE DETECTOR SHALL ONLY PROVIDE A SUPERVISORY SIGNAL AT THE FIRE ALARM PANEL UPON SMOKE DETECTION.
- PROVIDE EXIT SIGN WITH 6" LETTERS OVER REQUIRED EXITS, WHERE SHOWN ON DRAWINGS, AND ADDITIONAL SIGNS AS REQUIRED BY BUILDING DEPARTMENT INSPECTOR OR FIRE DEPARTMENT FIELD INSPECTOR. CONNECT EXIT SIGNS TO EMERGENCY POWER CIRCUITS. COMPLY WITH BUILDING CODES.
- PROVIDE EMERGENCY LIGHTING OF ONE FOOT-CANDLE AT FLOOR LEVEL. COMPLY WITH BUILDING CODES.
- MAINTAIN AISLES AT LEAST 44" WIDE AT PUBLIC AREAS.
- INTERIOR WALL AND CEILING FINISHES FOR EXIT CORRIDOR SHALL NOT EXCEED AN END POINT FLAME SPREAD RATING: A. CLASS I, FLAME SPREAD 0-25, SMOKE DENSITY 150, FOR MATERIALS INSTALLED IN VERTICAL EXITS. B. CLASS II, FLAME SPREAD 26-75, SMOKE DENSITY 300, FOR MATERIALS INSTALLED IN HORIZONTAL EXITS. C. CLASS III, FLAME SPREAD 76-200, SMOKE DENSITY 450, FOR MATERIALS INSTALLED IN ANY OTHER LOCATION.
- LOCATE THE CENTER OF FIRE ALARM INITIATING DEVICES 48" ABOVE THE LEVEL OF THE FLOOR, WORKING PLATFORM, GROUND SURFACE OR SIDEWALK.
- EMERGENCY WARNING SYSTEMS SHALL ACTIVATE A MEANS OF WARNING THE HEARING IMPAIRED. FLASHING VISUAL WARNING SHALL HAVE A FREQUENCY OF NOT MORE THAN 60 FLASHES PER MINUTE.
- AUTOMATIC SPRINKLER SYSTEMS SHALL BE SUPERVISED BY AN APPROVED CENTRAL, PROPRIETARY OR REMOTE STATION SERVICE OR A LOCAL ALARM WHICH WILL GIVE AN AUDIBLE SIGNAL AT A CONSTANTLY ATTENDED LOCATION.

GENERAL NOTES

- COMPLY WITH CODES, LAWS, ORDINANCES, RULES, AND REGULATIONS OF PUBLIC AUTHORITIES GOVERNING THE WORK.
- OBTAIN AND PAY FOR PERMITS AND INSPECTIONS REQUIRED BY PUBLIC AUTHORITIES GOVERNING THE WORK.
- REVIEW DOCUMENTS, VERIFY DIMENSIONS AND FIELD CONDITIONS AND CONFIRM THAT WORK IS BUILDABLE AS SHOWN. REPORT ANY CONFLICTS OR OMISSIONS TO THE ARCHITECT FOR CLARIFICATION PRIOR TO PERFORMING ANY WORK IN QUESTION.
- SUBMIT REQUESTS FOR SUBSTITUTIONS, REVISIONS, OR CHANGES TO ARCHITECT FOR REVIEW PRIOR TO PURCHASE, FABRICATION OR INSTALLATION.
- COORDINATE WORK WITH THE OWNER, INCLUDING SCHEDULING TIME AND LOCATIONS FOR DELIVERIES, BUILDING ACCESS, USE OF BUILDING SERVICES AND FACILITIES, AND USE OF ELEVATORS. MINIMIZE DISTURBANCE OF BUILDING FUNCTIONS AND OCCUPANTS.
- OWNER WILL PROVIDE WORK NOTED "BY OTHERS" OR "NIC" UNDER SEPARATE CONTRACT. INCLUDE SCHEDULE REQUIREMENTS IN CONSTRUCTION PROGRESS SCHEDULE AND COORDINATE TO ASSURE ORDERLY SEQUENCE OF INSTALLATION
- COORDINATE TELECOMMUNICATIONS, DATA AND SECURITY SYSTEM INSTALLATIONS.
- MAINTAIN EXITS, EXIT LIGHTING, FIRE PROTECTIVE DEVICES, AND ALARMS IN CONFORMANCE WITH CODES AND ORDINANCES.
- PROTECT AREA OF WORK AND ADJACENT AREAS FROM DAMAGE.
- MAINTAIN WORK AREAS SECURE AND LOCKABLE DURING CONSTRUCTION. COORDINATE WITH TENANT AND LANDLORD TO ENSURE SECURITY.
- DO NOT SCALE DRAWINGS. WRITTEN DIMENSIONS GOVERN. IN CASE OF CONFLICT, CONSULT THE ARCHITECT.
- PARTITIONS ARE DIMENSIONED FROM FINISH FACE TO FINISH FACE. UNLESS OTHERWISE NOTED, MAINTAIN DIMENSIONS MARKED "CLEAR". ALLOW FOR THICKNESS OF FINISHES.
- COORDINATE AND PROVIDE BACKING FOR MILLWORK AND ITEMS ATTACHED OR MOUNTED TO WALLS OR CEILINGS.
- WHERE EXISTING ACCESS PANELS CONFLICT WITH CONSTRUCTION, RELOCATE PANELS TO ALIGN WITH AND FIT WITHIN NEW CONSTRUCTION.
- UNDERCUT DOORS TO CLEAR TOP OF FLOOR FINISHES BY 1/4 INCH, UNLESS OTHERWISE NOTED.

DEMOLITION NOTES

- COMPLY WITH APPLICABLE LOCAL, STATE AND FEDERAL CODES AND REGULATIONS PERTAINING TO SAFETY OF PERSONS, PROPERTY AND ENVIRONMENTAL PROTECTION.
- PROVIDE AND MAINTAIN BARRICADES, LIGHTING, AND GUARDRAILS AS REQUIRED BY APPLICABLE CODES AND REGULATIONS TO PROTECT OCCUPANTS OF BUILDING AND WORKERS.
- ERECT AND MAINTAIN DUSTPROOF PARTITIONS AS REQUIRED TO PREVENT SPREAD OF DUST, FUMES, AND SMOKE, ETC. TO OTHER PARTS OF THE BUILDING. ON COMPLETION, REMOVE PARTITIONS AND REPAIR DAMAGED SURFACES TO MATCH ADJACENT SURFACES.
- IF DEMOLITION IS PERFORMED IN EXCESS OF THAT REQUIRED, RESTORE EFFECTED AREAS AT NO COST TO THE OWNER.
- REMOVE FROM SITE DAILY AND LEGALLY DISPOSE OF REFUSE, DEBRIS, RUBBISH, AND OTHER MATERIALS RESULTING FROM DEMOLITION OPERATIONS.
- REMOVE DESIGNATED PARTITIONS, COMPONENTS, BUILDING EQUIPMENT, AND FIXTURES AS REQUIRED FOR NEW WORK.
- REMOVE ABANDONED HVAC EQUIPMENT, INCLUDING DUCT WORK.
- REMOVE ABANDONED ELECTRICAL, TELEPHONE AND DATA CABLING AND DEVICES, UNLESS OTHERWISE NOTED.
- REMOVE EXISTING FLOOR FINISHES AND PREPARE SUBFLOOR AS REQUIRED FOR NEW FLOOR FINISHES.

SHEET INDEX

		SUBMITTALS									
		04/27/17									
ARCHITECTURAL											
A00.00	SHEET INDEX, PROJECT INFORMATION, VICINITY MAP & EGRESS PLAN										
A00.10	ACCESSIBILITY NOTES										
A00.11	ACCESSIBILITY NOTES										
A00.50	EXISTING SITE PLAN & VARIANCE PARKING PLAN										
A00.51	PROPOSED SITE PLAN										
A00.60	DEMOLITION IMAGES										
A01.00	TRASH ENCLOSURE										
CIVIL											
C.1	SITE PLAN										
C.2	ENLARGEMENT										
C.3	DETAILS										

PROJECT INFORMATION

BUILDING ADDRESS:	456 S. BRAND BLVD. SAN FERNANDO, CA 91340
PROJECT DESCRIPTION:	EXTERIOR IMPROVEMENTS TO EXISTING PARKING LOT INCLUDING BUT NOT LIMITED TO DEMOLITION OF EXISTING REAR ENTRY TRELLIS/COLUMNS, PARKING STALL RE-STRIPING, CURBS, PAVEMENT, TRUNCATED DOMES, AND NEW TRASH ENCLOSURE.
ASSESSOR PARCEL #:	2522-013-019
ZONING:	C1
REQUIRED PARKING:	20
PROPOSED PARKING:	13 + 9 (VARIANCE) = 22 SEE PROVIDED LEASE AGREEMENT FOR EMPLOYEE OFFSITE PARKING AT 411 S. BRAND BLVD
HANDICAPPED PARKING:	1
TOTAL LANDSCAPING:	2,476.25 SF
TOTAL HARDSCAPE:	17,969.25 SF
BUILDING AREA:	5,986 SF
OCCUPANCY TYPE:	BUSINESS (B)
NUMBER OF STORIES:	1 STORY
CONSTRUCTION TYPE:	V-B
BUILDING USE:	BANK
SPRINKLERED:	NO
ALLOWABLE HEIGHTS & AREAS:	TYPE V-B: 2 STORIES / 9,000 SF.
PROVIDED HEIGHTS & AREAS:	1 STORIES/ 5,986 SF.

CONTACT INFORMATION

CLIENT	ARCHITECT	CIVIL
Citicorp/Cushman Wakefield Cushman & Wakefield 2900 Saviers Road, Ste. 430 Oxnard, CA 930331 Contact: Gregory Phyller e-mail: gregory.phy@citic.com phone: 661.373.0265	Gensler 4675 MacArthur Court Suite 350 Newport Beach, CA 92660 Tel: (949) 863-9434 Contact: Chip Williams James Spencer e-mail: chip_williams@gensler.com james_spencer@gensler.com	Pavement Engineering Inc. 3485 Sacramento Dr. Ste. A San Luis Obispo, CA 93401 Tel: (805) 781-2265 Contact: Mike Wesden e-mail: mikew@pavementengineering.com

CODE DATA

APPLICABLE CODES:	
ALL CONSTRUCTION SHALL COMPLY WITH:	
CALIFORNIA CODE OF REGULATION, TITLE 24 2016 CALIFORNIA BUILDING CODE 2016 CALIFORNIA ENERGY CODE	2016 CALIFORNIA FIRE CODE 2000 CITY OF SAN FERNANDO MUNICIPAL CODE

VICINITY MAP



KEYNOTES

- 1

PREPARE SURFACE FOR NEW SLURRY PAVEMENT SYSTEM.
- 2

REMOVE (E) PARKING STRIPPING THROUGH OUT.
- 3

EXISTING FENCE TO REMAIN. PROTECT IN PLACE.
- 4

DEMO EXISTING TRELLIS AND COLUMNS. PATCH, PAINT, AND REPAIR BUILDING FACADE TO MATCH ADJACENT.
- 5

REMOVE (E) PARKING CURB STOPS.
- 6

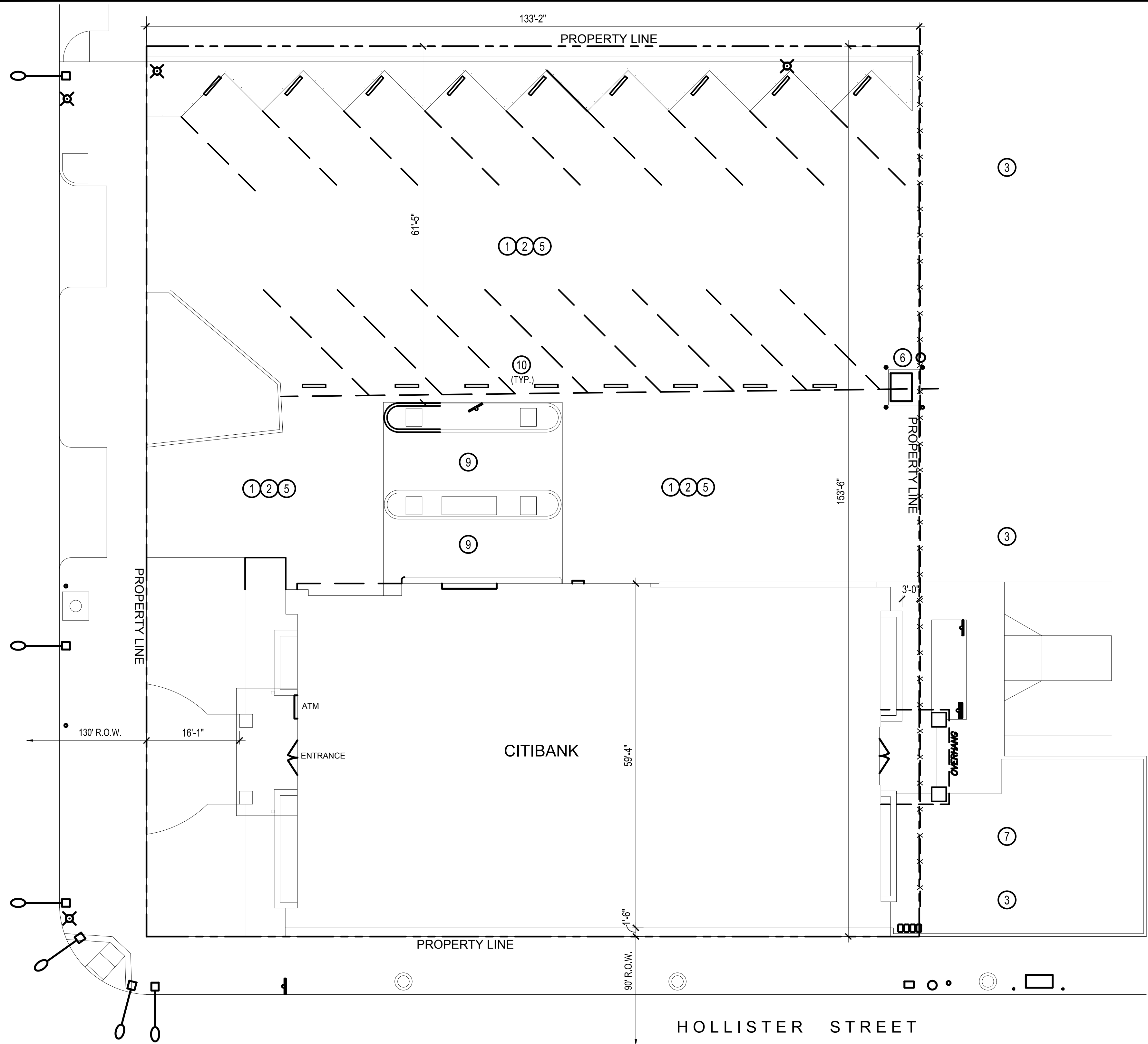
EXISTING TRANSFORMER TO REMAIN. PROTECT IN PLACE.
- 7

DEMO EXISTING TRELLIS AND COLUMNS. PATCH, PAINT, AND REPAIR BUILDING FACADE TO MATCH ADJACENT.
- 8

DEDICATED PARKING STALL FOR 456 S. BRAND (CITIBANK).
- 9

(E) DRIVE THRU ATM TO REMAIN. PROTECT IN PLACE.
- 10

REMOVE EXISTING SIGNAGE AS REQUIRED.



EXISTING SITE PLAN
SCALE: 3/32" = 1'-0"

REFER TO CIVIL DRAWINGS FOR ADDITIONAL INFORMATION. 1



TOTAL OF (9) DEDICATED SPACES

VARIANCE PARKING PLAN
SCALE: 1/32" = 1'-0"

411 S. BRAND BLVD 2



BRANCH #647
456 S. BRAND BLVD.
SAN FERNANDO, CA 91340

Gensler

4675 MacArthur Court
Suite 100
Newport Beach, CA 92660
Telephone 949.863.9434
Facsimile 949.553.1676

Issue	Date & Issue Description	By	Check
1	05/19/17	JS	CW
ISSUED FOR PLANNING			

Seal/Signature

Project Name
CITIBANK
SAN FERNANDO

Project Number
07.6059.125
CAD File Name
A00.50

Description
EXISTING SITE PLAN & VARIANCE PARKING PLAN

Scale

A00.50

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Ref. North

KEYNOTES

- 1

REFER TO CIVIL DRAWINGS FOR NEW STRIPPING WORK IN THIS AREA.
- 2

REFER TO CIVIL DRAWINGS FOR NEW HARDSCAPE WORK IN THIS AREA.
- 3

(E) BUILDING TO REMIAN. NOT A PART
- 4

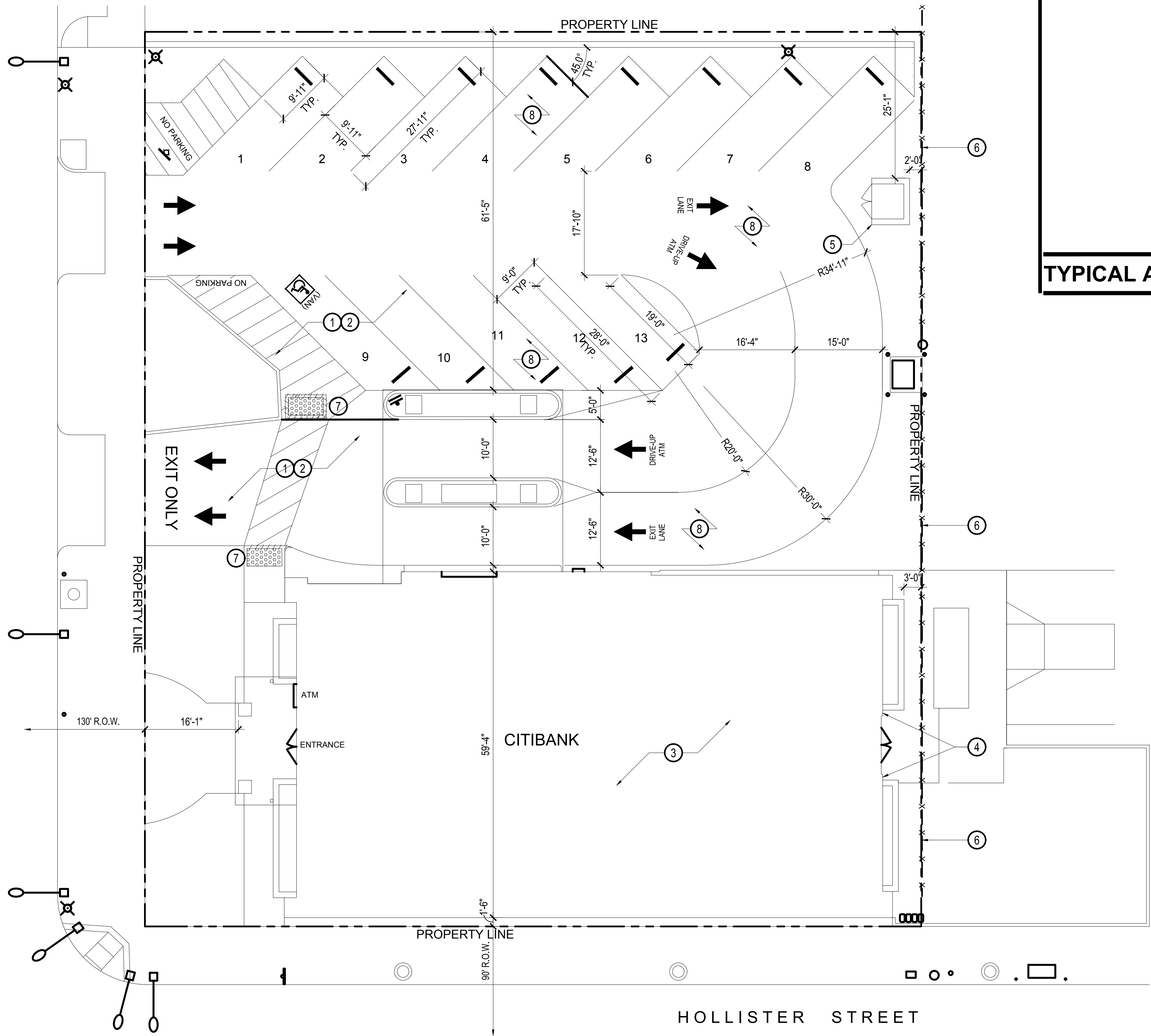
PATCH, PAINT, AND REPAIR BUILDING FACADE TO MATCH ADJACENT.
- 5

NEW TRASH ENCLOSURE. SEE SHEET A1.00.
- 6

EXISTING FENCE TO REMAIN. PROTECT IN PLACE.
- 7

NEW TRUNCATED DOMES. SEE CIVIL DRAWINGS.
- 8

NEW SLURRY PAVEMENT SYSTEM WITH NEW PARKING STRIPPING & CURB STOPS THROUGH OUT.

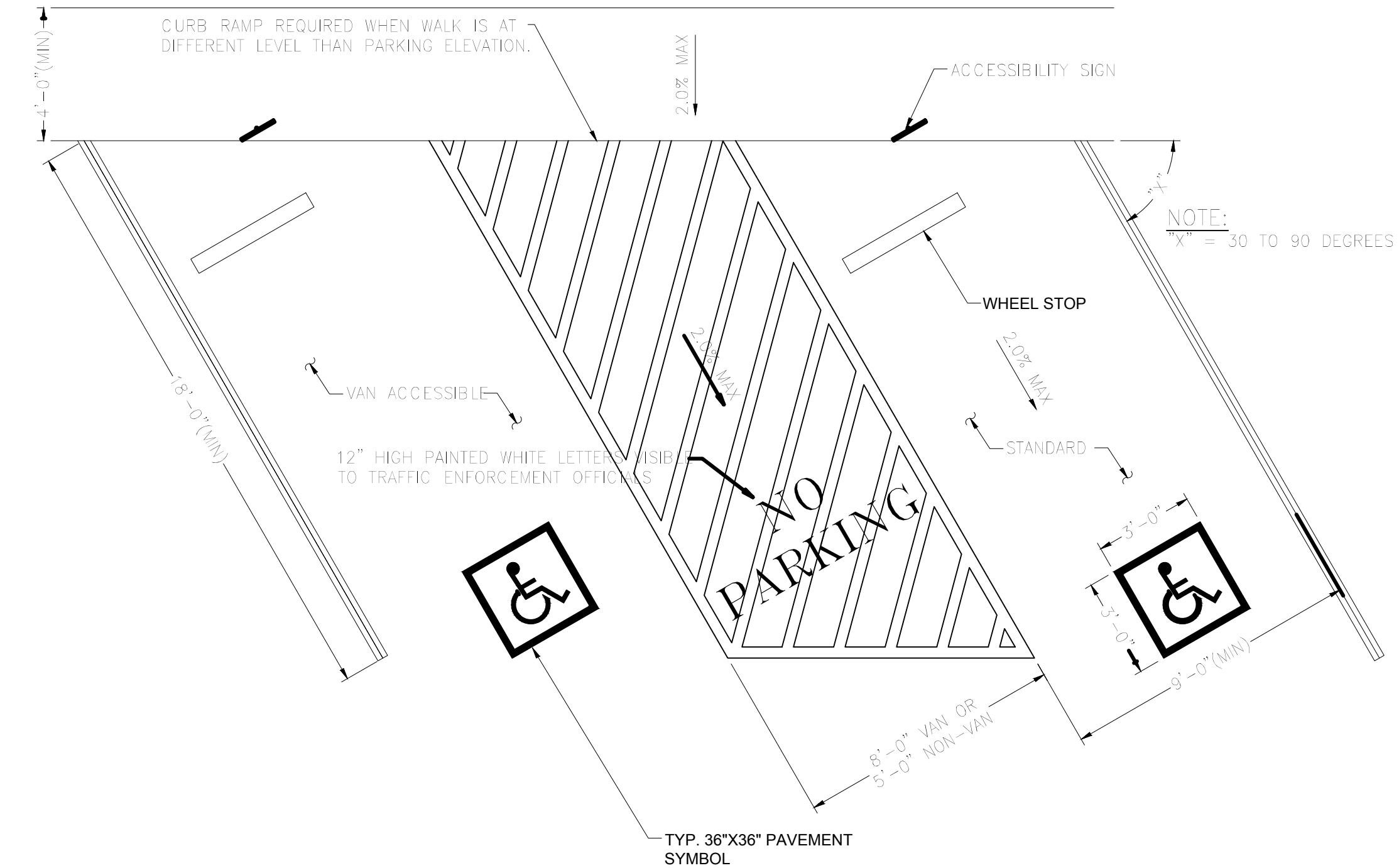


NOTE:
WORK UNDER KEYNOTE #8 IS COMPLETED TO BE CONSIDERED EXISTING TO REMAIN & SHOWN THIS WAY FOR RECORD PURPOSES ONLY PER PRIOR DISCUSSION WITH SR. PLANNER HUMBERTO QUINTANA (TEL: 918.837.1540; EMAIL: HQUINTANA@SFCITY.ORG).

PROPOSED SITE PLAN
SCALE: 3/32" = 1'-0"

REFER TO CIVIL DRAWINGS FOR ADDITIONAL INFORMATION.

1



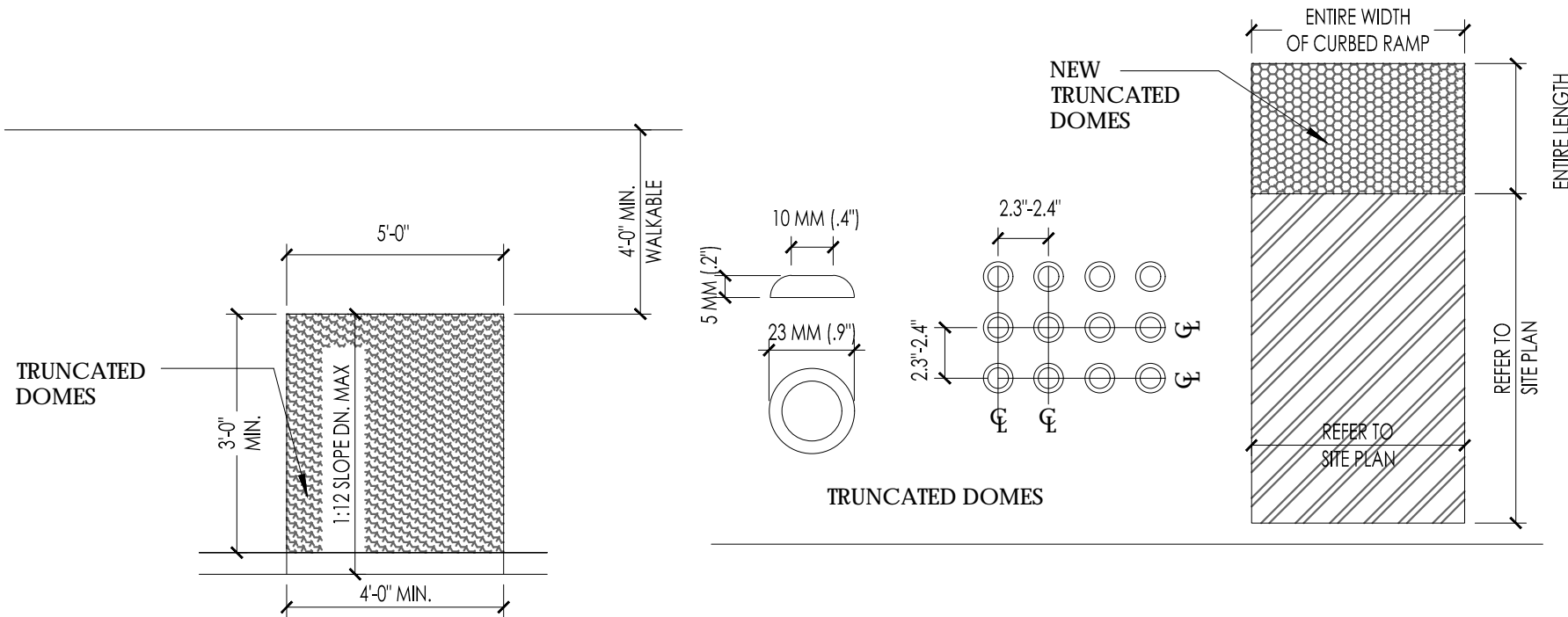
CAR AND VAN PARKING SPACES SHALL BE 216 INCHES (18') LONG MINIMUM. CAR PARKING SPACES SHALL BE 108 INCHES (9') WIDE AND VAN PARKING SHALL BE 144 INCHES (12') WIDE MINIMUM. ACCESS AISLES SERVING PARKING SPACES SHALL BE 60 INCHES (5') WIDE MINIMUM. VAN PARKING SPACES SHALL HAVE ACCESS AISLES LOCATED ON THE PASSENGER SIDE OF THE PARKING SPACES.

CBC FIGURE 11B-502.2, 11B-502.3, 11B-502.3.3

NOTE:
REFER TO CIVIL DRAWINGS FOR ADDITIONAL INFORMATION.

TYPICAL ACCESSIBLE PARKING

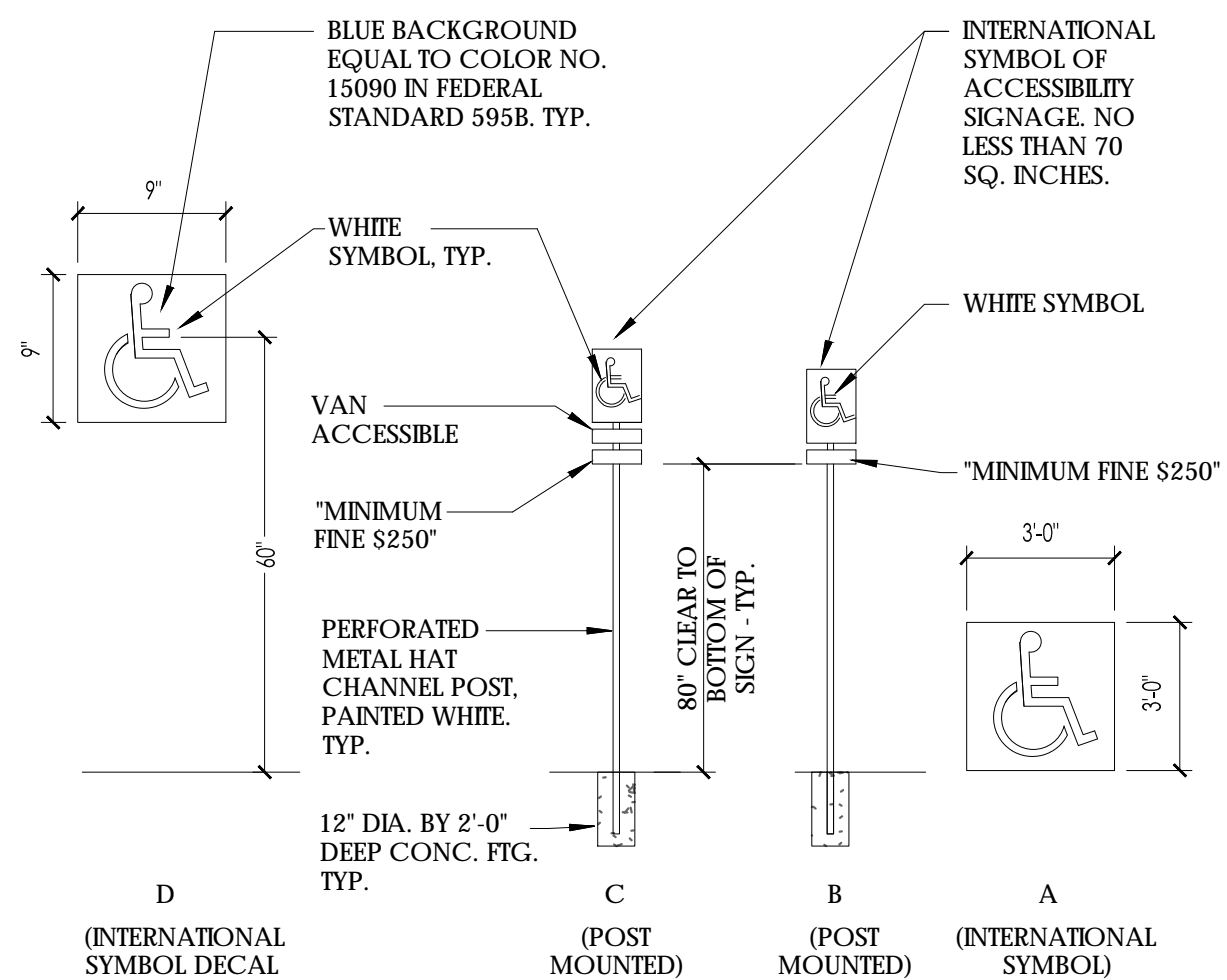
4



NOTE:
REFER TO CIVIL DRAWINGS FOR ADDITIONAL INFORMATION.

ACCESSIBLE RAMP DETAIL

3



NOTE:
REFER TO CIVIL DRAWINGS FOR ADDITIONAL INFORMATION.

ACCESSIBLE PARKING SIGN



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Issue	Date & Issue Description	By	Check
1	05/19/17	JS	CW
ISSUED FOR PLANNING			

Project Name	CITIBANK SAN FERNANDO
Project Number	07.6059.125
CAD File Name	A00.51
Description	PROPOSED SITE PLAN

Scale

A00.51

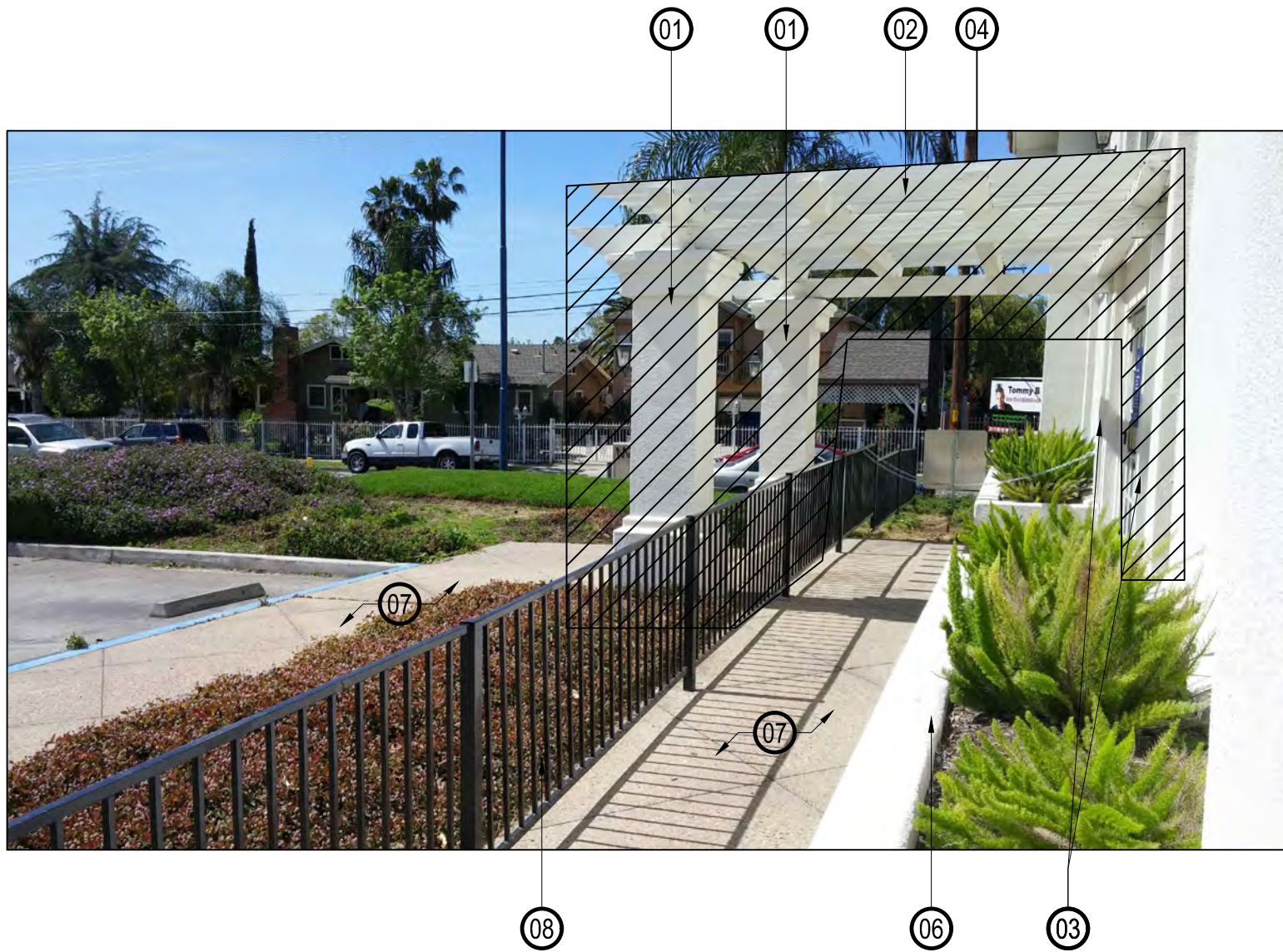
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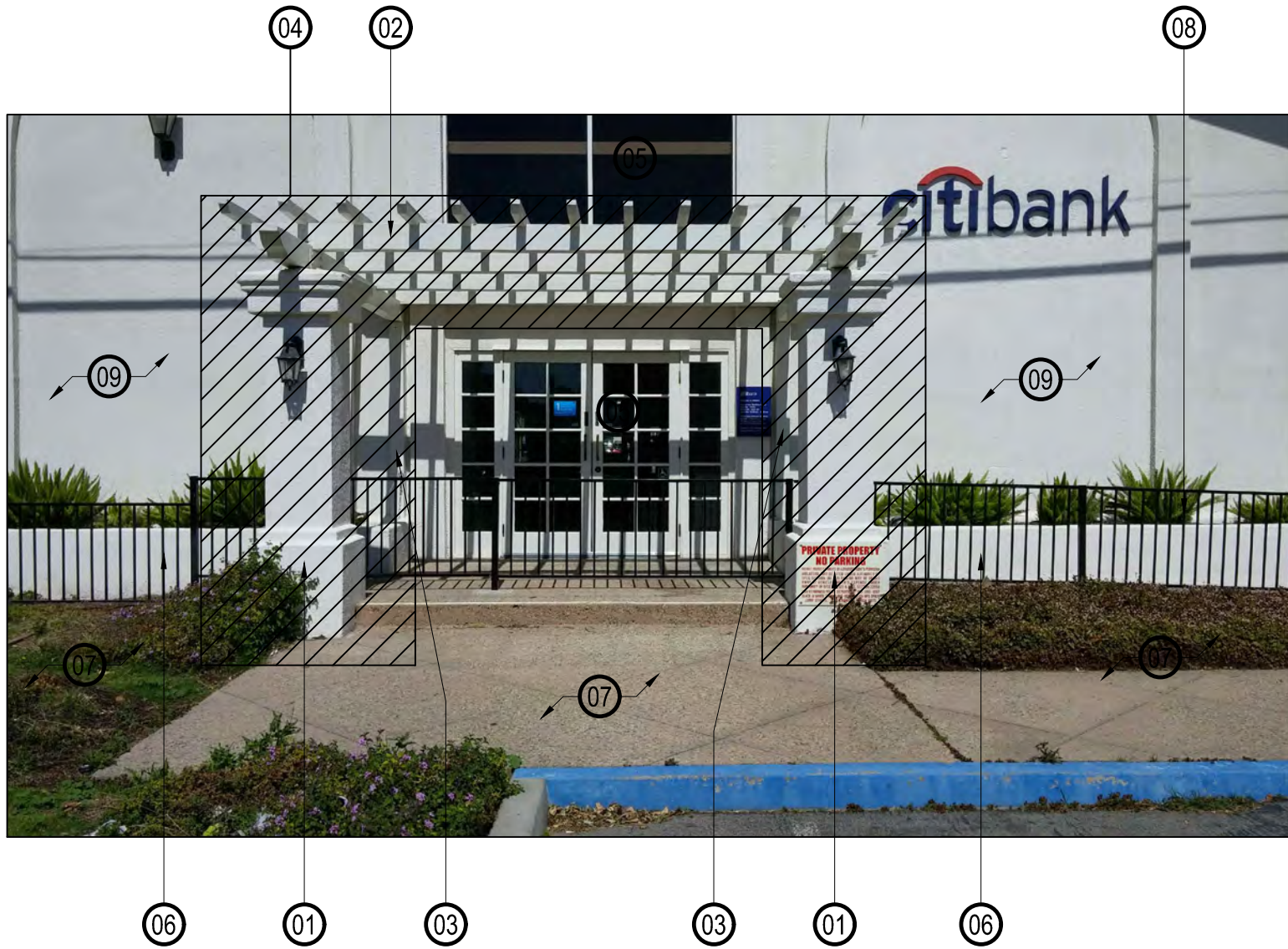
DEMO IMAGE
SCALE: NTS

3



DEMO IMAGE
SCALE: NTS

2



DEMO IMAGE
SCALE: NTS

1

KEYNOTES

- 1 DEMO EXISTING COLUMNS
- 2 DEMO EXISTING WOOD TRELLIS
- 3 DEMO EXISTING WOOD POSTS
- 4 PATCH, REPAIR, AND PAINT EXISTING PLASTER TO MATCH ADJACENT AFTER DEMO.
- 5 EXISTING STOREFRONT TO REMAIN. PROTECT IN PLACE.
- 6 EXISTING PLANTERS TO REMAIN. PROTECT IN PLACE.
- 7 EXISTING HARDSCAPE & LANDSCAPE TO REMAIN.
- 8 EXISTING FENCE TO REMAIN. PROTECT IN PLACE.
- 9 EXISTING BUILDING FACADE TO REMAIN. PROTECT IN PLACE.



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Issue	Date & Issue Description	By	Check
1	05/19/17	JS	CW

ISSUED FOR PLANNING

Seal/Signature

Project Name
CITIBANK
SAN FERNANDO

Project Number

07.6059.125

CAD File Name

A00.60

Description

DEMOLITION IMAGES

Scale



Ref. North

A00.60

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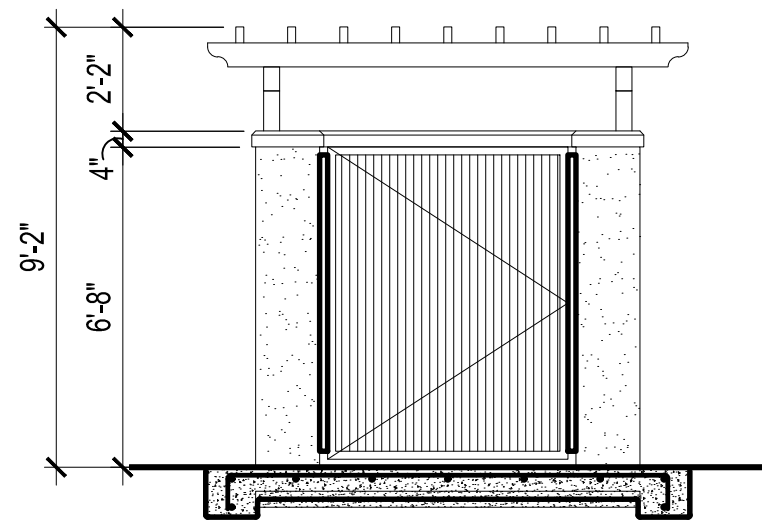
(E) TRELLIS DESIGN REF.
SCALE: NTS



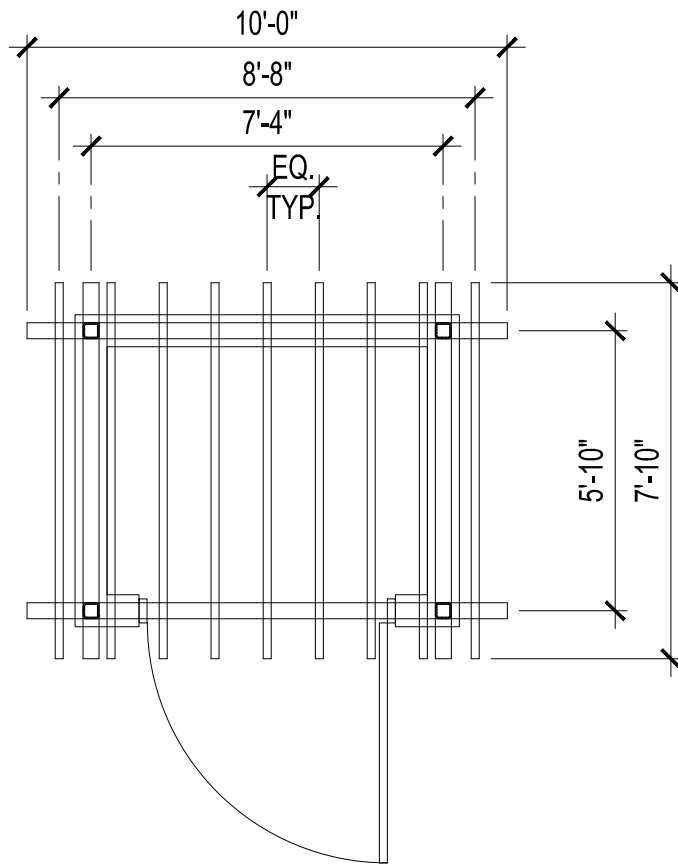
KEYNOTES

- ① CMU BLOCK WALL WITH PLASTER O/ METAL METAL LATH. PAINT WHITE TO MATCH BLDG.
- ② METAL DOOR, PAINT WHITE TO MATCH BLDG.
- ③ HSS 4X4. PAINT WHITE TO MATCH BLDG.
- ④ 4X6 WOOD BEAM, PAINT WHITE TO MATCH BLDG.
- ⑤ 2X4 WOOD TRELLIS, PAINT WHITE TO MATCH BLDG.
- ⑥ STONE CAP, PAINT WHITE TO MATCH BLDG.

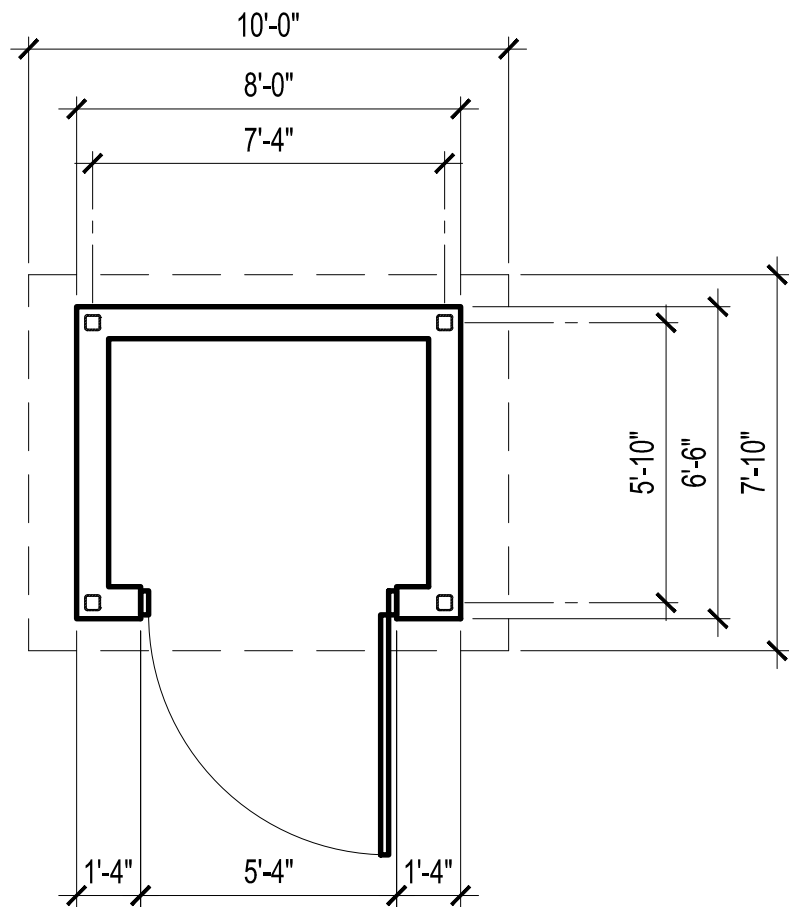
SIDE ELEVATION
SCALE: 1/4" = 1'-0"



FRONT ELEVATION
SCALE: 1/4" = 1'-0"



ROOF PLAN
SCALE: 1/4" = 1'-0"



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Issue	Date & Issue Description	By	Check
1	05/19/17 ISSUED FOR PLANNING	JS	CW

Seal/Signature

Project Name
CITIBANK
SAN FERNANDO

Project Number
07.6059.125
CAD File Name

A01-00
Description
TRASH ENCLOSURE

Scale



A01.00



DRAFT

AIR COMMERCIAL REAL ESTATE ASSOCIATION STANDARD INDUSTRIAL/COMMERCIAL LAND LEASE -- GROSS

(DO NOT USE THIS FORM FOR BUILDINGS OR FOR LEASES PROVIDING FOR THE CONSTRUCTION OF BUILDINGS)

1. Basic Provisions ("Basic Provisions").

1.1 **Parties:** This Lease ("Lease"), dated for reference purposes only January 19, 2017
is made by and between Downtown San Fernando II, LLC, a California limited liability company ("Lessor")
and Citibank, N.A. ("Lessee").
(collectively the "Parties," or individually a "Party").

1.2 **Premises:** That certain real property, including all improvements thereon or to be provided by Lessor under the terms of this Lease, and commonly known as 411 S. Brand Boulevard, San Fernando located in the County of Los Angeles, State of California and generally described as (describe briefly the nature of the property and the improvements on the property, if any, and, if applicable, the "Project", if the property is located within a Project) 9 designated parking stalls located within the parking lot of 411 S. Brand Boulevard. Lessee does not have any rights hereunder to the building or improvements located at the same address. ("Premises"). (See also Paragraph 2)

1.3 **Term:** One (1) years and zero (0) months ("Original Term") commencing January 20, 2017 ("Commencement Date") and ending January 31, 2018 ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing January 20, 2017 ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** \$1,350.00 per month ("Base Rent"), payable on the first day of each month commencing January 20, 2017. (See also Paragraph 4)

☐ If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph _____

1.6 **Base Rent and Other Monies Paid Upon Execution:**

(a) **Base Rent:** \$1,350.00 for the period month 1

(b) **Security Deposit:** \$0.00 ("Security Deposit"). (See also Paragraph 5)

(c) **Other:** \$0.00 for N/A

(d) **Total Due Upon Execution of this Lease:** \$1,350.00

1.7 **Agreed Use:** Reserved parking to be used by Citi Bank employees in connection with the bank branch located at 456 S. Brand Blvd., San Fernando. (See also Paragraph 6)

1.8 **Insuring Party:** Lessor is the "Insuring Party". The annual "Base Premium" is \$N/A. (See also Paragraph 8)

1.9 **Real Estate Brokers:** (See also Paragraph 16 and 25)

(a) **Representation:** The following real estate brokers (the "Brokers") and brokerage relationships exist in this transaction (check applicable boxes):

☐ _____ represents Lessor exclusively ("Lessor's Broker");
☐ _____ represents Lessee exclusively ("Lessee's Broker"); or
☐ _____ represents both Lessor and Lessee ("Dual Agency").

(b) **Payment to Brokers:** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of _____ or _____ % of the total Base Rent) for the brokerage services rendered by the Brokers.

1.10 **Guarantor:** The obligations of the Lessee under this Lease are to be guaranteed by _____ ("Guarantor"). (See also Paragraph 37)

1.11 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

- ☐ an Addendum consisting of Paragraphs 51 through 52 ;
- ☒ a plot plan depicting the Premises;
- ☐ a current set of the Rules and Regulations;
- ☐ a Work Letter;
- ☐ other (specify): Option to Extend - Paragraph 50;

2. Premises.

2.1 **Letting.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **Note:** Lessee is advised to verify the actual size prior to executing this Lease.

2.2 **Condition.** Lessor shall deliver the Premises to Lessee free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("Start Date"), and warrants that the existing electrical, plumbing, lighting, if any, and all other such elements in the Premises, other than those constructed by Lessee, shall be in good operating condition on said date. If a non-compliance with said warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty period shall be 30 days. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense. Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premises; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

2.3 **Compliance.** Lessor warrants that to the best of its knowledge the improvements on the Premises comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("Applicable Requirements") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 50), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense.

2.4 **Acknowledgements.** Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the improvements, if any, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 **Lessee as Prior Owner/Occupant.** The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

3. **Term.**

3.1 **Term.** The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

3.2 **Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to occupy the Premises. If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such early possession. All other terms of this Lease (including but not limited to the obligations to pay Real Property Taxes and insurance premiums and to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay in Possession.** Lessor agrees to use its best commercially reasonable efforts to deliver possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to deliver possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. **Rent.**

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("Rent").

4.2 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future payments to be made by Lessee to be by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent and Operating Expense Increase, and any remaining amount to any other outstanding charges or costs.

5. **Security Deposit.** Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease. If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall upon written request provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. **THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.**

6. **Use.**

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable

thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any request for a modification of the Agreed-Use, so long as the same will not be significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 Hazardous Substances.

(a) **Reportable Uses Require Consent.** The term "Hazardous Substance" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof. Lessee shall not engage in any activity in or on the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from adjacent properties not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. **No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.**

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice.

6.3 **Lessee's Compliance with Applicable Requirements.** Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements.

6.4 **Inspection; Compliance.** Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants authorized by Lessor shall have the right to enter onto Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting and/or testing the condition of the Premises and/or for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see paragraph 9.1) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of a written request therefor. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations. SEE APPENDUM 52

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, in good order, condition and repair (whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, plumbing, lighting facilities, landscaping, driveways, parking lots, fences,

retaining walls, signs, sidewalks and parkways located on, or adjacent to the Premises. Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. Lessee shall, during the term of this Lease, keep the appearance of the Premises in a first-class condition (including, e.g. graffiti removal).

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain a contract, with copies to Lessor, in customary form and substance for, and with a contractor specializing and experienced in the maintenance of the landscaping and irrigation systems. However, Lessor reserves the right, upon notice to Lessee, to procure and maintain such service contract, and Lessee shall reimburse Lessor, upon demand, for the cost thereof.

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 40 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 9 (Damage or Destruction) and 14 (Condemnation), it is intended by the Parties hereto that Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises, and they expressly waive the benefit of any statute now or hereafter in effect to the extent it is inconsistent with the terms of this Lease.

7.3 **Utility Installations; Trade Fixtures; Alterations.**

(a) **Definitions.** The term "Utility Installations" refers to security and fire protection systems, lighting fixtures, plumbing, and fencing on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises, without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the Premises without such consent but upon notice to Lessor, as long as the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 months' Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits; (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work; and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials. Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days' notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 **Ownership; Removal; Surrender; and Restoration.**

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing, if the Lessee occupies the Premises for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. **Insurance; Indemnity.**

8.1 **Payment of Premium Increases.**

(a) Lessee shall pay to Lessor any insurance cost increase ("Insurance Cost Increase") occurring during the term of this Lease. Insurance Cost Increase is defined as any increase in the actual cost of the insurance required under Paragraph 8.2(b), 8.3(a) and 8.3(b) over and above the Base Premium as hereinafter defined calculated on an annual basis. Insurance Cost Increase shall include but not be limited to increases resulting from the nature of Lessee's occupancy, any act or omission of Lessee, requirements of the holder of mortgage or deed of trust covering the Premises, increased valuation of the Premises and/or a premium rate increase. The parties are encouraged to fill in the Base Premium in paragraph 1.8 with a reasonable premium for such insurance based on the Agreed Use of the Premises. If the parties fail to insert a dollar amount in Paragraph 1.8, then the Base Premium shall be the lowest annual premium reasonably obtainable for the required insurance as of the commencement of the Original Term for the Agreed Use of the Premises. In no event, however, shall Lessee be responsible for any portion of the increase in the premium cost attributable to liability insurance carried by Lessor under Paragraph 8.2(b) in excess of \$2,000,000 per occurrence.

(b) Lessee shall pay any such Insurance Cost Increase to Lessor within 30 days after receipt by Lessee of a copy of the premium statement or other reasonable evidence of the amount due. If the insurance policies maintained hereunder cover other property besides the Premises, Lessor shall also deliver to Lessee a statement of the amount of such Insurance Cost Increase attributable only to the Premises showing in reasonable detail the manner in which such amount was computed. Premiums for policy periods commencing prior to, or extending beyond the term of this Lease, shall be prorated to correspond to the term of this Lease.

8.2 **Liability Insurance.**

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "insured contract" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of,

the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance, Improvements and Rental Value.

(a) **Improvements.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee and not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender or included in the Base Premium), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence, and Lessee shall be liable for such deductible amount in the event of an Insured Loss.

(b) **Rental Value.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("Rental Value Insurance"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period. Lessee shall be liable for any deductible amount in the event of such loss.

(c) **Adjacent Premises.** If the Premises are part of a larger property owned by Lessor, the Lessee shall pay for any increase in the premiums for the property insurance of such adjacent property if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

8.4 Lessee's Property; Coverage; Worker's Compensation Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(c) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 Insurance Policies. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may increase his liability insurance coverage and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

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

8.7 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' fees, expenses and/or liabilities arising out of, involving, or in connection with, the use and/or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor and its Agents from Liability. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, from any cause, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 Failure to Provide Insurance. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/ costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Insured Loss. If the improvements on the Premises are damaged and such damage is an Insured Loss, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds (except as to the deductible which is Lessee's responsibility) as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises.

9.2 Uninsured Loss. If the improvements on the Premises are damaged and such damage is not an Insured Loss, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice.

9.3 Abatement of Rent; Lessee's Remedies.

(a) **Abatement.** In the event the improvement on the Premises are damaged or a Hazardous Substance Condition for which Lessee is not responsible under this Lease occurs ('Hazardous Substance Condition' shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance on or under the Premises which requires remediation), the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or

restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. **"Commence"** shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.4 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

9.5 **Waive Statutes.** Lessor and Lessee agree that the terms of this Lease shall govern the effect of any damage to or destruction of the Premises with respect to the termination of this Lease and hereby waive the provisions of any present or future statute to the extent inconsistent herewith.

10. Real Property Taxes.

10.1 **Definition.** As used herein, the term **"Real Property Taxes"** shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Premises or the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Building address. Real Property Taxes shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Premises, and (ii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2

(a) **Payment of Taxes.** Lessor shall pay the Real Property Taxes applicable to the Premises provided, however, that Lessee shall pay to Lessor the amount, if any, by which Real Property Taxes applicable to the Premises increase over the fiscal tax year during which the Commencement Date Occurs ("Tax Increase"). Payment of any such Tax Increase shall be made by Lessee to Lessor within 30 days after receipt of Lessor's written statement setting forth the amount due and computation thereof. If any such taxes shall cover any period of time prior to or after the expiration or termination of this Lease, Lessee's share of such taxes shall be prorated to cover only that portion of the tax bill applicable to the period that this Lease is in effect. In the event Lessee incurs a late charge on any Rent payment, Lessor may estimate the current Real Property Taxes, and require that the Tax Increase be paid in advance to Lessor by Lessee monthly in advance with the payment of the Base Rent. Such monthly payment shall be an amount equal to the amount of the estimated installment of the Tax Increase divided by the number of months remaining before the month in which said installment becomes delinquent. When the actual amount of the applicable Tax Increase is known, the amount of such equal monthly advance payments shall be adjusted as required to provide the funds needed to pay the applicable Tax Increase. If the amount collected by Lessor is insufficient to pay the Tax Increase when due, Lessee shall pay Lessor, upon demand, such additional sums as are necessary to pay such obligations. Advance payments may be intermingled with other moneys of Lessor and shall not bear interest. In the event of a Breach by Lessee in the performance of its obligations under this Lease, then any such advance payments may be treated by Lessor as an additional Security Deposit.

(b) **Additional Improvements.** Notwithstanding anything to the contrary in this Paragraph 10.2, Lessee shall pay to Lessor upon demand the entire of any increase in Real Property Taxes assessed by reason of Alterations or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.3 **Joint Assessment.** If the Premises are not separately assessed, Lessee's liability shall be an equitable proportion of the Tax Increase for all of the land and improvements included within the tax parcel assessed, such proportion to be conclusively determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available.

10.4 **Personal Property Taxes.** Lessee shall pay, prior to delinquency, all taxes assessed against and levied upon Lessee Owned Alterations, Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. **Utilities and Services.** Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered or billed to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered or billed. There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions. INTENTIONALLY DELETED.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buy-out or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. **"Net Worth of Lessee"** shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a noncurable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a noncurable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, i.e. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably

requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 Additional Terms and Conditions Applicable to Subletting. The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to atorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 Default; Breach. A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; or the vacating of the Premises without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 42, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. §101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph (e) is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 Remedies. If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "Inducement Provisions," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("Interest") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "Condemnation"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 25% of the Premises is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

15.1 Additional Commission. In addition to the payments owed pursuant to Paragraph 1.9 above, Lessor agrees that: (a) if Lessee exercises any Option, (b) if Lessee or anyone affiliated with Lessee acquires any rights to the Premises or other premises owned by Lessor and located within the same Project, if any, within which the Premises is located, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed.

15.2 Assumption of Obligations. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.9, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue Interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 Representations and Indemnities of Broker Relationships. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker or finder (other than the Brokers, if any) in connection with this Lease, and that no one other than said named Brokers is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "Responding Party") shall within 10 days after written notice from the other Party (the "Requesting Party") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "Estoppel Certificate" form published by the AIR Commercial Real Estate Association, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. Definition of Lessor. The term "Lessor" as used herein shall mean the owner or owners at the time in question of the fee title to the

Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. **Severability.** The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. **Days.** Unless otherwise specifically indicated to the contrary, the word "days" as used in this Lease shall mean and refer to calendar days.

20. **Limitation on Liability.** The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. **Time of Essence.** Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. **No Prior or Other Agreements; Broker Disclaimer.** This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. **Notices.**

23.1 **Notice Requirements.** All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 **Date of Notice.** Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

24. **Waivers.**

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of moneys or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. **Disclosures Regarding The Nature of a Real Estate Agency Relationship.**

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) **Lessor's Agent.** A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) **Lessee's Agent.** An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: a. Diligent exercise of reasonable skills and care in performance of the agent's duties. b. A duty of honest and fair dealing and good faith. c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) **Agent Representing Both Lessor and Lessee.** A real estate agent, either acting directly or through one or more associate licenses, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. b. Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not without the express permission of the respective Party, disclose to the other Party that the Lessor will accept rent in an amount less than that indicated in the listing or that the Lessee is willing to pay a higher rent than that offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. **No Right To Holdover.** Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Lessee holds over, then the Base Rent shall be increased to 150% of the Base Rent applicable immediately preceding the expiration or termination. Holdover Base Rent shall be calculated on monthly basis. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. **Cumulative Remedies.** No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. **Covenants and Conditions; Construction of Agreement.** All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. **Binding Effect; Choice of Law.** This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located.

30. **Subordination; Attornment; Non-Disturbance.**

30.1 **Subordination.** This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "Security Device"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "Lender") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 **Attornment.** In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "Non-Disturbance Agreement") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises.

30.4 **Self-Executing.** The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. **Attorneys' Fees.** If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "Prevailing Party" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. **Lessor's Access; Showing Premises; Repairs.** Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect to Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. **Auctions.** Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. **Signs.** Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "for sublease" signs, Lessee shall not place any sign upon the Premises without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. **Termination; Merger.** Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. **Consents.** All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. **Guarantor.**

37.1 **Execution.** The Guarantors, if any, shall each execute a guaranty in the form most recently published by the AIR Commercial Real Estate Association.

37.2 **Default.** It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

38. **Quiet Possession.** Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. **Options.** If Lessee is granted any Option, as defined below, then the following provisions shall apply:

39.1 **Definition. "Option"** shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property

of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 **Options Personal To Original Lessee.** Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 **Multiple Options.** In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 **Effect of Default on Options.**

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. **Multiple Properties.** If the Premises are a part of a group of properties controlled by Lessor, Lessee agrees that it will abide by and conform to all reasonable rules and regulations which Lessor may make from time to time for the management, safety, and care of said properties, including the care and cleanliness of the grounds and including the parking, loading and unloading of vehicles, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessee also agrees to pay its fair share of common expenses incurred in connection with such rules and regulations.

41. **Security Measures.** Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

42. **Reservations.** Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map or restrictions.

43. **Performance Under Protest.** If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

44. **Authority; Multiple Parties; Execution.**

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

45. **Conflict.** Any conflict between the printed provisions of this Lease and typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

46. **Offer.** Preparation of this Lease by either Party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

47. **Amendments.** This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

48. **Waiver of Jury Trial.** THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS AGREEMENT.

49. **Arbitration of Disputes.** An Addendum requiring the Arbitration of disputes between the Parties and/or Brokers arising out of this Lease ☐ is ☒ Is not attached to this Lease.

50. **Accessibility; Americans with Disabilities Act.**

(a) The Premises: ☒ have not undergone an inspection by a Certified Access Specialist (CASp). ☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. ☐ have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq.

(b) Since compliance with the Americans with Disabilities Act (ADA) is dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in ADA compliance, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY THE AIR COMMERCIAL REAL ESTATE ASSOCIATION OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES,

THE CONDITION AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES IS LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES IS LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at:

Executed at:

On:

On:

By LESSOR:

By LESSEE:

Downtown San Fernando II, LLC,
a California limited liability company

Citi Bank

By:

By:

Name Printed: Severyn Aszkenazy

Name Printed:

Title: Member

Title:

By:

By:

Name Printed:

Name Printed:

Title:

Title:

Address: 601 S. Brand Blvd., 3rd Floor

Address:

San Fernando, CA 91340

Telephone: (818) 270-9070

Telephone: ()

Facsimile: (818) 270-9071

Facsimile: ()

Email:

Email:

Email:

Email:

Federal ID No.

Federal ID No.

BROKER:

BROKER:

Att:

Att:

Title:

Title:

Address:

Address:

Telephone: ()

Telephone: ()

Facsimile: ()

Facsimile: ()

Email:

Email:

Federal ID No.

Federal ID No.

Broker/Agent BRE License #:

Broker/Agent BRE License #:

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 500 N Brand Blvd, Suite 900, Glendale, CA 91203. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

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AGENDA REPORT

To: Planning and Preservation Commission Chairperson Haupt and Commissioners

From: Timothy Hou, Director of Community Development

Date: June 5, 2018

Subject: **Discussion Regarding City Procedure for Determination of Public Convenience or Necessity for Alcoholic Beverage Control License Issuance**

RECOMMENDATION:

Subsequent to discussion by the Planning and Preservation Commission (Commission), Staff seeks direction regarding forwarding recommendations to City Council, if any, regarding the City's process for making a determination that public convenience or necessity would be served by the issuance of a State of California Department of Alcoholic Beverage Control (ABC) license authorizing the sale and/or serving of alcoholic beverages.

INTRODUCTION:

On March 6, 2018, the Commission approved a request to make a determination of convenience or necessity for issuance of an ABC license to Lee Raybun c/o Truman House Tavern at 911 San Fernando Road. During deliberations on the item, both members of the public and the Commission discussed the existing procedure for the City to make these determinations, especially in light of changes enacted under the San Fernando Corridors Specific Plan (SP-5), which streamlined the entitlement process for most uses requiring an ABC license to no longer require a conditional use permit.

Currently, under Business & Professions Code Section 23958.4, the City Council is the "local governing body." Business & Professions Code Section 23958.4 allows the local governing body, here the City Council, to designate either a subordinate officer or body to make that determination. Pursuant to City Code Section 106-180, the Commission is the City Council's designated subordinate body charged with determining that public convenience or necessity would be served by the issuance of an ABC license.

On April 3, 2018, Commissioner Yvonne Mejia Peña distributed a memorandum to fellow Commissioners regarding oversight of alcoholic beverage control license issuance (Attachment 1). While Commissioner Mejia Peña suggests in the memorandum to keep the current process intact, she expressed a desire to continue the discussion at the next Commission meeting.

**Discussion Regarding City Procedure for Determination of Public Convenience or Necessity for
Alcoholic Beverage Control License Issuance**

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CONCLUSION:

Staff seeks direction from the Commission regarding recommendations to City Council, if any, on the City's procedure for making a determination that public convenience or necessity would be served by the issuance of a State license authorizing the sale and/or serving of alcoholic beverages.

Attachment:

1. Memorandum from Commissioner Mejia Peña, sent April 3, 2018

MEMORANDUM

To: Chairperson Haupt and Fellow Planning and Preservation Commissioners
From: Yvonne Mejia Peña, Planning and Preservation Commissioner
Cc: Vice Mayor Antonio Lopez and Community Development Director Timothy Hou
Subject: Oversight of Alcoholic Beverage Control License Issuance

On March 6, 2018, during the Planning and Preservation Commission Meeting,¹ members of the public raised whether there were opportunities to streamline the process of issuing an ABC license and concerns were raised on the process as it appears to be taking just as long as the Conditional Use Permit (CUP) permit process for the sale of alcohol that was previously in place.

The Commission was reminded that even though the CUP process was eliminated, ABC is still required to have someone identify the need and according to the City Code it currently identifies the authorizing party as the Commission. During Commission discussion, it was contemplated that the approval of an ABC license *could be* delegated to staff and approved administratively to help streamline the process. However, myself and other Commissioners did express some concern with this proposal and suggested that we continue the discussion at a later time.

After deliberating this issue further, I suggest that we keep the current process intact. I am a proponent of bringing business into the City and I would love to continue seeing the city I cherish grow to meet the needs of our community. However, I do not want to deny this community the opportunity for due process as I believe the opportunity to publicly express ones' opinion is an integral part of the planning process. Further, it is our responsibility as a Commission, and as a City, to perform our due diligence to ensure that the proposed projects meet the standards set forth in our code and address the concerns of our community while promoting economic vitality.

Nonetheless, I do understand the concerns that have been raised related to the process in issuing ABC licenses and although I believe that procedurally the process should remain intact, I do think this presents an opportunity for the Commission to work with the San Fernando City Chamber of Commerce. I see this as an opportunity for us enhance the manner in which new businesses are on-boarded, so to speak, and how we could educate prospective businesses.

I look forward to continuing this discussion with the rest of the Planning and Preservation Commission.

Sincerely,

/s/ Yvonne Mejia Peña

Yvonne Mejia Peña
City of San Fernando
Planning and Preservation Commissioner

¹ The March 6, 2018 meeting staff recommended that the Planning and Preservation Commission approve Resolution No. 2018-001 making the Determination of Public Convenience or necessity in connection with the issuance of a license by the Department of Alcoholic Beverage Control (ABC) for the sale of alcoholic beverages at 911 San Fernando Road and it was subsequently approved.