

FIRST AMENDMENT TO GROUND LEASE

This First Amendment to Ground Lease ("First Amendment") is made and entered into this 24th day of February 1989, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SANTA BARBARA, a public body, corporate and politic, organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California ("Agency"), and SANTA BARBARA ASSOCIATES, a California general partnership ("Lessee").

RECITALS

A. Agency and Lessee have entered into that certain ground lease dated February 24, 1989 ("Ground Lease") affecting certain real property located in the City of Santa Barbara, County of Santa Barbara, State of California, which real property is described in Exhibit "A" attached hereto ("Lease Premises").

B. Agency and Lessee desire to amend the Ground Lease in certain respects.

NOW, THEREFORE, the parties hereto agree to amend the Ground Lease as follows:

1. Governmental Permits. For purposes of Section 4.7 of the Ground Lease, Lessee may secure or cause to be secured governmental permits on a staged basis as construction and development of improvements on the Lease Premises progresses. Accordingly, Lessee shall only be required to secure or cause to be secured those governmental permits which are required with respect to that portion or aspect of construction or development which Lessee seeks to commence at any given time.

2. Property Taxation. In accordance with Section 107.6 of the California Revenue and Taxation Code, Agency and Lessee acknowledge that the leasehold interest of Lessee created by the Ground Lease may be subject to property taxation and that Lessee may be subject to the payment of property taxes levied on such leasehold interest.

3. Reservation of Easements. Agency hereby reserves the right to grant nonexclusive easements, subject to the terms and conditions set forth in this Section 3, over limited portions of the Lease Premises (i) to Contiguous Owners, for the use of such Contiguous Owners and their tenants, employees, and invitees, for ingress and egress to and from the Contiguous Parcel and the passage and accommodation of pedestrians ("Access Easement"), (ii) to Contiguous Owners, and their tenants, employees and suppliers for transportation and delivery of goods and services ("Service Easement"); (iii) to Contiguous Owners for the installation, maintenance and connection of sewer laterals from the Contiguous Parcel to the private sewer line to be constructed and installed on the Lease Premises ("Sewer Line Easement"); (iv) to the appropriate public utility providing cable television, gas, water, telephone and electrical service to improvements located on the Contiguous Parcel, for installation, placement, operation, maintenance, flow, and passage of pipes, conduits, cables, mains, lines and related equipment providing such utilities ("Utility Easement"); and (v) to Contiguous Owners and its tenants, for the use of a refuse collection and storage area ("Refuse Storage

Area"), together with dumpsters, refuse compactors, cardboard balers and related equipment located therein ("Refuse Storage Equipment") as well as ingress and egress to and from the Contiguous Parcel to the Refuse Storage Area ("Refuse Easement"). The Access Easements, Service Easements, Sewer Line Easements, Utility Easements and Refuse Easements are collectively hereafter referred to as the "Easements."

The specific Contiguous Parcels for whose benefit such Easements may be granted are set forth on the Easement Reservation Site Plan attached hereto as Exhibit "B" ("Easement Reservation Site Plan"). The aggregate portion of the Lease Premises which may be subject to Easements is set forth on the Easement Reservation Site Plan; provided, however, that the portion of the Easement Areas subject to each specific Easement shall be limited to the areas set forth in subparagraph (a) below. The aggregate portion of the Lease Premises that are subject to the Easements are hereafter referred to as the "Easement Areas."

Any Easements granted to the Contiguous Owners pursuant to this Section 3 shall be subject to the following terms and conditions:

- a. Each Easement shall be limited only to those portions of the Easement Areas as are reasonably necessary for the use and enjoyment of such Easement by the particular Contiguous Owner;
- b. The use of an Easement by the Contiguous Owner and its tenants, employees, suppliers and invitees shall be in common

with the rights of Lessee, the Majors, and their respective tenants, employees, contractors, suppliers and invitees;

c. With respect to any Access Easement and Service Easement granted pursuant to this Section 3, Lessee may temporarily relocate such Access Easement and Service Easement as reasonably necessary during the period of construction of the Shopping Center;

d. With respect to the Easement Areas subject to Access Easements, Service Easements, or Refuse Easements ("Surface Easement Areas"), Lessee shall have the right to remodel or renovate the Surface Easement Areas from time to time as Lessee deems necessary in its sole and absolute discretion. Lessee may temporarily close portions of the Surface Easement Areas to accomplish such work, provided the closure of any portion of the Surface Easement Areas does not unreasonably interfere with the right of a Contiguous Owner to use an Access Easement, Service Easement or Refuse Easement. Any work on the Surface Easement Areas shall not unreasonably interfere with the use of any Access Easement, Service Easement or Refuse Easement granted pursuant to this Section 3; provided, however, that Lessee shall not have any liability to a Contiguous Owner or its tenants, employees, agents, contractors, suppliers or invitees for interruption in use caused by such work. Lessee shall have the right to close off all or a portion of the Surface Easement Areas for such reasonable period or periods of time as may be legally necessary to prevent the acquisition of prescriptive

rights by third parties, provided that the closure of any portion of the Surface Easement Areas does not unreasonably interfere with the right of a Contiguous Owner to use any Access Easement, Service Easement or Refuse Easement granted pursuant to this Section 3. Lessee also reserves the right to eject or cause the ejection from the Surface Easement Areas of any person or persons not authorized, empowered or privileged to use the Surface Easement Areas.

e. With respect to any Service Easements over the Lease Premises to and from a Contiguous Parcel to De la Guerra Place, the hours during which such Service Easement may be used shall be mutually agreed upon by Lessee, the Contiguous Owners whose Contiguous Parcels obtain service access from De la Guerra Place and the Transportation Engineer of the City of Santa Barbara in accordance with those certain Conditions of Approval for the Downtown Retail Revitalization Project, Paseo Nuevo, adopted by the City Council of the City of Santa Barbara on May 26, 1987 ("Conditions of Approval"). Lessee shall have the right to temporarily close service access to De la Guerra Place during special events in the Shopping Center in accordance with the Conditions of Approval.

f. Any Private Sewer Easement granted pursuant to this Section 3 shall be in a form of the Private Sewer Easement Agreement attached hereto as Exhibit "C."

g. With respect to a Utility Easement, the location of all pipes, conduits, cables, mains and related equipment ("Utility

Lines") installed pursuant to such Utility Easement shall be subject to the prior written approval of Lessee, which shall not be unreasonably withheld. Lessee shall have the right to relocate the Utility Lines provided that any such relocation (i) shall not materially interfere with or diminish the utility service to the grantee of such Utility Easement, (ii) shall be performed in a manner so as to cause the least practical interference with the operation of the improvements located on such grantee's Contiguous Parcel, and (iii) shall be performed without cost or expense to such grantee.

h. Any Refuse Easement granted pursuant to this Section 3 shall be in the form of the Refuse Easement Agreement attached hereto as Exhibit "C."

i. Each Contiguous Owner shall at all times keep the Surface Easement Areas free and clear of trash, debris, boxes, merchandise, cartons and similar items that are generated from the use of the Contiguous Parcel.

j. Use of the Surface Easement Areas shall be at the risk of the Contiguous Owner for whose benefit an Access Easement, Service Easement or Refuse Easement is granted.

Agency shall not grant any other easements over the Leased Premises except for Easements containing the terms and conditions set forth in this Section 3. No Easement granted by Agency shall impose greater rights or modify the terms and conditions set forth in this Section 3 without the prior written approval of Lessee. Lessee shall join in the granting of any Easement

containing the terms and conditions set forth in this Section 3 in accordance with Section 3.6 of the REA.

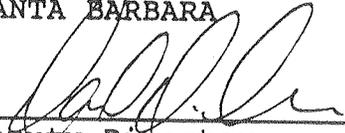
4. Full Force and Effect. Except as otherwise amended by this First Amendment, the terms and conditions of the Ground Lease shall remain unmodified and in full force and effect. In the event of any conflict or inconsistency between the terms and conditions of this First Amendment and the terms and conditions of the Ground Lease, the terms and conditions of this First Amendment shall control.

5. Counterparts. This First Amendment may be executed in one or more counterparts, each of which shall be an original, but all of which shall constitute one instrument.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the date set forth above.

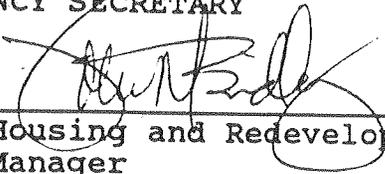
AGENCY:

REDEVELOPMENT AGENCY OF THE CITY
OF SANTA BARBARA

By: 
Deputy Director

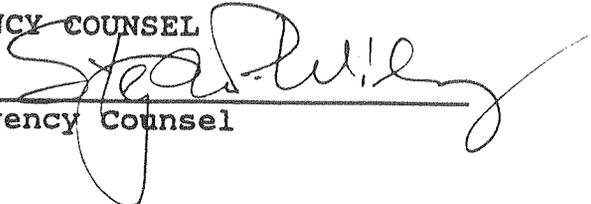
ATTEST:

AGENCY SECRETARY

By: 
Housing and Redevelopment
Manager

APPROVED AS TO FORM:

AGENCY COUNSEL

By 
Agency Counsel

LESSEE:

SANTA BARBARA ASSOCIATES, a
California general partnership

By: PASEO NUEVO ASSOCIATES, a
California limited partnership,
its general partner

By: _____
Its General Partner

By: JMB/PASEO NUEVO ASSOCIATES,
an Illinois general
partnership

By: JMB/PN, INC., an Illinois
corporation, General Partner

By _____

APPROVED AS TO FORM:

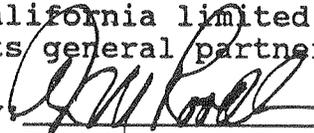
AGENCY COUNSEL

By _____
Agency Counsel

LESSEE:

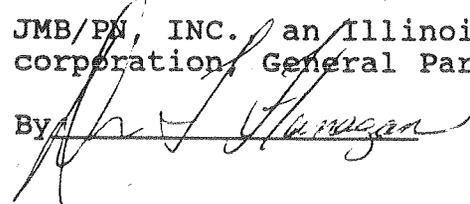
SANTA BARBARA ASSOCIATES, a
California general partnership

By: PASEO NUEVO ASSOCIATES, a
California limited partnership,
its general partner

By: 
Its General Partner

By: JMB/PASEO NUEVO ASSOCIATES,
an Illinois general
partnership

By: JMB/PN, INC. an Illinois
corporation, General Partner

By: 

DEVELOPER

EXHIBIT "A"
LEGAL DESCRIPTION

Parcels 2 and 12 of Parcel Map No. 20,504 in the City of Santa Barbara, County of Santa Barbara, State of California, as per map recorded in Book _____, Pages _____ through _____, inclusive of Parcel Maps, in the office of the County Recorder of said County.

EXCEPTING from a portion of said land all oil, gas and mineral substances, provided that the surface opening of any well, hole, shaft or other means of exploring for, reaching or extracting such substances shall not be located within the Central City Redevelopment Project and shall not penetrate any part or portion of said project area within 500 feet of the surface thereof, as reserved in various documents of record.

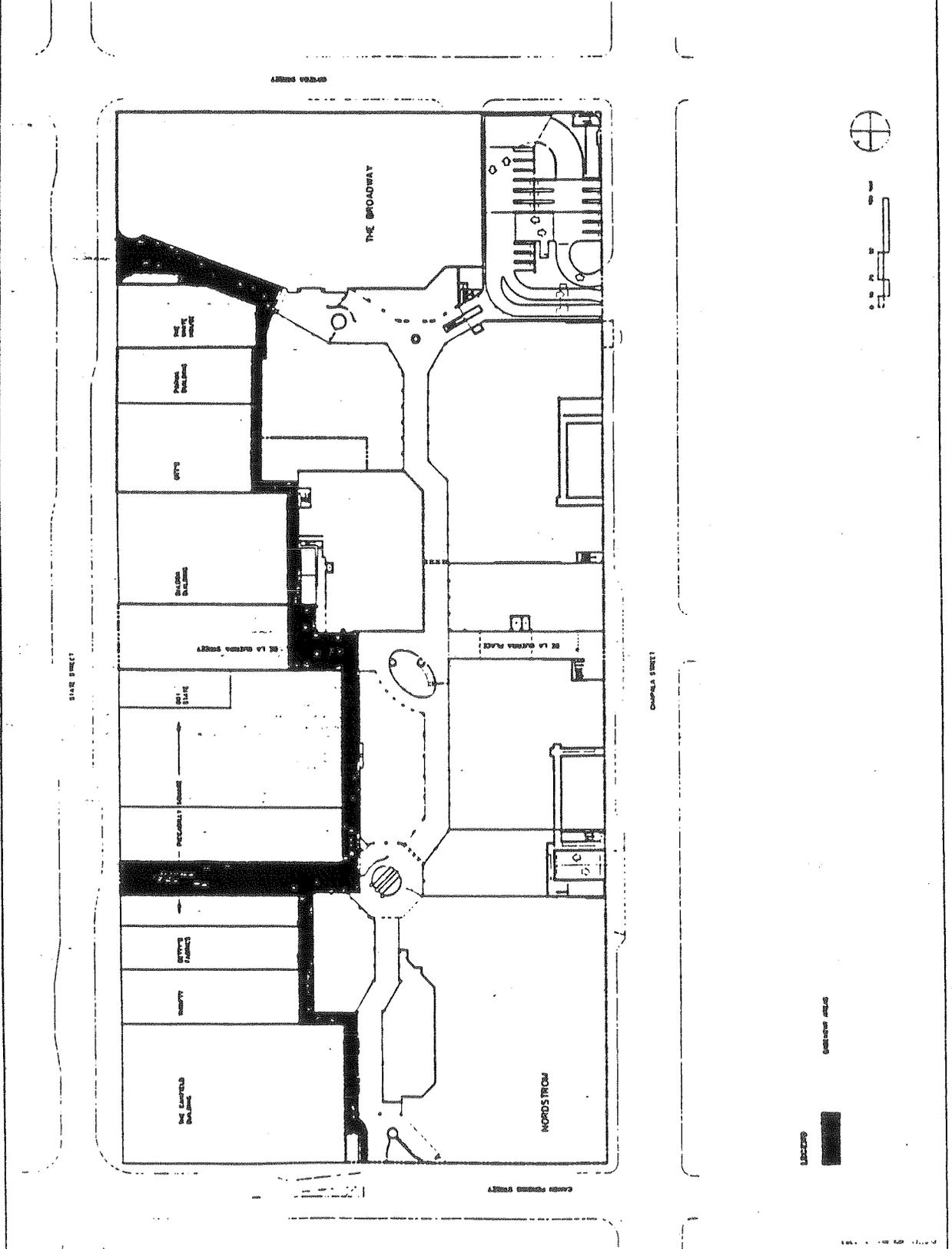


EXHIBIT "C"

RECORDING REQUESTED BY
AND, WHEN RECORDED,
MAIL TO:

Santa Barbara Associates
c/o Reininga Corporation
600 Montgomery Street, Suite 3600
San Francisco, CA 94111
Attn: J. David Shields, Esq.

EASEMENT AGREEMENT
(Sewer Lines)

This Easement Agreement ("Agreement") is made and entered into as of this _____ day of _____, 198_, by and among the REDEVELOPMENT AGENCY OF THE CITY OF SANTA BARBARA, a public body, corporate and politic, organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California ("Agency"), SANTA BARBARA ASSOCIATES, a California general partnership ("SBA"), and _____ ("Grantee").

RECITALS

A. Agency is the owner of certain real property located in the City of Santa Barbara, County of Santa Barbara, State of California, more particularly described in Exhibit "A" attached hereto and shown on the Site Plan ("Site Plan") attached hereto as Exhibit "B" ("Agency Parcel").

B. SBA is, or is about to become, the ground lessee of the Agency Parcel pursuant to a Ground Lease by and between SBA, as Lessee, and Agency, as Lessor ("Agency Parcel Lease").

C. Grantee is the owner of certain real property located in the City of Santa Barbara, County of Santa Barbara, State of

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California, more particularly described in Exhibit "C" attached hereto and shown on the Site Plan ("Grantee Parcel"). The Grantee Parcel is located adjacent to the Agency Parcel.

D. The parties hereto desire to establish an easement for a private sewer line ("Sewer Line") over certain portions of the Agency Parcel and to grant and accept certain rights and undertake certain obligations with respect to such easement.

NOW, THEREFORE, in consideration of the foregoing, and the covenants and agreements of the parties contained herein, the parties hereto agree as follows:

1. Grant of Easement. Agency and SBA hereby grant to Grantee a nonexclusive easement over, through, under and across such portion of the Agency Parcel as SBA may hereafter designate for the installation and operation of the Sewer Line to provide sewer service to the Grantee Parcel ("Easement").

2. Location of Utility Easements. The Sewer Line that is the subject of the Easement shall be located in such areas of the Agency Parcel as are designated by SBA from time to time. The anticipated location of the Sewer Line is shown on Exhibit "D" attached hereto.

3. Installation. All pipes, mains, lines and related equipment reasonably required to provide the Sewer Line to the Grantee Parcel shall be installed by SBA. SBA shall also connect the Sewer Line to the existing sewer line on the Grantee Parcel at or near the property line between the Agency Parcel and Grantee Parcel. The cost of such installation and connection

shall be borne by SBA and Agency in accordance with the Scope of Development attached as Exhibit "10" to that certain Disposition and Development Agreement effective as of November 23, 1987, by and between Agency and SBA. After completion of such installation and connection, and for so long thereafter as the Sewer Line remains private sewer line, SBA shall be responsible for the maintenance and repair of the Sewer Line. Grantee, its tenants, and their respective employees, agents and contractors, shall have no right to enter onto the Agency Parcel for purposes of effecting any maintenance and repair of the Sewer Line.

4. Cost of Sewer Service. Grantee acknowledges that the Sewer Line serves improvements on the Agency Parcel and other adjacent real property as well as the Grantee Parcel and connects with the sewer system of the City of Santa Barbara ("City"). The City imposes, or will impose, a charge for use of the City sewer system. If the City's sewer service charge is included within the water service charge imposed by the City on Grantee, Grantee shall pay the sewer charge directly to the City. If the City sewer charge is not included in such water service charge, Grantee shall pay a proportionate share of the sewer charge imposed by the City for the use of the Sewer Line ("Sewer Charge"). SBA shall be deemed the operator of the Sewer Line and shall be responsible for the collection of sewer charges from individual users of the Sewer Line and payment of the City's sewer charge (for purposes of this Section 4, SBA, together with its successors and assigns in the leasehold interest in the

Agency Parcel under the Agency Parcel Lease, and after the date of termination of the Agency Parcel Lease, Agency or its successors and assigns in the Agency Parcel, are hereafter referred to as "Operator"). Grantee's proportionate share shall be an amount equal to the total Sewer Charge imposed on Grantee by the City for all sewer service provided to the improvements on the Grantee Parcel for the month preceding the date on which the sewer facilities on the Grantee Parcel are connected to the Sewer Line as adjusted from time to time to match any adjustment in the City sewer charges that would be imposed on the improvements on the Grantee Parcel so that Grantee's proportionate share of the Sewer Charge shall at all times be equal to the same amount as Grantee would be charged by the City for sewer services to the improvements on the Grantee Parcel. Grantee shall pay its proportionate share of the Sewer Charge on the first day of each and every month commencing with the first day of the first month after the date that the sewer facilities on the Grantee Parcel are connected to the Sewer Line. Any adjustment in Grantee's proportionate share shall become effective on the same day that any adjustment in the City's sewer charges becomes effective. The Operator shall have the right from time to time to retain a qualified engineer or other consultant to determine the volume of use of the Sewer Line by Grantee and each other user thereof in order to maintain a fair and equitable allocation of the Sewer Charge among the users of the Sewer Line. If the report from such engineer or consultant indicates increased or decreased use

of the Sewer Line by Grantee, the Operator may increase or decrease Grantee's proportionate share of the Sewer Charge to the same extent as would be charged by City for sewer services supplied to the improvements on the Grantee Parcel at such increased or decreased volume of use.

5. Relocation of Utility Easements. At any time during the term hereof, SBA shall have the right to relocate the Sewer Line on the Agency Parcel. Any such relocation shall be performed only after SBA has given Grantee thirty (30) days written notice of its intention to relocate. Any such relocation shall not (i) materially interfere with or diminish sewer service to Grantee, (ii) shall not reduce or unreasonably impair the usefulness or function of the sewer service, and (iii) shall be performed without cost or expense to Grantee. The parties hereto agree to execute any documents that may be reasonably necessary to evidence the relocation of the Sewer Line.

6. Term of Easement. The Easement granted hereunder shall remain in existence so long as the improvements on the Grantee Parcel shall remain in existence or the Grantee is rebuilding such improvements. The rights, duties and obligations of SBA hereunder shall run with SBA's leasehold estate in the Agency Parcel and shall bind each and every successor of SBA in the leasehold estate in the Agency Parcel. Notwithstanding the foregoing, SBA shall have no further obligations to Grantee pursuant to this Agreement from and after the date of expiration or termination of the Agency Parcel Lease, and Agency or its

successor in interest to the Agency Parcel shall perform all obligations of SBA under this Agreement from and after such date.

7. Dominant and Servient Estate. The Easement granted hereunder is expressly for the benefit of the Grantee Parcel, and shall run with the land for the benefit of the Grantee Parcel, until such easement is terminated in accordance with Section 6 hereof. The Grantee Tract shall be the dominant estate and the portion of the Agency Parcel upon which the easement is located from time to time shall be the servient estate.

8. Attorneys' Fees. If any party hereto shall institute any judicial action or proceeding relating to violations, threatened violations or failure of performance of or under this Agreement, or any default hereunder, or to enforce the provisions hereof, then the prevailing party shall be entitled to recover its reasonable attorneys' fees, to be fixed by the Court. The "prevailing party" shall be the party which by law is entitled to recover its costs of suit whether or not the action proceeds to final judgment. If the party which shall have instituted suit shall dismiss it as against the other party or parties without the concurrence of the other party or parties, such other party shall be deemed the prevailing party.

9. Amendment. The parties hereto agree that the provisions of this Agreement may be modified or amended, in whole or in part, only by an amendment in writing, executed and acknowledged by the authorized representatives of each of the parties or their respective successors-in-interest, and duly

recorded in the Office of the County Recorder of Santa Barbara County, California.

10. Governing Law. This Agreement shall be construed in accordance with the laws of the State of California.

11. No Partnership. Neither anything contained in this Agreement nor any acts of the parties hereto shall be deemed or construed by the parties, or by any third person, to create the relationship of principal and agent or a partnership, or a joint venture, or of any association between the parties.

12. Not a Public Dedication. Nothing contained herein shall be deemed to be a gift or dedication of any portion of the Agency Parcel to the general public or for any public purpose whatsoever, it being the intention of the parties hereto that this Agreement shall be strictly limited to and for the purposes expressed herein. Notwithstanding the foregoing, SBA and Agency shall have the right at any time to dedicate the Sewer Line to the City. From and after the date of the City's acceptance of such dedication, SBA and Agency shall be relieved from all further rights, duties and obligations under this Agreement.

13. Severability. If any term, provision or condition contained in this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement, except those terms, provisions or conditions which are made subject to or conditioned upon such invalid or unenforceable terms and conditions, shall not be affected thereby, and each term, provision

and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. Agreement Runs with the Land. All of the provisions, agreements, rights, powers, covenants, conditions, restrictions, easements and obligations contained in this Agreement shall be binding upon and inure to the benefit of the parties hereto and to their respective heirs, successors (by merger, consolidation or otherwise) and assigns, devisees, administrators, representatives, and all other persons acquiring the Agency Parcel, Grantee Parcel or SBA's leasehold interest in the Agency Parcel or any portion thereof, or any interest therein whether by operation of law or in any manner whatsoever, unless and until modified as herein provided. All of the provisions of this Agreement shall be covenants running with the land pursuant to applicable law, including but not limited to Section 1468 of the Civil Code of the State of California.

This Agreement has been executed as of the day and year first written above and shall be effective upon recordation in the Official Records of Santa Barbara County, California.

AGENCY:

REDEVELOPMENT AGENCY OF
THE CITY OF SANTA BARBARA

ATTEST:

By _____
Executive Director

AGENCY SECRETARY:

By _____
Assistant Agency
Secretary

APPROVED AS TO CONTENT:
DEPUTY EXECUTIVE DIRECTOR

By _____
Housing and
Redevelopment Manager

APPROVED AS TO FORM:

AGENCY COUNSEL:

By _____
Agency Counsel

By _____
Special Agency Counsel

SBA:

SANTA BARBARA ASSOCIATES,
a California general partnership

By: PASEO NUEVO ASSOCIATES, a
California limited partner-
ship, its general partner

By _____
Its General Partner

By: JMB/PASEO NUEVO ASSOCIATES,
an Illinois general
partnership

By: JMB/PN, INC., an Illinois
corporation,
General Partner

By _____
DARLA TOTUSEK FLANAGAN
Vice President

GRANTEE:
