

STAFF REPORT
PLANNING COMMISSION

FILE NO.: DA-Cisco Alviso Amendment #2

PROJECT DESCRIPTION: To amend the Development Agreement, adopted on June 13, 2000, and amended in June 2008 to extend a certain occupancy date to December 31, 2008, between the City and Cisco Systems, Inc., relative to the development of property in Alviso North San José (the “Development Agreement”), to accept job growth at North San José campus to fulfill that certain occupancy Subsequent Condition C. (1), and authorize the City Clerk to execute the Amended Development Agreement.

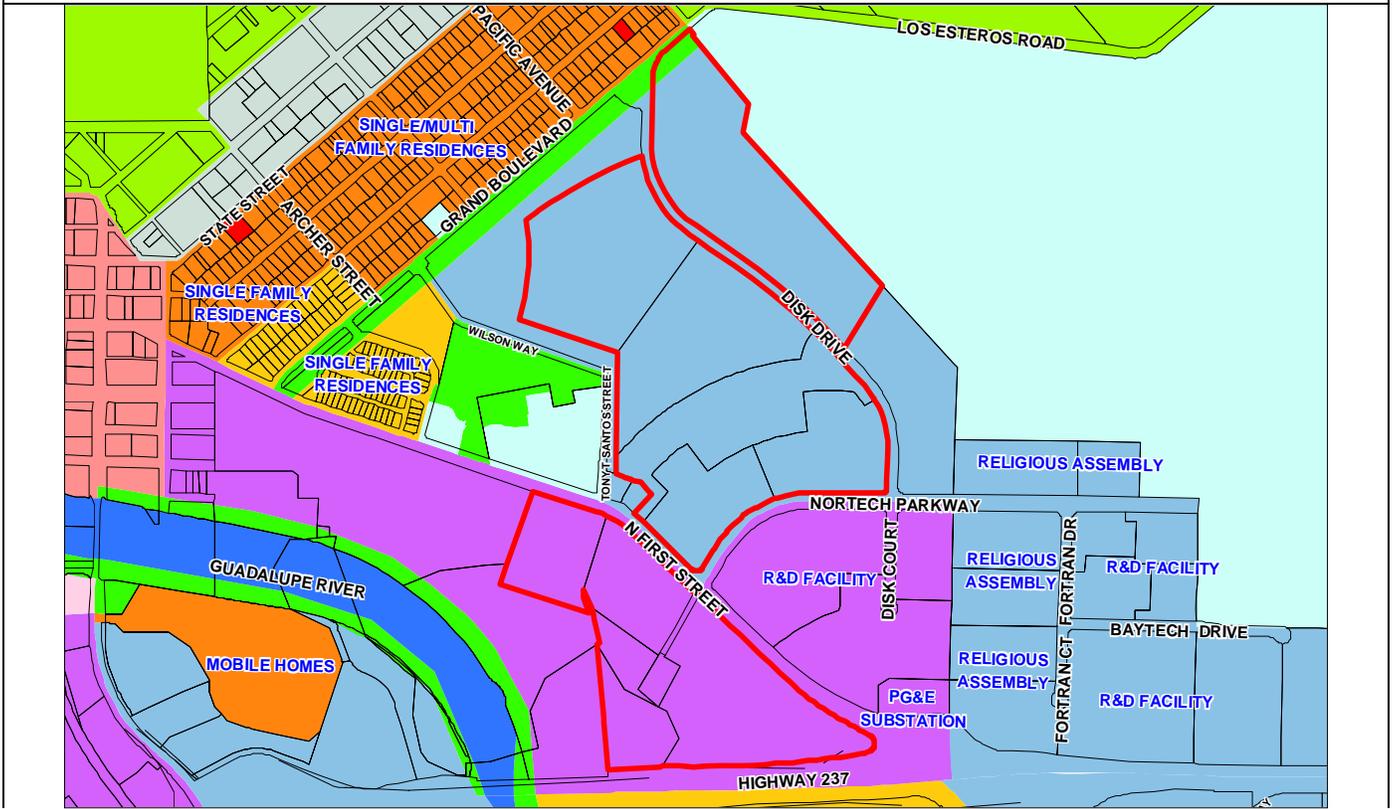
Existing Zoning	A(PD) Planned Development
General Plan	Industrial Park with Mixed Industrial Overlay, and Combined Industrial/Commercial
Council District	4
Annexation Date	3/12/1968
SNI	No
Historic Resource	No
Redevelopment Area	No
Specific Plan	Alviso

LOCATION: Bounded by Highway 237, North First Street, Grand Boulevard, and Disk Drive, approximately 111 ac.

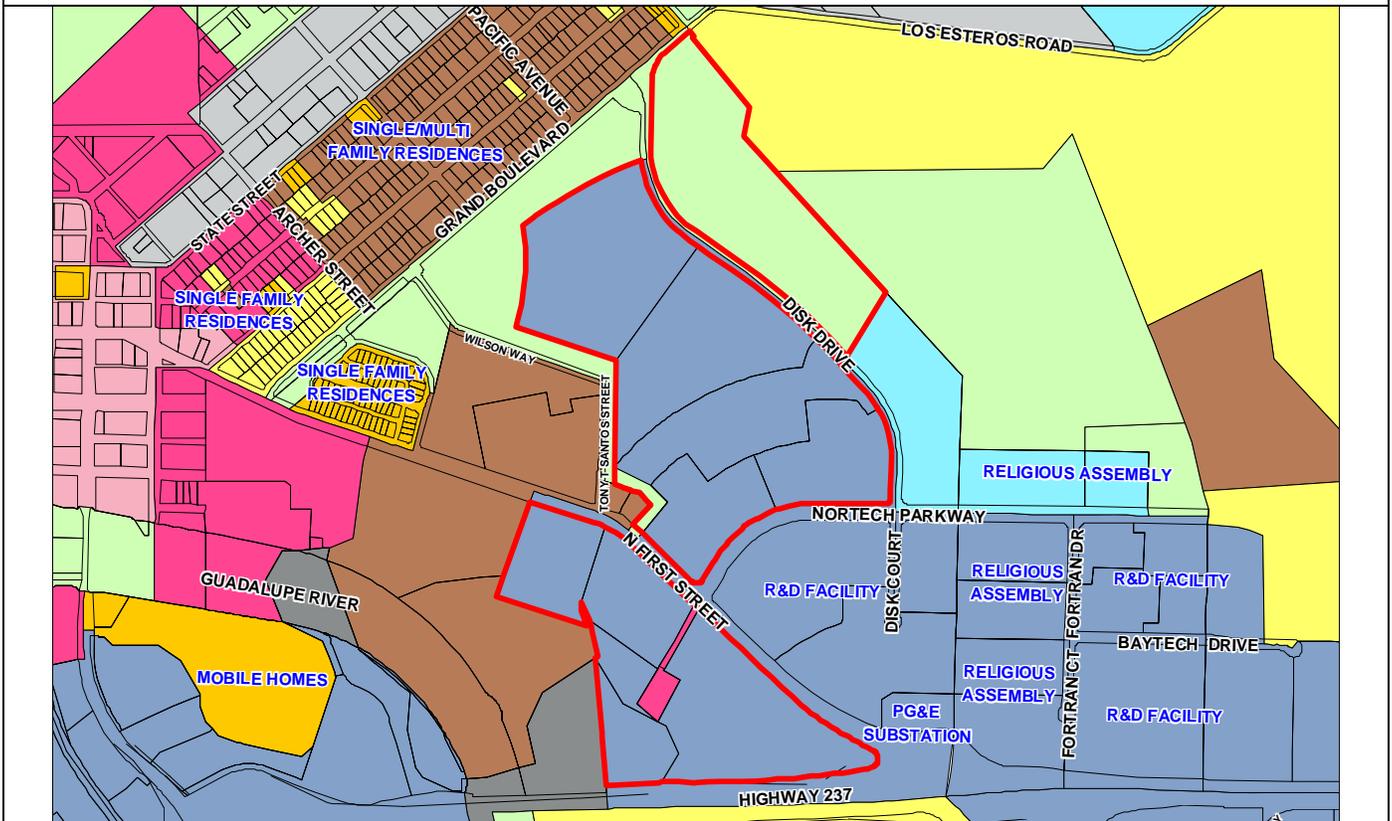
Aerial Map



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends that the Planning Commission recommend to the City Council to amend the original Development Agreement to accept job growth in the Cisco headquarters campus in North San José as fulfilling Subsequent Condition C. (1) in the existing Development Agreement, and allow the Agreement to remain in effect for the following reasons:

1. The Amended Development Agreement conforms to the designation of IP Industrial Park with a Mixed Use overlay, and Combined Industrial/Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The Amended Development Agreement supports the Economic Development goals and strategies of the General Plan by providing continued future development entitlement for the City's largest employer in volatile times for industrial developers.
3. The Amended Development Agreement conforms to the requirements of the A (PD) Planned Development Zoning District.
4. The Amended Development Agreement conforms to the requirements of the Development Agreement Ordinance.

BACKGROUND

In June of 2000 (under Ordinance No. 26136), Cisco Systems, Inc., entered into a Development Agreement with the City of San José related to property Cisco owns in Alviso in North San José. At the time of approval of the Development Agreement (DA), Cisco was one of the City's largest employers and was working with the City to ensure that the company's future employment growth could be accommodated within the City of San José. The Cisco Alviso Development Agreement remains in effect until 2020; however, within the DA there are certain milestones related to development occupancy. The first of these was originally intended to be accomplished by July 21, 2008.

In May of 2008, Cisco indicated a desire to work with the City to adjust the development occupancy scenario currently envisioned within the original Development Agreement, and indicated that its Alviso holdings remain an important component of the company's real estate portfolio for the future. Cisco requested and the City Council approve an Amendment to the Development Agreement to extend the first project occupancy date by six months, to December 31, 2008. During the past six months, City staff and Cisco representatives have worked to review Cisco's goals for continued employee growth and new building development within the City of San José and to consider adjustments to the relevant provisions of the Development Agreement. Cisco has indicated their need for continued certainty as to development potential on the several sites they own or occupy, and has requested that the City consider Cisco's citywide employment growth to date as achieving the intent of Subsequent Condition C. (1) in the original DA, that Cisco occupy part of the Alviso site as part of Cisco's San José corporate campus by a first project occupancy date within 8 years of the DA approval. (A copy of the Original Development Agreement is attached).

ENVIRONMENTAL REVIEW

The environmental review for the proposed Second Amendment to the Development Agreement is covered under the Environmental Impact Report (Resolution No. 69636) prepared for the project's Planned Development Zoning (File No. PDCSH99-05-054) and the original Development Agreement. Neither the extension of the term of the first occupancy date of the Development Agreement to December 31, 2008 in the First Amendment, nor the current proposal to allow Cisco employment growth

and campus expansion elsewhere in the City to fulfill the occupancy date condition in the Second Amendment result in any new square footage or any environmental impacts not addressed in the Environmental Impact Report

GENERAL PLAN CONFORMANCE

The proposed use for up to 2.3 million square feet of office, research and development and light manufacturing is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Industrial Park with a Mixed Use overlay, and Combined Industrial/Commercial. The proposed Amendment to the Development Agreement to consider Cisco's overall employment and campus growth citywide as fulfilling the objective of occupancy of the Alviso site as part of the Cisco corporate campus supports the City's largest employer and is therefore consistent with and supportive of the General Plan's Economic Development Strategy.

ANALYSIS

Policy Background

The original Development Agreement vests certain development rights for Cisco Systems, Inc., in exchange for the developer's agreement to construct public and private improvements and to occupy (or to cause to be occupied within eight (8) years of the effective date of the Ordinance authorizing the original Development Agreement by a similar large technology employer) the subject property by July 21 2008. In the First Amendment to the Development Agreement, the timeframe of this condition was extended to December 31, 2008. The vested elements of the Development Agreement include the existing General Plan designations, the Planned Development Zoning, Permit, and Vesting Tentative Map (File Nos. PDCSH99-05-054, PDSH00-03-027 and PTSH00-03-035) issued for the property, and various project parameters such as the maximum density and intensity of use, and the maximum height and size of the proposed buildings.

Review Criteria

City Ordinance No. 24297 establishes criteria by which the City may enter into a Development Agreement. In order for the City Council to approve the proposed Second Amendment to the Agreement, it must find that the proposal is consistent with the General Plan and zoning requirements. Development Agreements are approved through the adoption of a City ordinance by the City Council. The effective date of the Agreement is generally the effective date of the ordinance approving the agreement unless a later date or the occurrence of a specific event is specified in the Agreement.

Development Agreements may be amended or cancelled by mutual consent of the parties to the Agreement or their successors in interest. An Amendment may be granted upon a finding by the City Council that the Amendment is consistent with either the General Plan and zoning codes in effect at the time the ordinance authorizing the agreement was adopted, or at the time of any Amendment. Review of an Amendment is limited to consideration of those elements proposed to be added or changed.

Review Analysis

As stated above, the original Development Agreement related to the subject property owned by Cisco Systems in Alviso was approved by the City Council in June of 2000 (Ordinance No. 26136). A portion of the Alviso campus comprised of two buildings totaling approximately 376,000 square feet has been developed by Cisco, and one building is currently occupied by employees of IBM, as provided for as an

option in the Development Agreement. Using a ratio of 285 gross square feet per person, these buildings would have housed 1,319 Cisco employees in total. In 2000, when the Cisco Alviso Development Agreement took effect, Cisco's estimated number of employees in San José was 14,900 people. In 2008, Cisco's employee headcount has risen to an estimated 19,200 people (an increase of 4,300 employees). This job growth at the Cisco headquarters at their North San José sites exceeds the expected job growth capacity that could have occurred at the Alviso site.

A primary City goal of the original Development Agreement was to work with Cisco to ensure continued opportunity for growth and development of a major high technology industrial employer in San José. Thus, Cisco is requesting an amendment to the Development Agreement to accept job growth overall in North San José as fulfilling the initial project occupancy condition of the Cisco Alviso Development Agreement, and to deem that the Subsequent Condition C. (1) of the original Agreement has been met. In that staff recognizes the ongoing growth and development of Cisco Systems as a major component of future high technology employment and innovation in the City, and wants to facilitate Cisco's future development of the company's real estate holdings throughout the City, as appropriate, staff concludes that the level of employment increase across Cisco facilities citywide between 2000 and 2008 has addressed the City's paramount goal. Further, staff believes that allowing the Development Agreement to remain in effect on the Alviso site provides the flexibility that Cisco has indicated it requires in maintaining development entitlements which ensure future growth can be accommodated in a timely fashion and appropriate locations within San José.

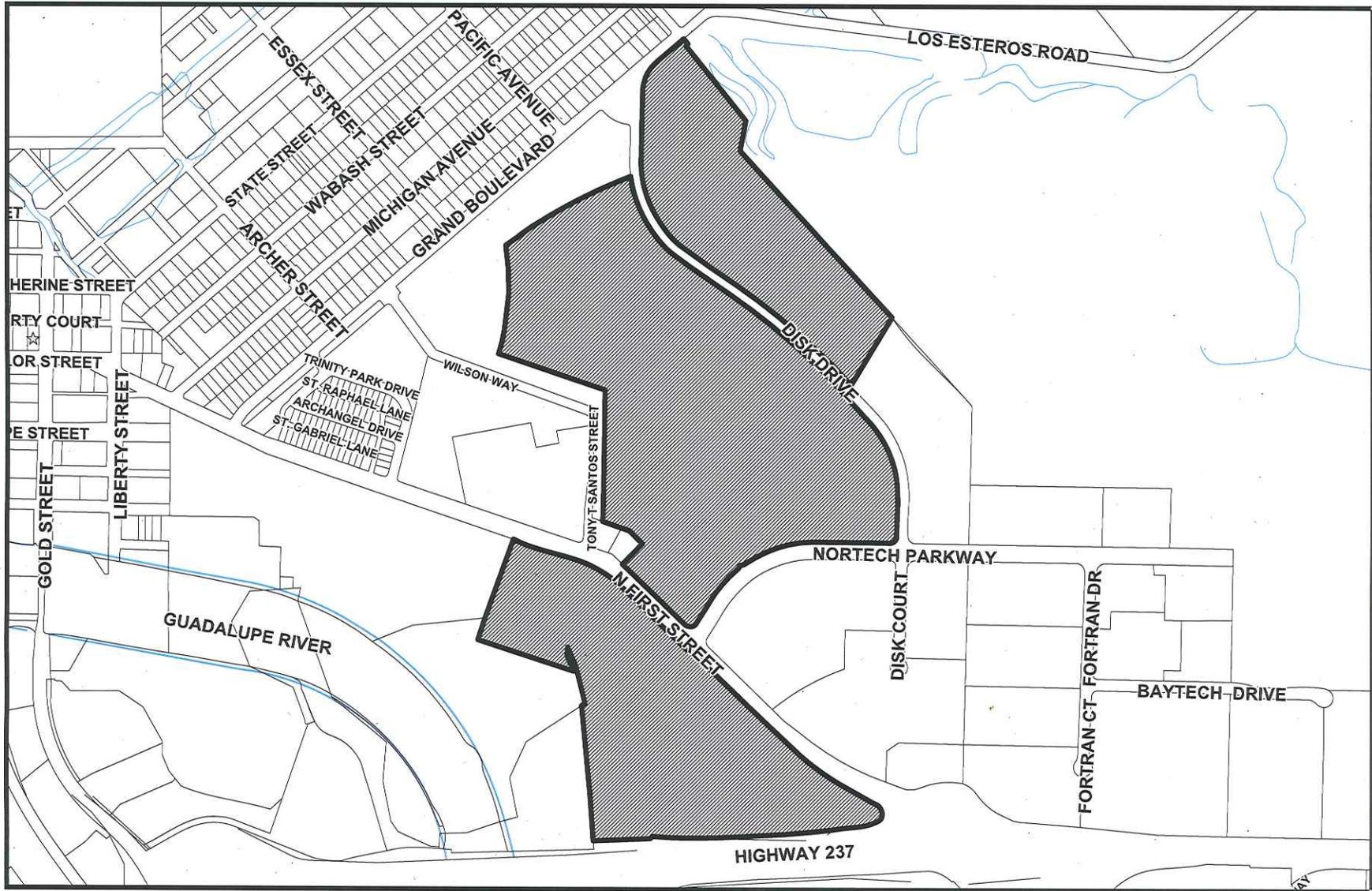
Conclusion

The Development Agreement, as initially established, has been found to conform with all applicable City policies, including the General Plan, economic, social and environmental goals of the City, and the regulations governing the amendment of Development Agreements. The proposed Second Amendment to the Agreement will not result in an alteration of the Agreement's conformance to the General Plan and Zoning Code in place at the time of granting of the original Agreement, or to those currently in place, and would therefore be consistent with all City policies regarding Development Agreements.

Cisco has become the City's largest employer and has stated the company is committed to working with the City to develop the company's real estate holdings in Alviso and throughout the City in order to add jobs which will increase City revenues. The main purpose of the original Development Agreement was to support job generation in San José and for Cisco Systems, Inc. Jobs generated in Cisco's North San José headquarters may be considered as fulfilling the intent of the requirement for Cisco employment to be generated at the proximate Alviso site in North San José. Staff supports the Second Amendment because it will facilitate future development of the site consistent with Cisco's overall strategy for growth in San José as well as all applicable City policies, meets all established City criteria for Development Agreements and amendments, and will support the ongoing conversation between the City and Cisco Systems to consider a wide range of options regarding the potential for timing for future development and use of Cisco's North San José and Alviso holdings in the context of the current economy, demand for industrial development, and goals of the North San José Development Policy.

Project Manager: Nancy Klein **Approved by:** Susan Walton **Date:** 11/21/2008

Owner/Applicant	Attachments
Larry Burnett, Real Estate Portfolio Manager Cisco Systems, Inc. 170 West Tasman Drive San José, CA 95134-1706	Location Map Original Development Agreement First Development Agreement Amendment Draft Second Development Agreement Amendment



Approx. Scale: 1" = 750'
Map Created On: 11/17/2008
Noticing Radius: 1,000 feet

File No: DA08-003
District: 4
Quad No: 19, 20, 34, 35

**DEVELOPMENT AGREEMENT
BY AND BETWEEN THE CITY OF SAN JOSE AND
CISCO TECHNOLOGIES, INC.
RELATIVE TO THE DEVELOPMENT OF PROPERTY IN NORTH SAN JOSE
(ALVISO)**

THIS DEVELOPMENT AGREEMENT ("hereinafter "Agreement") is entered into this 13th day of November, 2000 by and between CISCO TECHNOLOGIES, INC., a California corporation (hereinafter "DEVELOPER") and the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), pursuant to the authority of Section 65864 through 65869.5 of the California Government Code and pursuant to its powers as a charter city.

RECITALS

- A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the legislature of the State of California adopted Section 65864 et seq. of the Government Code which authorizes the City of San Jose and an applicant for a development project to enter into a development agreement, establishing certain development rights in the property which is the subject of the development project application.
- B. DEVELOPER has a leasehold interest in the property described in Exhibit A (herein the "Subject Property"), attached hereto and incorporated herein by this reference.
- C. DEVELOPER seeks to develop the Subject Property consistent with the San Jose General Plan (herein the "General Plan"). The General Plan provides for industrial park and combined industrial/commercial development in an area of North San Jose which includes the Subject Property.
- D. DEVELOPER desires to substantially expand its corporate campus to the Subject Property to provide for future planned expansion. DEVELOPER desires to

construct a multi-phase project consisting of up to ten (10) buildings with a total of approximately two million three hundred twenty-five thousand (2,325,000) square feet for office, research and development and light manufacturing uses ("Project"). Development of the Subject Property would be in accordance with that certain Planned Development Zoning PDCSH 99-05-054 attached as Exhibit B.

- E. The Project and this Development Agreement were the subject of an Environmental Impact Report (EIR) prepared in conformance with the California Environmental Quality Act (CEQA) as amended and found complete by the Planning Commission on March 10, 2000 and the City Council, on appeal, upheld that certification and considered and approved the information and conclusions contained in the EIR prior to approving this Agreement.

The EIR prepared for the Project was intended to analyze the entire project and to provide environmental review to the fullest extent permitted by law for full build out of the entire two million three hundred twenty-five thousand (2,325,000) square feet of development.

- F. By Ordinance No. 24297, the City Council adopted amended procedures to enable the CITY to enter into development agreements, pursuant to the authority of Sections 65864 through 65869.5 of the Government Code (herein both referred to as the "Development Agreement Ordinance" and "Development Agreement Statute", respectively).
- G. On May 10, 2000, the Planning Commission, designated by Ordinance No. 24297 as the advisory agency for purposes of development agreement review pursuant to Government Code Section 65867; considered this Agreement in a duly noticed public hearing. On June 6, 2000, at a duly noticed public hearing and pursuant to the requirements of the California Environmental Quality Act, the City Council passed for publication Ordinance No. 26136 ("Adopting Ordinance") approving the Agreement, made appropriate findings that the provisions of this Agreement are consistent with the General Plan and the Development Agreement Ordinance, and authorized the execution of this Agreement.

- H. Development of the Subject Property in accordance with the conditions of this Agreement will provide orderly growth and development of the Subject Property in accordance with the policies set forth in the General Plan.
- I. The substantial investment by DEVELOPER in the Subject Property and the associated public improvements is and will be a substantial generator of fees, revenues, and taxes to CITY.
- J. Development of the Subject Property in accordance with the parameters set forth in Planned Development Zoning PDCSH 99-05-054 will make a substantial contribution to the economic development of CITY in that it proposes a use consistent with the General Plan, is located on a legal parcel greater than five (5) acres, will create at least 500 jobs in the CITY, is a corporate headquarters and qualifies as a Special Handling project as defined by Council Policy 6-17.
- K. The following prior approvals of CITY have been given with respect to DEVELOPER's development of the Subject Property:
- (1) General Plan land use designation of Industrial Park and Combined Industrial/Commercial; and
 - (2) Planned Development Zoning. PDCSH 99-05-054; and
 - (3) Planned Development Permit PDSH 00-03-027; and
 - (4) Vesting Tentative Map No. PTSH 00-03-035; and
- L. For the reasons recited herein, DEVELOPER and CITY have determined that the Project is a development for which this Agreement is appropriate. This Agreement will eliminate uncertainty in planning and provide for the orderly development of the Subject Property, provide for public services appropriate to the development of the Subject Property, ensure attainment of the maximum effective utilization of resources within CITY at the least economic cost to its citizens, and otherwise achieve the goals and purposes for which the Development Agreement Statute was enacted. In exchange for these benefits to CITY, together with the public benefits served by the development of the Project, the DEVELOPER desires to receive the assurance it may proceed with the Project in accordance with existing ordinances, resolutions, policies and regulations of CITY pursuant to the terms and conditions contained in this Agreement.

- M. CITY's current Commercial-Residential-Mobilehome Park Building Tax as set forth in Chapter 4.47 of the San Jose Municipal Code is not applicable to the research and development, manufacture/assembly and warehousing uses which are currently proposed by DEVELOPER for the development. A point of sale operation which is purely incidental to the currently proposed uses will not result in the imposition of the current Commercial-Residential- Mobilehome Park Building Tax.

AGREEMENT:

Section 1. GENERAL PROVISIONS.

- A. Property Description and Binding Covenants. The Subject Property is that property described in Exhibit A. It is intended and determined that the provisions of this Agreement shall constitute covenants which shall run with said property and the benefits and burdens hereof shall bind and inure to all successors in interest to the parties hereto.

- B. Condition Precedent.

This Agreement shall have no force and effect unless executed by CITY, DEVELOPER by the effective date of Ordinance No. 26136 approving this Agreement.

- C. Subsequent Conditions.

- (1) DEVELOPER agrees that part of the Subject Property shall be occupied as part of the San Jose corporate campus of DEVELOPER within eight (8) years of the effective date of Ordinance No. 26136 approving this Agreement. This Agreement shall be null and void if DEVELOPER fails to fulfill this condition provided that CITY is not in default under the terms of this Agreement.
- (2) Notwithstanding the provisions of Section 1.D, this Agreement shall become null and void if at least one half of square footage allocated to Phase One of the project, as defined in Planned Development Zoning PDCSH 99-05-054,

has not been constructed on the Subject Property, or on another site within the City of San Jose, within twelve (12) years from the effective date of Ordinance No. 26136.

D. Term.

- (1) Subject to the subsequent conditions of Section 1.C, the term of this Agreement shall commence upon the effective date of Ordinance No. 26136 approving this Agreement and shall extend for a period of twenty (20) years from the effective date of the Adopting Ordinance. However, in no instance shall the the term of this Agreement extend beyond the term of DEVELOPER's leasehold interest in the Subject Property unless DEVELOPER acquires fee title to the Subject Property.

Following the expiration of said term, this Agreement shall be deemed terminated and of no further force and effect.

- (2) CITY agrees that the term of Vesting Tentative Map No. PTSH 00-03-035 shall be extended for the life of this Agreement pursuant to Government Code Section 66452.6.

E. Assignment.

- (1) DEVELOPER shall have the right to sell, assign or transfer in whole or in part its rights, duties and obligations under this Agreement, to any person or entity at any time during the term of this Agreement without the consent of CITY; provided, however, in no event shall the rights, duties and obligations conferred upon DEVELOPER pursuant to this Agreement be at any time so transferred or assigned except through a transfer of the Subject Property. In the event of a transfer of a portion of the Subject Property, DEVELOPER shall have the right to transfer its rights, duties and obligations under this Agreement which are applicable to the transferred portion, and to retain all rights, duties and obligations applicable to the retained portions of the Subject Property. All subdivision, sales, and assignments shall be consistent with the requirements of Planned

Development Zoning PDCSH 99-05-054 attached as Exhibit B and any subsequent Planned Development Permits which are approved by CITY. Failure to comply with the terms of Planned Development Zoning PDCSH 99-05-054 and any subsequent Planned Development Permits by the assignee shall be a default under the terms of this Agreement.

- (2) Upon the sale, transfer or assignment of DEVELOPER's rights and interests under this Agreement pursuant to Section 1. E(1), DEVELOPER shall be released from its obligations under this Agreement with respect to that portion of the Subject Property sold, transferred or assigned and any subsequent default or breach with respect to the transferred or assigned rights and/or obligations shall not constitute a default or breach with respect to the remaining rights and/or obligations under the Agreement, provided that (a) DEVELOPER has provided CITY with notice of such transfer pursuant to Section 1.F below, and (b) the transferee executes and delivers to CITY a written agreement in which (i) the name and address of the transferee is set forth; and (ii) the transferee assumes the obligations of the DEVELOPER under Section 3 below with respect to that portion of the Subject Property sold, transferred or assigned. Failure to deliver a written assumption agreement hereunder shall not affect the running of any covenants herein with the land, nor shall such failure negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Agreement.

- F. Notices. Formal written notices, demands, correspondence and communications between CITY and DEVELOPER shall be sufficiently given if dispatched by postage prepaid first class mail to the principal offices of CITY and DEVELOPER, as set forth in Section 9. Such written notices, demands, correspondence and communications may be directed in the same manner to such other persons and addresses as either party may from time to time designate. DEVELOPER shall give written notice to CITY, within ten (10) days after close of escrow, of any sale or transfer of any portion of the Subject Property and any assignment of this Agreement, specifying the name or names of the transferee, the transferee's mailing address, the amount and location of the land sold or transferred, and the name and address of a single person or entity to whom any notice relating to this Agreement shall be given.

G. Amendment or Cancellation of Agreement. This Agreement may be amended or canceled, in whole or in part, from time to time by mutual consent of CITY and any DEVELOPER whose property is affected, with CITY costs of processing amendments payable by amendment applicants, in accordance with the provisions of Government Code Sections 65867 and 65868 and the schedule of processing fees adopted by resolution of the City Council, subject to the following:

- (1) The procedure for an amendment or cancellation shall be as specified in the Development Agreement Ordinance in effect on the effective date of this Agreement. An amendment may be granted upon a finding by the City Council that an amendment is consistent either with the General Plan and zoning codes in effect at the time the Adopting Ordinance was adopted or at the time of any amendment. Review of an amendment to this Agreement shall be limited to consideration of those provisions proposed to be added or changed.
- (2) The issuance of any land use approval or permit which approves an increase in density, intensity of use, maximum height or maximum size of buildings, or a change in the permitted uses, provisions for reservation and dedication of land, conditions, terms, restrictions and requirements relating to subsequent discretionary actions, monetary contributions by the DEVELOPER, or changes in any other Vested Element (as defined in Section 2.A below) set forth in this Agreement, shall require an amendment to this Agreement for such change to be vested, but DEVELOPER shall have the right to develop in accordance with any such amendment changing a Vested Element at its election without adversely affecting vesting with respect to other Vested Elements not changed by such amendment.
- (3) Any change in the design or other elements not specified in this Agreement to be a Vested Element shall not require an amendment of this Agreement. The Director of Planning shall make the determination as to whether an amendment is necessary.
- (4) This Agreement shall also be subject to termination or modification pursuant to the provisions of Section 15 of the Development Agreement Ordinance.

Section 2. DEVELOPMENT OF THE SUBJECT PROPERTY.

A. Vested Elements. The permitted use of the Subject Property, the maximum density and intensity of use, the maximum height and maximum size of the proposed buildings, provisions for reservation or dedication of land for public purposes, and provisions for public improvements, and other terms and conditions of development applicable to said property are as set forth in:

- (1) The General Plan for Industrial Park and Combined Industrial/Commercial designation as of the date of this Agreement;
- (2) Planned Development Zoning PDCSH 99-05-054, the General Development Plan sets forth the maximum parameters for the total number of buildings, the maximum total square footage, the maximum building height and the number of parking spaces, but is illustrative only as to the precise number of buildings, height and square footage of each building, parking and pedestrian circulation configuration;
- (3) Planned Development Permit PDSH 00-03-027;
- (4) Vesting Tentative Map No. PTSH 00-03-035;
- (5) The Alviso Masterplan in effect as of the date of this Agreement.

A "Summary of Vested Elements" is set forth in Exhibit C hereto.

B. Development Timing. Subject to the conditions of Section 1.C, there is no requirement under this Agreement that the DEVELOPER must initiate or complete development of any phase of the development nor that development be initiated or completed within any period of time set by CITY or in any particular order. However, nothing herein shall modify or amend any condition in Planned Development Permit PDSH 00-03-027 which states that said permit shall lapse unless construction of the first building is initiated within the specified time for commencement of construction. If Planned Development Permit PDCSH 00-03-027 lapses it shall no longer remain a vested element of this Agreement. It is the

intention of this provision that DEVELOPER be able to develop at DEVELOPER's sole discretion and in accordance with DEVELOPER's own time schedule. No future modification of the San Jose Municipal Code, or any ordinance or regulation which limits the rate of development over time shall be applicable, whether such modification, ordinance or regulation is adopted by initiative or otherwise. However, nothing herein shall be construed to relieve the DEVELOPER from any time conditions in any permit or to excuse the timely completion of any act which is required to be completed within a time period set by any applicable code or permit provisions as defined in Section 2.D.

Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo, 37 Cal.3d 465 (1984), that the failure of the parties to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development and controlling the parties' agreement, it is the intent of CITY and DEVELOPER to avoid such a result by hereby acknowledging and providing for the right of DEVELOPER to develop in such order and at such rate and times as DEVELOPER deems appropriate within the exercise of its sole and subjective business judgment except as specifically stated otherwise in this Agreement. CITY acknowledges that such a right is consistent with the intent, purpose and understanding of the parties to this Agreement, and that without such a right, DEVELOPER's development would be subject to the uncertainties sought to be avoided by this Agreement.

- C. Reserved Discretionary Approvals. Prior to issuance of building permits for development beyond that described in the Planned Development Permit PDSH 00-03-027, subsequent Planned Development Permits must be approved. Applications for such permit(s) will be processed under the Special Handling Procedure of the CITY's Planning Department.
- D. Rules, Regulations and Official Policies.
- (1) Development of the Subject Property shall be subject to all standards in the General Plan, the zoning codes, and other rules, regulations, ordinances and official policies applicable to such development on the effective date of this Agreement except as otherwise provided herein. Except as otherwise provided in this Section 2.D., to the extent any changes in the General Plan,

the zoning codes or other rules, ordinances, regulations or policies (whether adopted by means of an ordinance, City Charter amendment, initiative, resolution, policy, order or moratorium, initiated or instituted for any reason whatsoever and adopted by the Mayor, City Council, Planning Commission or any other Board, Commission or Department of CITY or any office or employee thereof, or by the electorate) are in conflict with the Vested Elements, the Vested Elements shall prevail. To the extent any provisions of future general plans, zoning codes or other rules, ordinances, regulations or policies, adopted on a city-wide basis, are applicable to the Subject Property and are not in conflict with the Vested Elements, such general plan, zoning codes or other rules, ordinances, regulations or policies shall be applicable.

- (2) This Section shall not preclude the application to development of the Subject Property of changes in CITY laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations. In the event State or Federal laws or regulations enacted after the effective date of this Agreement or action by any governmental jurisdiction other than CITY prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by CITY, the Agreement shall be modified, extended or suspended as may be necessary to comply with such State or Federal laws or regulations or the regulations of such other governmental jurisdictions. Immediately after enactment of any such new law or regulation, the parties shall meet and confer in good faith to determine any modification or suspension based on the effect such modification or suspension would have in light of the purposes and intent of this Agreement. In addition, DEVELOPER shall have the right to challenge the new law or regulation preventing compliance with the terms of this Agreement, and, to the extent such challenge is successful, this Agreement shall remain unmodified and in full force and effect.
- (3) This Section shall not be construed to limit the authority or obligation of CITY to hold necessary public hearings or to limit the discretion of CITY or any of its officers or officials with regard to rules, regulations, ordinances, laws and entitlements of use which require the exercise of discretion by CITY or any of

its officers or officials, provided that subsequent discretionary actions shall not be in conflict with the Vested Elements.

- (4) All applications for approvals, permits and entitlements shall be subject to the development and processing fees and taxes which are in force and effect at the time the application therefor is filed except as specifically provided herein:
- (a) Applications for development approvals, permits and entitlements shall be subject to the Processing Fees in effect at the time the application is submitted. Such fees shall reflect the estimated and reasonable cost necessary to allow CITY to recover its actual costs of processing DEVELOPER's applications.
 - (b) CITY will apply the requirements set forth in Government Code §66000 et seq., or any successor statute, to any fees or exactions imposed on DEVELOPER in the same manner that such requirements are applied to other development in San Jose.
 - (c) CITY agrees to consider, in good faith, crediting DEVELOPER the cost of regional transportation improvements (the Montague Expressway improvements) funded or constructed by DEVELOPER against any future Congestion Management fee imposed in connection with the North San Jose Deficiency Plan or any future countywide Deficiency Plan.
 - (d) CITY shall not impose any new or additional fees upon the Project or any portion thereof for or related to housing so long as the Subject Property is developed in conformance with the requirements of Planned Development Zoning PDCSH 99-05-054.
 - (e) Various conditions, including a monetary exaction, have been imposed on the Project to satisfy North San Jose Deficiency Plan. Any new or additional conditions which are contained in any amended deficiency plan affecting the North San Jose area shall not be retroactively imposed on the Project. No additional mitigation

measures shall be placed on the Project when the North San Jose Deficiency Plan is amended except to the extent that the Congestion Management Agency or any Federal or State agency imposes such measures and specifically requires that such measures be imposed on the Project or on all similar industrial projects in North San Jose, in which case DEVELOPER may be entitled to a credit pursuant to Section 2.D.4(c).

- (5) Nothing herein shall be construed to limit the authority of the CITY to adopt and apply codes, ordinances and regulations which have the legal effect of protecting persons or property from dangerous or hazardous conditions which create a substantial physical risk. This subsection is not intended to be used for purposes of general welfare or to limit intensity of development or use, but to protect and recognize the authority of CITY to deal with endangerments not adequately addressed at the time of the adoption of this Agreement.
- (6) Codes, ordinances and regulations relating to construction standards or permits, for example, building and fire codes, shall apply as of the time of grant of each applicable construction permit except to the extent that such are in conflict with a Vested Element. In the case of conflict, the new codes, ordinances and regulations shall apply to new construction to the same extent as would be applicable in the case of substantial reconstruction of an existing structure.

Section 3. OBLIGATIONS OF THE PARTIES.

A. DEVELOPER's Obligations.

- (1) If DEVELOPER elects to develop the Subject Property, said development shall be in accordance with the Planned Development Zoning PDCSH 99-05-054 and Planned Development Permit(s) issued for the Subject Property and DEVELOPER shall comply with the conditions of said permit(s), for each applicable phase of development, including landscaping improvements and congestion management actions in the time and manner specified therein;

provided however, that CITY's remedies under this Section 3.A. shall be limited to the remedies set forth in Section 4.B. of this Agreement.

- (2) DEVELOPER agrees to make good faith efforts to participate in the voluntary San Jose First Employment program, in which CITY will provide employment screening and referral services for qualified job applicants to San Jose firms; and to continue to work collaboratively with CITY staff to maximize local allocation of revenue sources, provided that DEVELOPER's participation in these voluntary programs does not require additional administrative burdens or costs on DEVELOPER in its good faith estimation.

B. CITY's Obligations.

- (1) City's Good Faith in Processing. CITY agrees that it will accept, process and review, in good faith and in a timely manner in accordance with the terms of this Agreement and Section 2.C. and 2.D. hereof, all complete applications for development permits (including subsequent Planned Development Permit(s)), lot line adjustments, certificates of compliance or other entitlements for use of the Subject Property in accordance with the General Plan and in full compliance with all applicable laws including, but not limited to the Subdivision Map Act, in order to fulfill the intent of this Agreement, and that all development permits will be subject to the CITY Planning Department's Special Handling Process.
- (2) Cooperation with Developer. Subject to the reserved discretionary approvals set forth in Section 2.C. and the provisions of Section 2.D. hereof, CITY agrees to cooperate with DEVELOPER in securing all permits which may be required by CITY and in implementing the conditions of approval. CITY shall also cooperate with DEVELOPER in its endeavors to obtain any permits or approvals required from other governmental or quasi-governmental agencies having jurisdiction affecting the development of, or provision of services to, the Project. CITY agrees to consider use of its eminent domain powers in connection with public right-of-ways and improvements; provided that use of its eminent domain powers shall be in the sole discretion of CITY and subject to applicable laws.

Section 4. DEFAULT, REMEDIES, TERMINATION.

- A. General Provisions. The provisions relating to defaults, remedies, termination and annual review of this Agreement shall be those provisions set forth in Sections 13 and 15 of the Development Agreement Ordinance, which are incorporated herein by reference.
- B. Legal Actions. In addition to any other rights or remedies, a party may institute legal proceedings for mandamus, specific performance or other injunctive or declaratory relief to enforce this Agreement. In no event shall the CITY be liable to DEVELOPER or shall DEVELOPER be liable to CITY in damages for any breach or violation of this Agreement.
- C. Applicable Law and Attorney's Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Should any legal action be brought by a party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorney's fees, court costs and such other costs as may be fixed by the Court. Reasonable attorney's fees of the City Attorney's Office shall be based on comparable fees of private attorneys practicing in Santa Clara County.

Section 5. HOLD HARMLESS AGREEMENT.

- A. DEVELOPER hereby agrees to and shall hold CITY, its elective and appointive boards, commissions, officers, agents and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from DEVELOPER or DEVELOPER's contractors', subcontractors', agents' or employees' operations under this Agreement, whether such operations be by DEVELOPER, or by any of DEVELOPER's contractors, subcontractors, or by any one or more persons employed by, or acting as agent for, DEVELOPER or any of DEVELOPER's contractors or subcontractors, excepting suits and actions brought by DEVELOPER for default of this Agreement or arising from the active negligence or willful misconduct of the CITY or its elected and appointed representatives, officers, agents and employees. DEVELOPER agrees to and shall pay CITY's costs of defense (or, at the sole option of CITY, DEVELOPER shall defend with

counsel reasonably approved by the City Attorney) and indemnify CITY and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity arising out of the execution, adoption or implementation of this Agreement (exclusive of any such actions brought by DEVELOPER), such indemnification to include all costs of defense, judgments and any awards of attorneys' fees.

Section 6. PROJECT AS A PRIVATE UNDERTAKING.

It is specifically understood and agreed by and between the parties hereto that the development of the Subject Property is a separately undertaken private development. No partnership, joint venture or other association of any kind between DEVELOPER and CITY is formed by this Agreement.

Section 7. GENERAL.

- A. The CITY agrees that unless this Agreement is amended or canceled pursuant to the provisions of this Agreement and the Development Agreement Ordinance, this Agreement shall be enforceable according to its terms, subject to the reserved discretionary approvals and other matters set forth in Section 2 hereof, by DEVELOPER notwithstanding any change hereafter in any applicable general plan, zoning ordinance, subdivision ordinance or building regulation adopted by CITY which changes, alters or amends the rules, regulations and policies applicable to the development of said property at the time of approval of this Agreement, as provided by Government Code Section 65866. Nothing herein shall be construed to limit the authority of CITY to fix the amount of fees which may otherwise lawfully imposed by CITY, as set forth in Section 2.D. of this Agreement.
- B. CITY hereby finds and determines that execution of this Agreement is in the best interest of the public health, safety and general welfare and is consistent with the General Plan.
- C. Nothing in this Agreement is intended to create duties or obligations to or rights in third parties not parties (or Permitted Assignees) to this Agreement.

RD:TBR
06/20/00

Section 8. CONSTRUCTION.

This Agreement shall be subject to and construed in accordance and harmony with the Municipal Code of the City of San Jose as it may be amended, provided that such amendments do not affect the rights granted to the parties by this Agreement.

Section 9. NOTICES.

All notices required by this Agreement, the Development Agreement Ordinance, or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and delivered in person or sent by first class, postage prepaid.

Notice required to be given to the CITY shall be addressed as follows:

Director of Planning
City of San Jose
801 North First Street
San Jose, CA 95110

with copies to:

City Attorney
City of San Jose
151 West Mission Street
San Jose, CA 95110

Notice required to be given to the DEVELOPER shall be addressed as follows:

CISCO TECHNOLOGIES, INC.
ATTN: Ellen Jamason
Director of Real Estate
170 W. Tasman
San Jose, CA 95134

with copies to:

Brobeck, Phleger & Harrison
ATTN: Susan R. Diamond, Esq.
One Market
Spear Street Tower
San Francisco, CA 94105

Any party may change the address stated herein by giving notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

Section 10. MORTGAGE PROTECTION.

- A. Mortgage Protection. This Agreement shall be superior and senior to any lien placed upon the Subject Property or any portion thereof after the date of recording the Agreement, including the lien of any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against and shall run to the benefit of any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee"), who acquires title or possession to the Subject Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination, eviction or otherwise. The term "Mortgagee" shall include any holder of fee title to the Subject Property subject to a lease with option to purchase.
- B. Mortgagee Not Obligated. Notwithstanding the provisions of Section 10. A. above, no Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of improvements, or to guarantee such construction or completion; provided, however, that a Mortgagee shall not be entitled to devote the Subject Property to any use except in full compliance with the Master Permit nor to construct any improvements thereon or institute any uses other than those uses or improvements provided for or authorized by the Agreement, or otherwise under the existing approvals.
- C. Notice of Default to Mortgagee. If CITY receives a notice from a Mortgagee requesting a copy of any notice of default given DEVELOPER hereunder and specifying the address for service thereof, then CITY agrees to use its best efforts to deliver to such Mortgagee, concurrently with service thereon to DEVELOPER,

any notice given to DEVELOPER with respect to any claim by CITY that DEVELOPER has committed an event of default, and if CITY makes a determination of noncompliance hereunder, CITY shall likewise use its best efforts to serve notice of such noncompliance on such Mortgagee concurrently with service thereon on DEVELOPER. Each Mortgagee shall have the right during the same period available to DEVELOPER to cure or remedy, or to commence to cure or remedy, the event of default claimed or the areas of noncompliance set forth in CITY's notice. If a Mortgagee shall be required to obtain possession in order to cure any default, the time to cure shall be tolled so long as the Mortgagee is attempting to obtain possession, including by appointment of a receiver or foreclosure.

Section 11. DUPLICATE ORIGINALS

This Agreement is executed in 5 duplicate originals, each of which is deemed to be an original. This Agreement consists of 20 pages and 3 exhibits which constitutes the entire understanding and agreement of the parties. Said exhibits are identified as follows:

Exhibit A: Description of the Subject Property

Exhibit B: General Development Plan for Planned Development Zoning
PDCSH 99-05-054

Exhibit C: Summary of Vested Elements

Section 12. ESTOPPEL CERTIFICATE.

DEVELOPER may, at any time, and from time to time, deliver written notice to the other party requesting such party to certify in writing that, to the knowledge of the certifying party, (a) this Agreement is in full force and effect and a binding obligation of the parties, (b) the Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, and (c) the requesting party is not in default in the performance of its obligations under the Agreement, or if in default, to describe therein the nature and amount of any such defaults. CITY agrees to cooperate with DEVELOPER and process such request in good faith. Either the City

Manager or the Planning Director of CITY shall have the right to execute any certificate requested by DEVELOPER hereunder.

SECTION 13. RECORDATION.

Within ten (10) days after the effective date of this Agreement, the City Clerk shall have the Agreement recorded with the County Recorder. If the parties to the Agreement or their successors in interest amend or cancel the Agreement as hereinabove provided, or if the CITY terminates or modifies the Agreement as hereinabove provided, the City Clerk shall have notice of such action recorded with the County Recorder.

SECTION 14. ENFORCED DELAY.

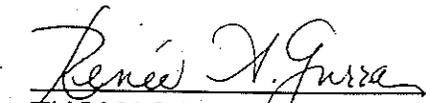
In addition to specific provisions of this Agreement, neither party shall be deemed to be in default under this Agreement where delays in performance or failures to perform are due to war, insurrection, strikes, or other labor disturbances, walkouts, riots, floods, earthquakes, fires, inclement weather, casualties, acts of God, governmental restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environmental regulations, judicial decisions, administrative appeals, litigation or similar basis for excused performance which is not within the reasonable control of the party to be excused. Upon the request of either party hereto, extension of time for such cause will be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

WITNESS THE EXECUTION THEREOF on the day and year first hereinabove written.

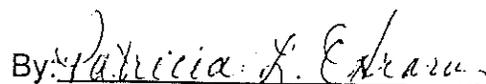
"CITY"

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal
corporation

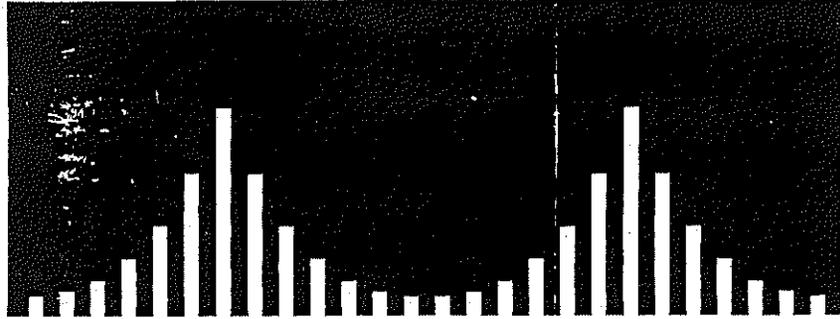

THOMAS B. RUBY

Senior Deputy City Attorney

By: 

PATRICIA L. O'HEARN
City Clerk

CISCO SYSTEMS



SAN JOSE SITE 6

SAN JOSE, CALIFORNIA

SITE 6



DEVCON CONSTRUCTION INCORPORATED

200 Los Gatos Street
San Jose, California 95128
(408) 292-2342

GENERAL DEVELOPMENT PLAN
EXHIBIT 'C'

BEST AVAILABLE COPY

THIS SHEET IS A PART OF A SET OF DRAWINGS AND SPECIFICATIONS. IT IS NOT TO BE USED SEPARATELY. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.

REVISIONS		
NO.	DATE	DESCRIPTION

TITLE SHEET

JOB NO. 98-318	SHEET NO.
DATE: 6-2-2000	1
DRAWN BY	OF SHEETS
CHECKED: BRENT	
ISSUED: PUNJ SINGH	

98-034

VICINITY MAP	JOB DIRECTORY	PROJECT INFORMATION	SHEET INDEX
	<p>BUILDING OWNER CISCO SYSTEMS 170 WEST TASHAN DR. SAN JOSE, CA 95134</p> <p>DEVELOPER CLM & ASSOCIATES 125 RIO ROBLES - BLDG. H SAN JOSE, CA 95134 CONTACT: CRAIG MANNING TEL (408) 528-2272 FAX (408) 527-7048</p> <p>GENERAL CONTRACTOR DEVCON CONSTRUCTION, INC. 2-1332 EAST CLIFF DRIVE SANTA CRUZ, CA 95062 CONTACT: PETER CORNEAZA TEL (408) 842-8700 FAX (408) 292-2342</p> <p>ARCHITECT DEVCON CONSTRUCTION, INC. 355 LOS COCHES MILPITAS, CA 95035 CONTACT: BARRY L. LIVING, AIA BRENT DORNING TEL (408) 842-8200 FAX (408) 848-7713</p> <p>LANDSCAPE ARCHITECT QUIZARDO & ASSOCIATES, INC. 838 MONTGOMERY STREET SAN FRANCISCO, CA 94133 CONTACT: PAUL LETNER TEL (415) 433-4672 FAX (415) 433-3063</p> <p>CIVIL ENGINEER KER & WRIGHT 3350 SCOTT BLVD., BLDG. 22 SANTA CLARA, CA 95054 CONTACT: BARRY SCHMITZ TEL (408) 278-1700 FAX (408) 227-2848</p> <p>TRANSPORTATION HEXAGON 40 SOUTH MARKET ST. STE 800 SAN JOSE, CA 95013 TEL (408) 971-8100 FAX (408) 971-8102</p> <p>GEOLOGICAL CONSULTANT LOWMEY ASSOCIATES 405 ELIOT AVE. MOUNTAIN VIEW, CA 94043 CONTACT: BARRY BUTLER TEL (510) 947-2343 FAX (510) 947-2343</p> <p>CONCEPTUAL GRADE DRAIN PLAN SCHWAF & WHEELER 100 N. WINCHESTER BLVD. #200 SANTA CLARA, CA 95050 CONTACT: KIRK WELLS TEL (408) 248-4848 FAX (415) 248-3424</p> <p>GEOLOGICAL CONSULTANT/ ARCHIOLOGICAL CONSULTANT DAVID J. POWERS & ASSOCIATES 1885 THE ALAMEDA, SUITE 204 SAN JOSE, CA 95128 TEL (408) 248-3500 FAX (408) 248-9841</p>	<p>TOTAL SITE AREA 152,267 AC (6,843,819 SQ. FT.) OPEN SPACE / HABITAT 37.2 AC TOTAL BUILDING FLOOR AREA 2,320,000 SQ. FT. F. A. R. 35K TOTAL SITE PARKING 7,762 SPACES TOTAL SITE PARKING RATIO 3.3/1000 TOTAL SITE LANDSCAPE AREA - 25K</p> <p>PHASE 1 BUILDING FLOOR AREA 1,800,000 SQ. FT. PARKING 5,371 SPACES</p> <p>PHASE 2 BUILDING FLOOR AREA 720,000 SQ. FT. PARKING 2,392 SPACES</p> <p>CONSTRUCTION SCHEDULE</p> <p>PHASE 1 START 4-01-00 COMPLETE 12-01-00</p> <p>PHASE 2 START 1-02-02 COMPLETE 1-01-03</p>	<p>SHT. NO. DESCRIPTION</p> <p>TITLE SHEET 01 TITLE SHEET</p> <p>MAP OF PD ZONING DIST. 02 LAND USE PLAN 03 ALLOCATION MEASURES 04 EXISTING SITE PLAN</p> <p>SITE PLAN 05 CONCEPTUAL SITE PLAN</p> <p>GRADING AND DRAINAGE PLAN 06 CONCEPTUAL GRADING PLAN-SECT PLAN 07 CONCEPTUAL GRADING PLAN 08 CONCEPTUAL GRADING PLAN 09 CONCEPTUAL GRADING PLAN 10 CONCEPTUAL GRADING PLAN 11 CONCEPTUAL GRADING PLAN</p> <p>BUILDING ELEVATIONS 12 CONCEPTUAL ELEVATIONS- BLDG 01 26.20 13 CONCEPTUAL ELEVATIONS- BLDG 02 26.37 14 CONCEPTUAL ELEVATIONS- BLDG 03 26.31 15 CONCEPTUAL ELEVATIONS- BLDG 04 16 CONCEPTUAL SECTIONS</p> <p>LANDSCAPE AND IRRIGATION PLAN 17 ILLUSTRATIVE EXAMPLE OF A SCENIC LANDSCAPE PLAN 18 SITE 6 - ENTRY STREET CONCEPT 19 SITE 6 - ENTRY STREET CONCEPT</p> <p>DETAILS 20 WINDSHIELD LANDSCAPE PLAN</p>

MITIGATION

Air Quality Impacts

The following mitigation measures shall be included as part of the project to reduce local carbon monoxide and regional or quality impacts of air quality physical improvements, such as sidewalk improvements, connections to existing pedestrian facilities and bicycle paths that would not be incentives for pedestrian and bicycle modes of travel; convert the project site with regional bicycle/pedestrian trail system; provide shuttle bus service to regional transit centers; provide alternate services for employees, such as carshare, bank/ATM, and dry cleaning; provide preferred parking for carpools/venues; provide showers and lockers for employees; bicycling or walking to work; implement feasible transit demand management (TDM) measures for a project of this type. These TDM measures could include a parking cash-out program; telecommuting program; guaranteed ride home program; coordination with regional transit planning organizations and transit incentive program, such as participation in VIA's Eco Pass Program for all employees.

The project shall implement standard construction dust control measures as identified in the Draft Environmental Impact Report to reduce generation of particulates to a level less than significant level.

Biological Resources Impacts

If destruction of occupied burrows is unavoidable, existing unoccupied burrows shall be enhanced (enriched or cleared of debris) or new burrows created (by installation of artificial burrows) at a ratio of 3:1 (created/enriched) on protected land area.

The Stormwater Pollution Prevention Plan shall include provisions to minimize potential impacts to wet marsh, wandering stream and soil matrix borrows resulting from project-related runoff.

In order to mitigate the loss of jurisdictional wetlands, Cisco Systems shall create 0.62 acres wetlands on the General Development Plan. To the extent possible, a minimum 100-foot buffer shall be established between jurisdictional wetlands and the proposed development.

A long-term monitoring and maintenance plan for the preserve shall be developed and subject to review and approval by the Corps, RWQCB, and the City of San Jose. The plan shall contain provisions to maintain or improve the quality and quantity of water necessary for sustaining the jurisdictional wetlands. Created wetlands shall be of the same type (i.e., seasonal, herbaceous) as the original wetlands. Appropriate wetland building criteria, as established in the San Jose Building Code. Potential impacts from jurisdictional wetlands and associated impacts shall be created within and adjacent to the non-jurisdictional wetlands. Landscaping adjacent to the wetland preserve area would not include large trees, as they can provide potential impacts upon jurisdictional wetlands due to increased runoff from the project.

Construction debris shall not be placed in the developed wetland and habitat area, which shall include the newly created wetland mitigation site. Material and debris piles shall be kept away from that area, to prevent water- or wind-transported materials from entering and contaminating remaining wetlands. Water from equipment washing shall also be prevented from entering the wetland and habitat area. All material removed from the site shall be disposed of at a permitted and outside areas subject to Corps jurisdiction.

Fencing shall be erected along the outside edge of the 100-foot wide buffer area to avoid impacts upon wetlands during construction. Prior to or upon completion of construction activities, if any wetland areas were disturbed during construction activities, these areas shall be revegetated with locally adapted native plant species.

Biological Resources Impacts

A major portion of the main population of Congdon's Lizard on the site (approximately 17 cons) shall be retained. Areas surrounding the site shall be fenced and/or fenced for avoidance during project construction. A rare plant mitigation and monitoring plan shall be developed prior to the issuance of grading or building permits to provide for the long-term protection of Congdon's lizard on the site. The applicant shall provide for long-term monitoring and monitoring of the protected lizard, which shall include success surveys, removal measures, and annual reports to the City of San Jose.

The project shall include the preparation of a Storm Water Pollution Prevention Plan (SWPPP) which shall include provisions to minimize potential impacts to Statehood resulting from jurisdictional wetlands. SWPPP shall include: 1) The use of all fencing, silt traps, sediment basins, and other measures to reduce the movement of construction-related sediments into the Guadalupe River and 2) the installation of grit and oil trap systems in stormwater catch basins, which shall be installed in perpetuity. In perpetuity, non-point source pollutants from surface Guadalupe River.

No more than 30 days prior to construction, a qualified biologist shall survey the site for Congdon's lizard. If the survey identifies any lizard on the project site, the survey shall be repeated at least once during the construction period. If any lizard is found on the project site, the survey shall be repeated at least once during the construction period. If any lizard is found on the project site, the survey shall be repeated at least once during the construction period.

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A Detailed Burning Out mitigation plan shall be prepared prior to the start of any grading or building permits. The plan shall include the following: 1) Occupied burrows shall not be disturbed during the burning process, including a minimum 25-foot buffer zone around any occupied burrow. 2) The applicant shall minimize the area of the site to be burned. 3) The applicant shall minimize the area of the site to be burned. 4) The applicant shall minimize the area of the site to be burned.

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Cultural Resources Impacts

All subsurface excavation into native soils shall be monitored. In the event this activity is found to be significant, the applicant shall implement a monitoring program shall be implemented in accordance with the requirements described in CEQA and the CEQA Guidelines.

Drainage, Flooding and Water Quality Impacts

The project shall comply with the NPDES General Construction Activity Storm Water Permit. Prior to construction grading, the applicant shall file an NOI in compliance with the General Permit and prepare a SWPPP, which addresses measures that would be included in the project plan, including construction and post-construction runoff.

The following specific measures shall be implemented to prevent storm water pollution and maintain or improve water quality in the Guadalupe River during construction: restrict grading to dry season (April - October); use soil fencing to reduce erosion on the project site; provide temporary cover of all disturbed surfaces to help control erosion during construction; provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

Drainage, Flooding and Water Quality Impacts

The project design shall include features to reduce runoff from the site. Such features could include the placement of vegetated medians where possible, the installation of an absorbing materials (Treat Filter) in the area of on-site catch basins, and regular maintenance activities, i.e., sweeping, cleaning storm drains, filter material.

Geology and Soils Impacts

A design-level geotechnical investigation for the project site shall be completed to address the potential geologic hazards previously identified on the site. The geotechnical investigation for individual buildings shall be completed prior to the approval of building permits for the specific buildings. The potential impacts from loose vertical soils and non-reinforced fill shall be mitigated by following the recommendations of the design-level geotechnical investigation addressing proper foundation design, soil preparation, adequate preparation, material for replacement fill, and grading.

Seismic hazards to the proposed project shall be mitigated by utilizing construction practices in accordance with the California Building Code, and the San Jose Building Code. Potential impacts from liquefaction and lateral spreading would be mitigated by following the recommendations of the design-level geotechnical investigation.

Hazardous Materials Impacts

As part of the project development, soils on the site (excluding those in the open space and habitat areas) shall be tested for hazardous materials. The 100-foot wide buffer described above will reduce potential impacts upon jurisdictional wetlands due to increased runoff from the project. Construction debris shall not be placed in the developed wetland and habitat area, which shall include the newly created wetland mitigation site. Material and debris piles shall be kept away from that area, to prevent water- or wind-transported materials from entering and contaminating remaining wetlands. Water from equipment washing shall also be prevented from entering the wetland and habitat area. All material removed from the site shall be disposed of at a permitted and outside areas subject to Corps jurisdiction.

Land Use Impacts

The site design includes open space buffer land on the northern portion of the site, between the proposed building and the existing residence. The setback shall range from 100 to 300 feet and shall be adequate to reduce potential privacy impacts upon adjacent residences and other sensitive uses in the neighborhood. All proposed setbacks shall be set back of least 100 feet from the electric lines on the northern portion of the site. The project shall include provisions to be located and constructed to avoid impacts from the sewer line which crosses the site.

The project shall include provisions to be located and constructed to avoid impacts from the sewer line which crosses the site. The project shall include provisions to be located and constructed to avoid impacts from the sewer line which crosses the site.

Noise Impacts

Traffic generated by Phase I of the project would cause a three (3) dB(A) increase in noise levels along North First Street, north of North Parkway, and an increase in noise along portion of Grand Boulevard east of the Oak Drive extension. A noise analysis was conducted to identify to what extent noise sensitive areas of the school, library and residence, in the area of the proposed project, are likely to be affected by noise during construction. The project shall include provisions to be located and constructed to avoid impacts from the sewer line which crosses the site.

Noise Impacts

The project shall include provisions to be located and constructed to avoid impacts from the sewer line which crosses the site. The project shall include provisions to be located and constructed to avoid impacts from the sewer line which crosses the site.

Noise Impacts

Transmission Class rating of 33 or greater, or the following characteristics: 1) Dual pane assemblies with one or both panes of 1/4 inch or greater; 2) Windows separating panes of 1/8-inch; 3) Windows employing either a fixed seal or an efficiently weather stripping seal; 4) The seal should be rigid and weather stripped with material that is compressed at least when the window is closed; 5) Any of the impeded openings in a rated wall, if the owner of any impacted dwelling is not a resident of that dwelling, the resident(s) will also be informed of the infeasible offer.

The infeasible offer will be made before the start of grading, and will remain in effect until at least two years after final occupancy of the first building constructed in Phase I of the proposed project, as Phase I is described in this EIR. If any of the impeded openings in a rated wall, if the owner of any impacted dwelling is not a resident of that dwelling, the resident(s) will also be informed of the infeasible offer.

The project shall include the following measures to reduce short-term construction impacts: 1) limit construction operations to daytime hours (7:00 am to 7:00 PM) with no construction activities on Sundays or holidays; 2) use available noise suppression devices and proper equipment; 3) use quiet or "new technology" equipment; 4) maintain equipment in good mechanical condition; and 5) avoid staging of construction equipment and unnecessary idling of equipment within 200 feet of noise-sensitive and noise mitigation practices. In addition, a construction liaison shall be designated to coordinate and monitor planned construction activities to residents and sensitive land uses near the site, as well as coordinate the timing of particularly noisy operations near the school to minimize conflicts with school activities.

Noise Impacts

If site driving is necessary for project construction, implementation of the following measures shall reduce the noise impacts from site driving activities: 1) schedule site driving for times that would have the least impact on adjacent receptors; 2) schedule site driving on the area of the same time in order to reduce the overall length of time that noise and vibration from site driving will impact surrounding areas; 3) schedule site driving, which will reduce the noise and vibration from site driving will impact surrounding areas; 4) schedule site driving, which will reduce the noise and vibration from site driving will impact surrounding areas.

Transportation and Traffic Impacts

The following mitigation measures would reduce project impacts to the intersection within the Guadalupe River area: A second westbound left-turn lane could be added from westbound Tammen Drive to southbound First Street. A third through lane could be added along southbound First Street which would help justify both of the RWA and Lennards as a free-right to all-mountain roadway. Third through lanes could be added on the northbound side of North First Street and Zanker Road, which would result in the removal of substantial amounts of landscaping, including mature trees in front of businesses along these stretches of roadway.

The project shall design and reconstruct North First Street near the intersection with Tony F. Scott Way to improve the intersection geometry and sight distance.

The North San Jose Deficiency Plan requires that all projects which generate traffic in the area include certain design measures to encourage use of alternative transportation. The proposed project will conform to that requirement by including those site design and operational features identified as priorities in the Santa Clara County Congestion Management Plan (CMP) and in the North San Jose Deficiency Plan, including measures to reduce the need for single occupancy vehicles and promote the use of light rail transit, including a walk-in bicycle rack, and other measures to reduce the need for single occupancy vehicles and promote the use of light rail transit.

Physical improvements will include: 1) design elements such as multi-modal bicycle paths, bicycle parking (a minimum of 10 racks for every two buildings) near employee entrances, sidewalk improvements, including connections to existing pedestrian facilities, and landscaping that would act as a buffer for noise and bicycle lanes (a minimum of 20 feet); 2) approximately two percent (2%) of on-site parking spaces located near employees' entrances and exits for use by employees using bicycle or other high occupancy vehicles (HOV); 3) showers will be provided in each building for employees; 4) bicycle racks will be provided in each building for use by employees; 5) bicycle racks will be provided in each building for use by employees; 6) bicycle racks will be provided in each building for use by employees.

Transportation and Traffic Impacts

The project proposes to implement an aggressive trip reduction strategy. Cisco Systems and/or other future occupants of the project site will periodically inform the City of San Jose of the status of the program, including the following elements: 1) Designation of an available Transportation Demand Management (TDM) coordinator to implement and monitor utilization of public transportation and measures to encourage HOV and other trip diversion programs; 2) Provision of emergency transportation for employees who use public transportation will be provided; 3) Participation in and contribution to regional and educational efforts targeting both employees and visitors to the site, and encouraging use of public transportation; 4) The TDM coordinator will establish policies and programs to reduce or eliminate idling and pick-up during peak commute times; 5) Continued increase the number of employees (currently approximately 2%) of the company that presently telecommute; 6) Use of flexible work hours, to reduce commuting during peak hours; 7) Transit subsidies through the existing regional BDCS program will be offered to all employees on the site; 8) Provision of parking spaces designated for carpool participants at the most convenient locations and 9) participation in VIA's Eco Pass Program for all employees at the site. In addition, Cisco's existing shuttle would be expanded, including shuttle service to and from the Mountain LRT station and ACE/Amtrak station. Shuttle bus service shall also be provided to employees in good mechanical condition, but not limited to, BayPoint, Great America and other LRT stations, Waller & Main and other VIA Transit Centers and Transfer Stations.

The project applicant and the City of San Jose will work with VIA to ensure that bus stops and shuttles are provided at appropriate location(s) within public right-of-way. The specific location and details of bus stops and shuttles will be determined and designed during the PD Permit stage. All bus stops and shuttles will be designed and constructed in accordance with VIA standards and Americans with Disabilities Act (ADA) requirements.

The Shuttle and/or bus stops of the site would be located and designed to be convenient to the main entrances of the project buildings.

The project shall contribute a fair share amount to the City of Santa Clara and the County of Santa Clara for improvements to the intersections of Guadalupe Street/Contra Expressway, Mission College Boulevard/Montealegre Expressway, and De La Cruz Boulevard/Montealegre Expressway.

Transportation and Traffic Impacts

The following mitigation measures would reduce project impacts to the intersection within the Guadalupe River area: A second westbound left-turn lane could be added from westbound Tammen Drive to southbound First Street. A third through lane could be added along southbound First Street which would help justify both of the RWA and Lennards as a free-right to all-mountain roadway. Third through lanes could be added on the northbound side of North First Street and Zanker Road, which would result in the removal of substantial amounts of landscaping, including mature trees in front of businesses along these stretches of roadway.

The project shall design and reconstruct North First Street near the intersection with Tony F. Scott Way to improve the intersection geometry and sight distance.

The North San Jose Deficiency Plan requires that all projects which generate traffic in the area include certain design measures to encourage use of alternative transportation. The proposed project will conform to that requirement by including those site design and operational features identified as priorities in the Santa Clara County Congestion Management Plan (CMP) and in the North San Jose Deficiency Plan, including measures to reduce the need for single occupancy vehicles and promote the use of light rail transit, including a walk-in bicycle rack, and other measures to reduce the need for single occupancy vehicles and promote the use of light rail transit.

Physical improvements will include: 1) design elements such as multi-modal bicycle paths, bicycle parking (a minimum of 10 racks for every two buildings) near employee entrances, sidewalk improvements, including connections to existing pedestrian facilities, and landscaping that would act as a buffer for noise and bicycle lanes (a minimum of 20 feet); 2) approximately two percent (2%) of on-site parking spaces located near employees' entrances and exits for use by employees using bicycle or other high occupancy vehicles (HOV); 3) showers will be provided in each building for employees; 4) bicycle racks will be provided in each building for use by employees; 5) bicycle racks will be provided in each building for use by employees; 6) bicycle racks will be provided in each building for use by employees.



GENERAL DEVELOPMENT PLAN EXHIBIT 'C'

Visual and Aesthetic Impacts

The conceptual plans submitted to the City of San Jose for the PD Reviewing of the project site include building elevations and landscaping which are intended to ensure a minimum level of aesthetic quality. Specific structures proposed in the future shall be reviewed by City Staff for conformance with the standards established by the PD Reviewing.

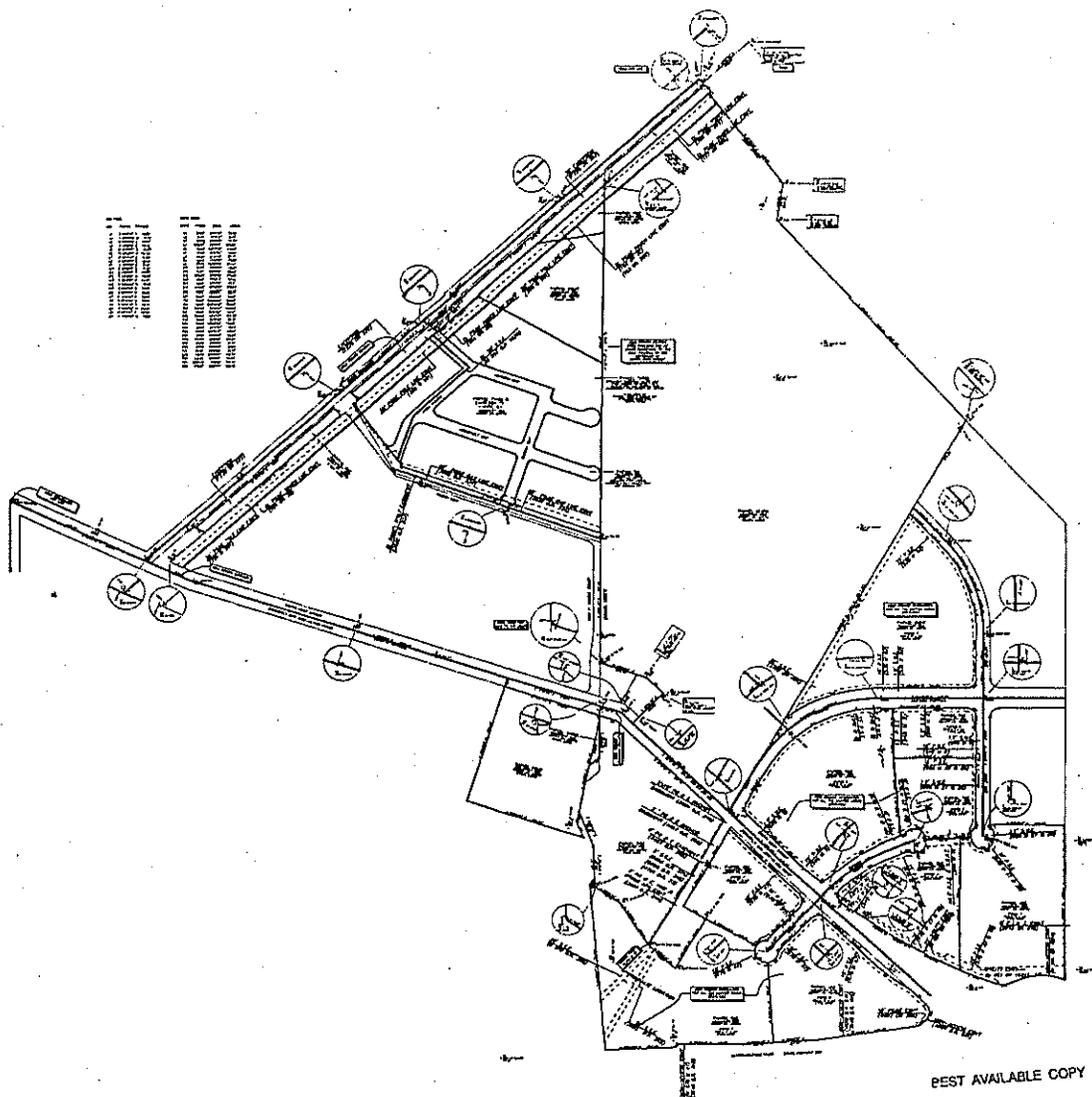
In accordance with City of San Jose standards, new landscaping, including 24-inch box specimen trees at a ratio of 1:1 for employee area trees, shall be installed in what is new parking areas.

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REVISIONS		
NO.	DATE	DESCRIPTION

MITIGATION MEASURES CISCO SYSTEMS SITE 6

JOB NO. 98-319	SHEET NO.
DATE 8-14-2000	98-054 3
DRAWING	2a
CHECKED: BMD/DT	OF SHEETS
ISSUE: PD 2000C	



1. EXISTING UTILITY LOCATIONS
 2. PROPOSED UTILITY LOCATIONS
 3. EXISTING CONCRETE DRIVEWAYS
 4. PROPOSED CONCRETE DRIVEWAYS
 5. EXISTING ASPHALT DRIVEWAYS
 6. PROPOSED ASPHALT DRIVEWAYS
 7. EXISTING SIDEWALKS
 8. PROPOSED SIDEWALKS
 9. EXISTING LANDSCAPING
 10. PROPOSED LANDSCAPING

1. EXISTING UTILITY LOCATIONS
 2. PROPOSED UTILITY LOCATIONS
 3. EXISTING CONCRETE DRIVEWAYS
 4. PROPOSED CONCRETE DRIVEWAYS
 5. EXISTING ASPHALT DRIVEWAYS
 6. PROPOSED ASPHALT DRIVEWAYS
 7. EXISTING SIDEWALKS
 8. PROPOSED SIDEWALKS
 9. EXISTING LANDSCAPING
 10. PROPOSED LANDSCAPING

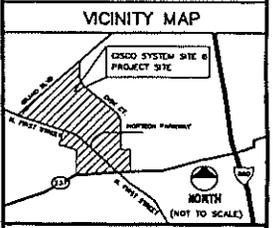
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0 100' 200' 400'
 SCALE: 1" = 200'-0"



DEVCON CONSTRUCTION
 INCORPORATED
 900 San Ramon Street
 Dublin, California 94568
 (925) 835-1000



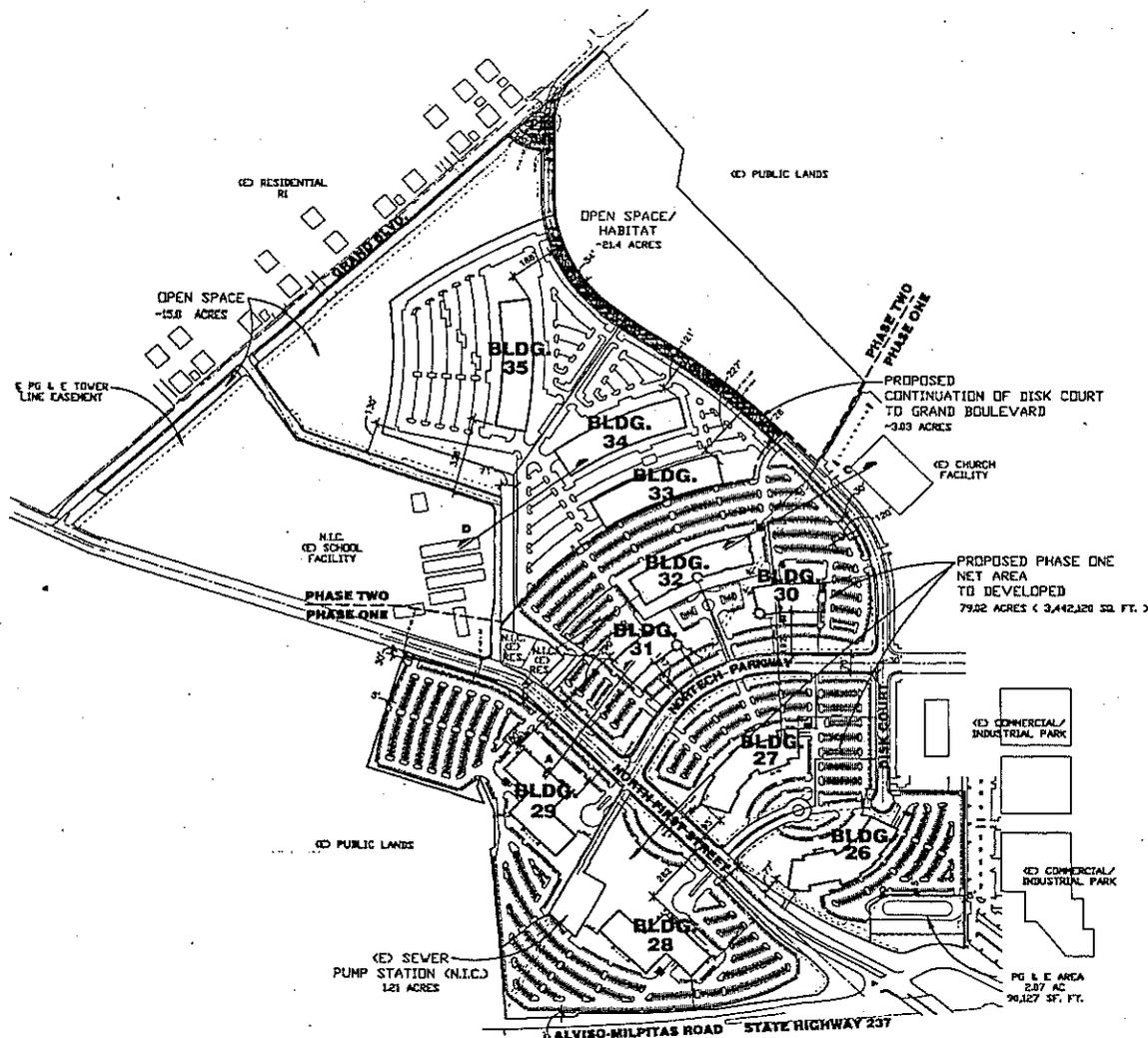
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REVISIONS

NO.	DATE	DESCRIPTION	BY

EXISTING SITE PLAN

JOB NO. 98-318	SHEET NO.
DATE: 2-28-2000	2b
DRAWN: ACS	OF SHEETS
CHECKED: BRIGHT	
ISSUED: PD ZIMIC	



DEVCON CONSTRUCTION INCORPORATED
 885 Los Brea Blvd
 Milpitas, CA 95035
 (415) 951-1000

GENERAL DEVELOPMENT PLAN EXHIBIT "C"

SITE DATA

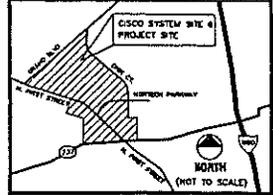
TOTAL SITE AREA	152,987 AC. (6,645,818 S.F.)
HABITAT / OPEN SPACE	~ 37.2 AC.
TOTAL BUILDING FLOOR AREA	2,325,000 SQ. FT.
F. A. R.	25X
TOTAL SITE PARKING	7,763 SPACES
TOTAL SITE PARKING RATIO	3.2/1,000
TOTAL SITE LANDSCAPE AREA	~ 25X

PHASE 1
 BUILDING FLOOR AREA 1,800,000 SQ. FT.
 PARKING 5,371 SPACES

PHASE 2
 BUILDING FLOOR AREA 725,000 SQ. FT.
 PARKING 2,392 SPACES

PROPOSED PHASE ONE NET AREA TO DEVELOP
 79.92 ACRES (3,442,820 SQ. FT.)

VICINITY MAP



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REVISIONS

NO.	DATE	DESCRIPTION	BY

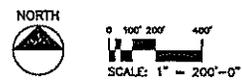
SITE PLAN

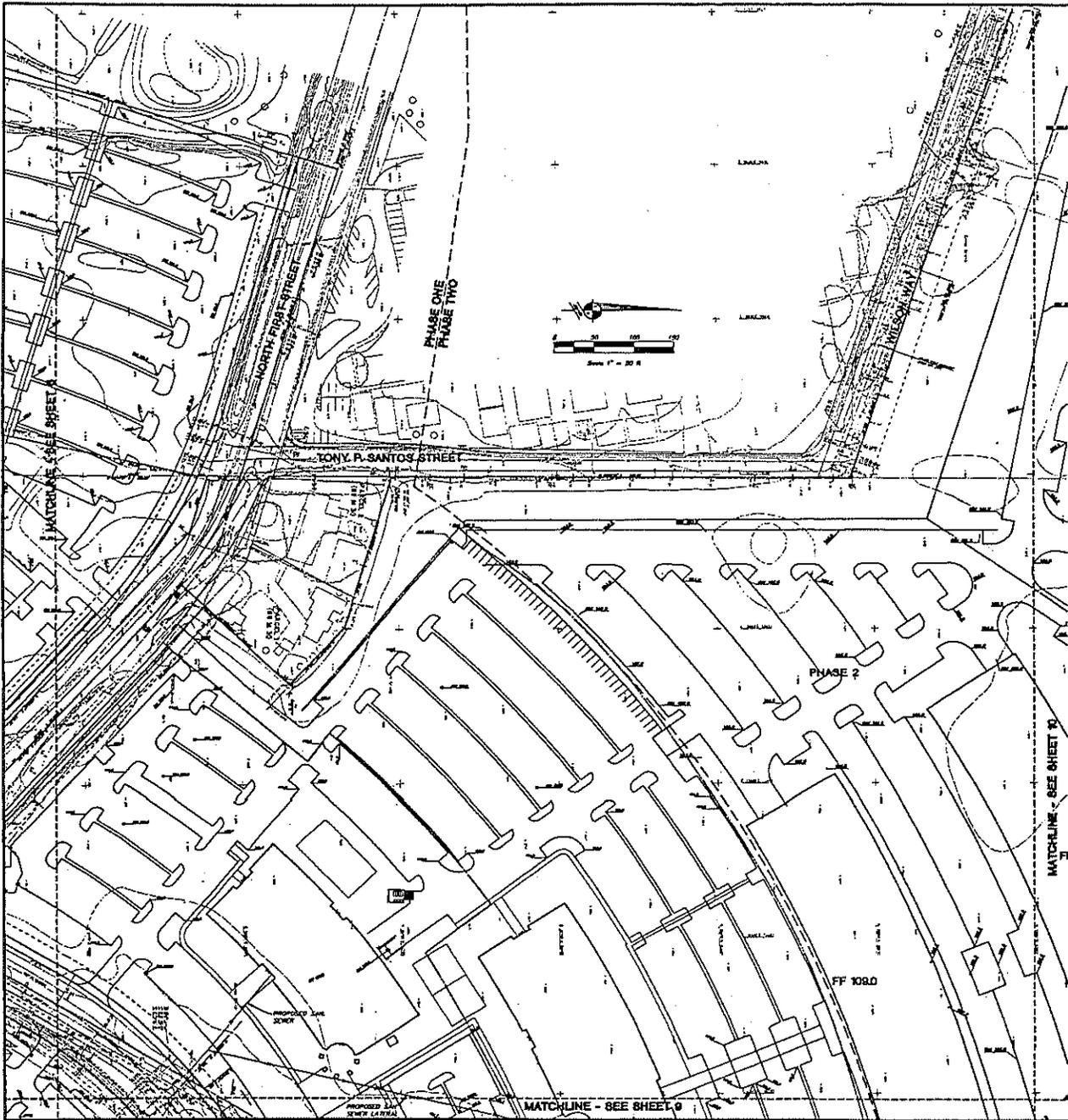
JOB NO. 96-316	DRAWN BY	CHECKED BY	ISSUED BY
DATE: 6-2-2000			

3

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SEE EXISTING SITE PLAN AND CIVIL DRAWINGS FOR ADDITIONAL EASEMENT INFORMATION.

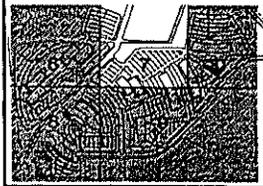




KIER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
 3300 Scott Boulevard, Building 22 (408) 727-6665
 Santa Clara, California 95054 FAX (408) 727-5641

PROJECT SHEET NO. DATE

KEY PLAN



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NOTES

1. All dimensions are in feet and inches unless otherwise noted.

2. All elevations are in feet unless otherwise noted.

3. All spot heights are in feet unless otherwise noted.

4. All proposed structures are shown in solid lines.

5. All existing structures are shown in dashed lines.

6. All proposed grading is shown in solid lines.

7. All existing grading is shown in dashed lines.

8. All proposed utilities are shown in solid lines.

9. All existing utilities are shown in dashed lines.

10. All proposed easements are shown in solid lines.

11. All existing easements are shown in dashed lines.

12. All proposed setbacks are shown in solid lines.

13. All existing setbacks are shown in dashed lines.

14. All proposed lot lines are shown in solid lines.

15. All existing lot lines are shown in dashed lines.

16. All proposed street lines are shown in solid lines.

17. All existing street lines are shown in dashed lines.

18. All proposed utility easements are shown in solid lines.

19. All existing utility easements are shown in dashed lines.

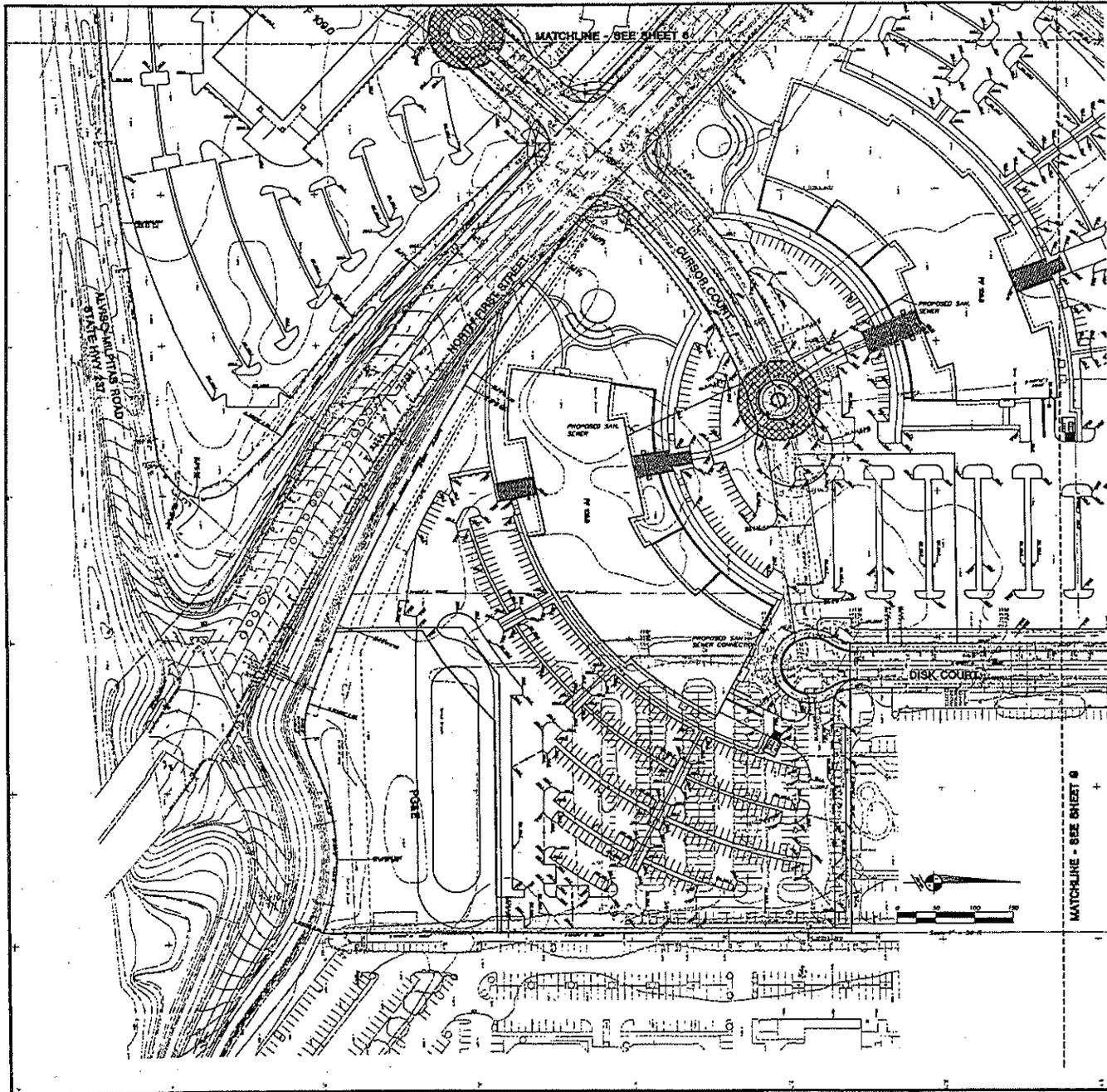
20. All proposed easement lines are shown in solid lines.

21. All existing easement lines are shown in dashed lines.

REVISIONS			
NO.	DATE	DESCRIPTION	BY

GRADING PLAN		SHEET NO.
JOB NO.	88-318	4C
DATE	2-28-00	
DRAWN	WEH	
CHECKED		
ISSUE	PG ZONING	OF SHEETS

88-084



NOTE:
PARKING LOT DRAINAGE TO CONNECT
TO STORM DRAINAGE SYSTEMS IN
DISK COURT AND CURSON COURT.

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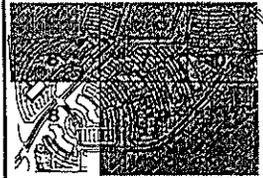
MATCHLINE - SEE SHEET 4



KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
3330 Scott Boulevard, Building 22 (408) 727-6603
Santa Clara, California 95054 FAX (408) 727-3641

PLANNING NUMBER: 98-319 DATE: 2-28-00

KEY PLAN

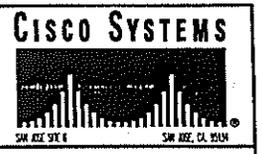
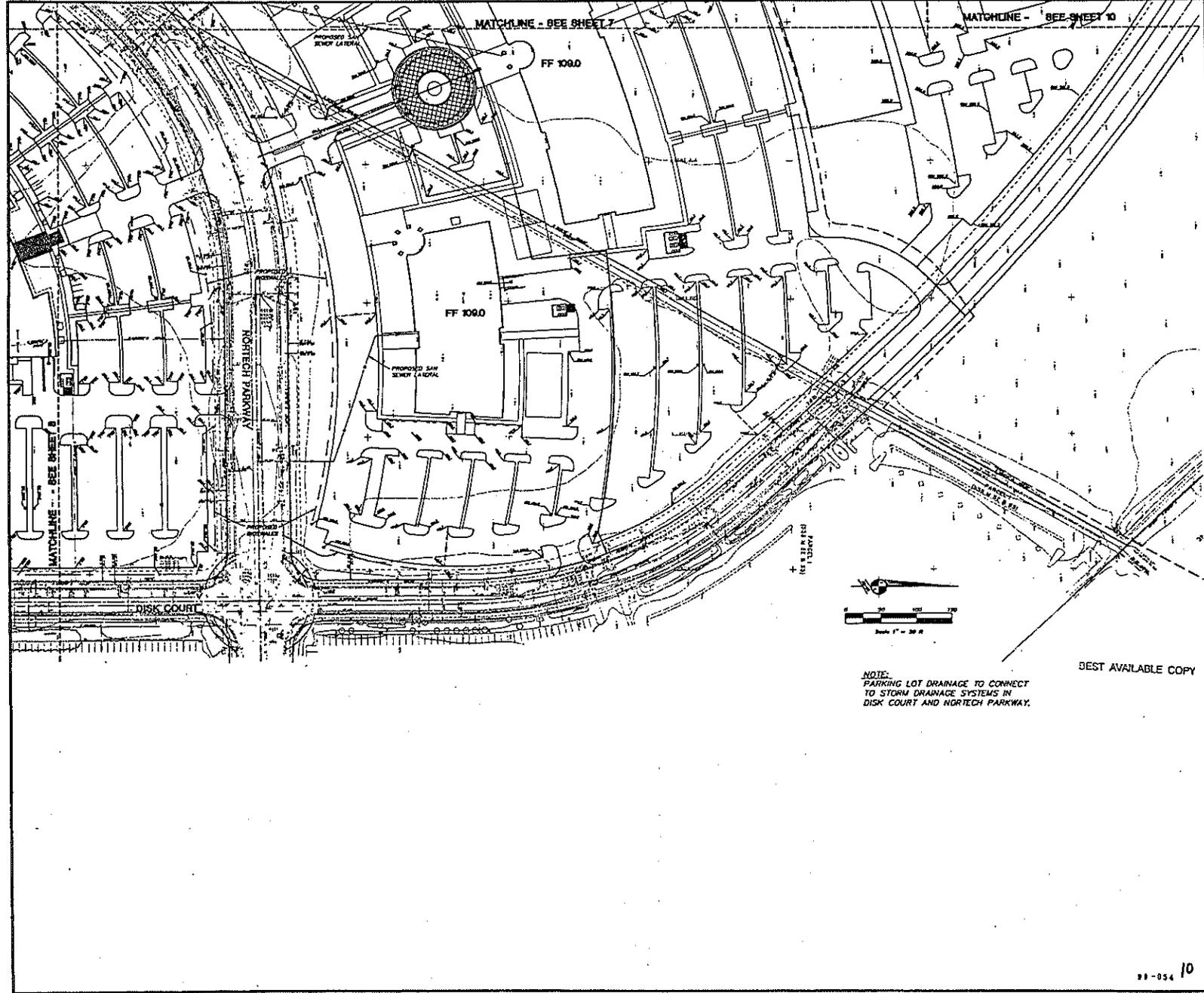


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REVISIONS			
NO.	DATE	DESCRIPTION	BY

GRADING PLAN		SHEET NO.
JOB NO.	98-319	4d
DATE	2-28-00	
DRAWN BY	WEH	
CHECKED BY		
ISSUE	PD ZONING	OF SHEETS

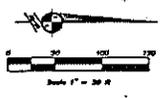
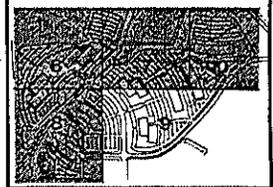
98-034 9



KIER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
 2320 Scott Boulevard, Building 22, (408) 727-6665
 Santa Clara, California 95054 FAX (408) 727-0641

BY: MARY SHERIFF, REG. 30143 DATE: 02-28-00

KEY PLAN



NOTE:
 PARKING LOT DRAINAGE TO CONNECT
 TO STORM DRAINAGE SYSTEMS IN
 DISK COURT AND NORTECH PARKWAY.

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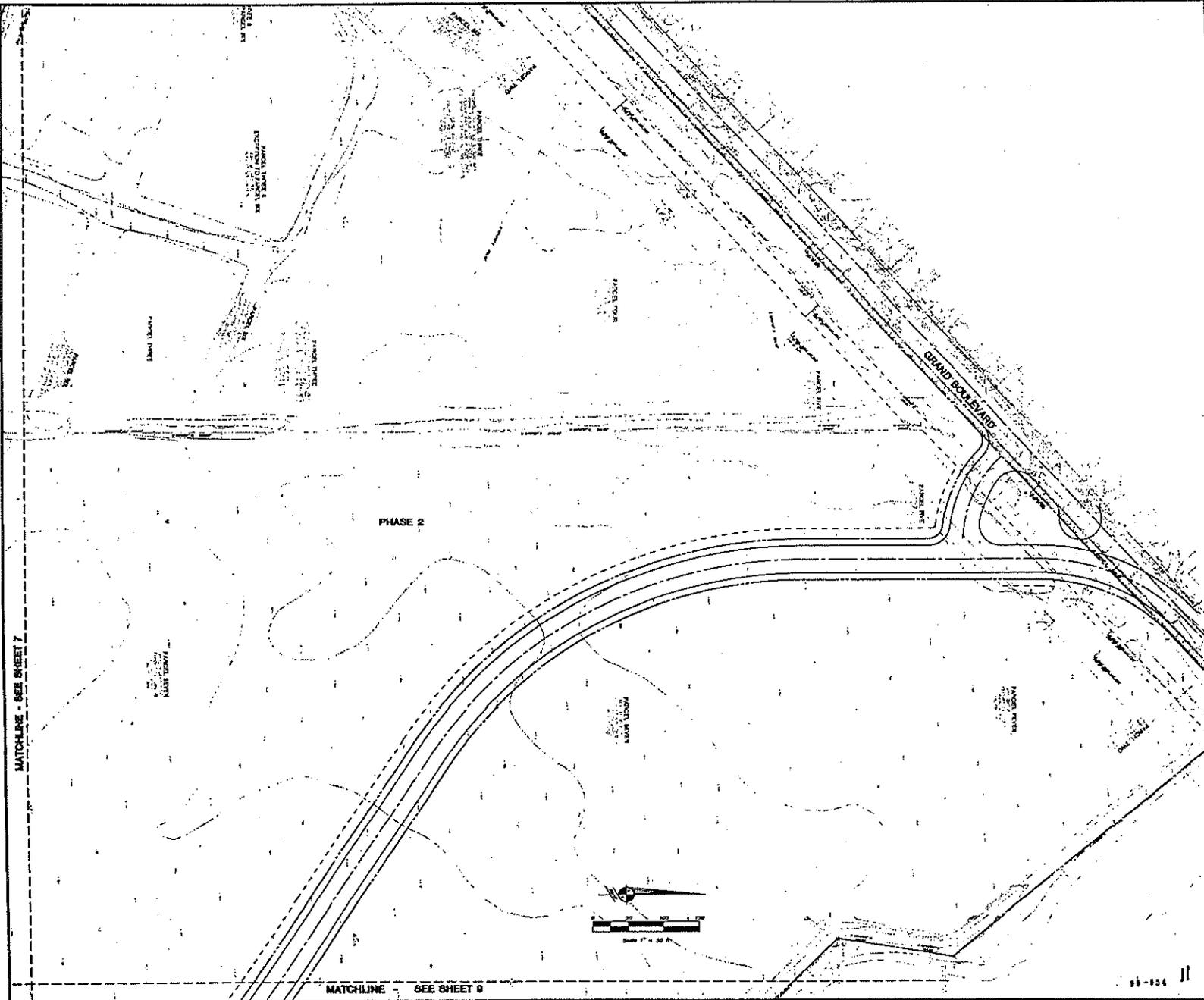
REVISIONS

NO.	DATE	DESCRIPTION	BY

GRADING PLAN

JOB NO. 98-308	SHEET NO.
DATE 2-28-00	4e
DRAWN: MCH	
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ISSUE: PD ZONING	OF SHEETS

98-054 10

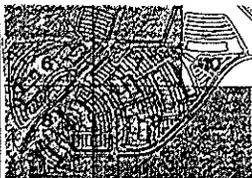


KIER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
 3700 Scott Boulevard, Building 22 (408) 727-6665
 Santa Clara, California 95051 FAX (408) 727-5641

BY: SHIRLEY BOWEN DATE: 2-28-2000

ESTIMATE COMPANY

KEY PLAN



NOTES:
 1. This plan shows the proposed grading for the project. It is based on the existing ground conditions and the proposed site plan. It is subject to change based on field conditions and the final design.
 2. The proposed grading is shown with solid lines. The existing ground is shown with dashed lines.
 3. The proposed grading is shown with a 2% slope. The existing ground is shown with a 2% slope.
 4. The proposed grading is shown with a 2% slope. The existing ground is shown with a 2% slope.
 5. The proposed grading is shown with a 2% slope. The existing ground is shown with a 2% slope.

REVISIONS

NO.	DATE	DESCRIPTION	BY

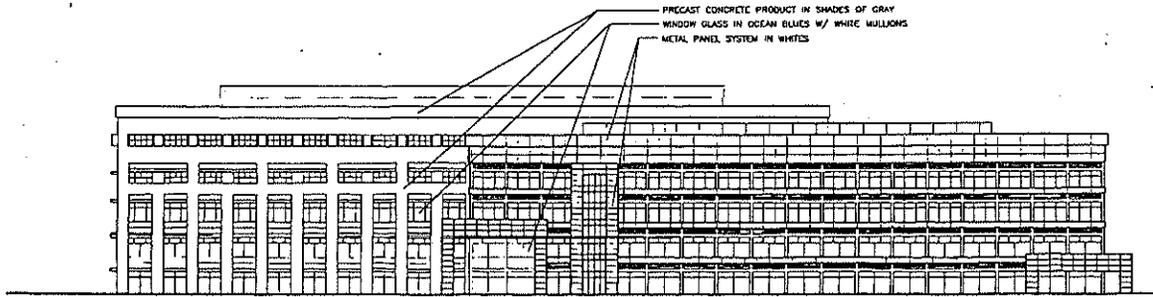
CONCEPTUAL GRADING PLAN

JOB NO.	SHEET NO.
DATE: 2-28-2000	4f
DRAWN: WCH	OF SHEETS
CHECKED:	
ISSUE: PO ZONING	

MATCHLINE - SEE SHEET 7

MATCHLINE - SEE SHEET 8

11-134



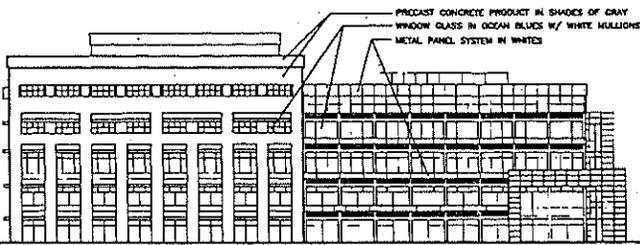
(A) ELEVATION
SCALE: 1/20'



(D) ELEVATION
SCALE: 1/20'



(E) ELEVATION
SCALE: 1/20'



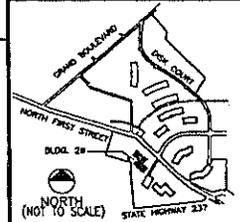
(C) ELEVATION
SCALE: 1/20'



DEVCON CONSTRUCTION INCORPORATED
 960 Los Cerritos Street
 Brea, California 92623
 (949) 855-1616

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KEY PLAN



NOTES:
 1. THESE ELEVATIONS ARE FOR INFORMATION ONLY AND ARE NOT TO BE USED FOR CONSTRUCTION. THE ARCHITECT'S OFFICE SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.
 2. THE ARCHITECT'S OFFICE SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.
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 8. THE ARCHITECT'S OFFICE SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.
 9. THE ARCHITECT'S OFFICE SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.
 10. THE ARCHITECT'S OFFICE SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.

REVISIONS

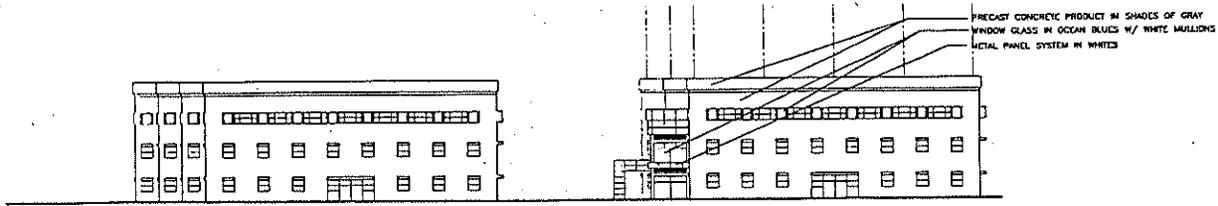
NO.	DATE	DESCRIPTION	BY

CONCEPTUAL ELEVATIONS
 BLDG(S) 28,29

JOB NO. 98-318	SHEET NO.
DATE 2-28-2000	5a
DRAWN BY	OF SHEETS
CHECKED BY/DT	
ISSUE PG 2096C	

ILLUSTRATIVE:
 * FLOOR PLAN
 * BUILDING HEIGHTS
 * BUILDING ELEVATIONS

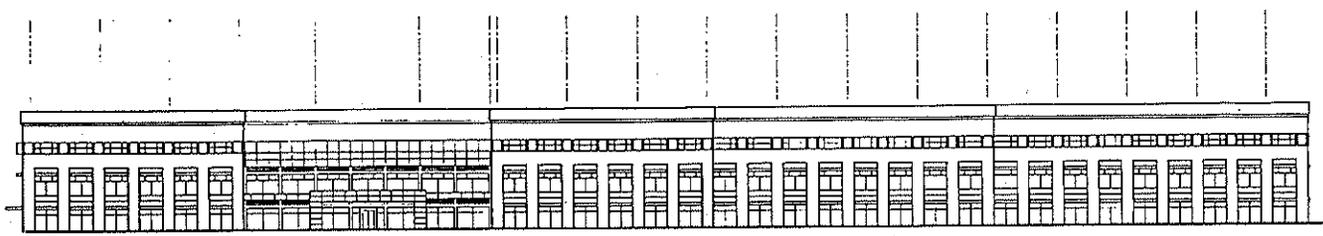
98-054 12



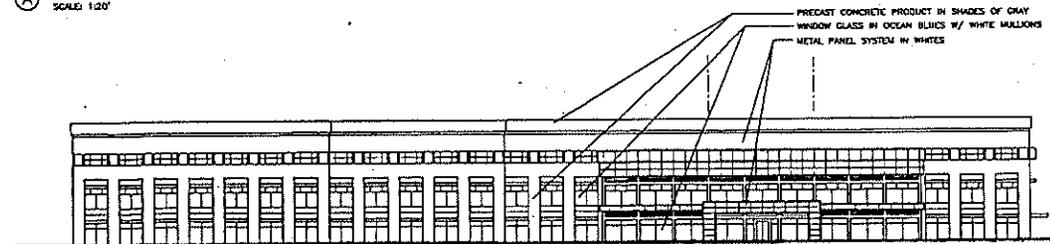
PRECAST CONCRETE PRODUCT IN SHADES OF GRAY
 WINDOW GLASS IN OCEAN BLUES W/ WHITE MULLIONS
 METAL PANEL SYSTEM IN WHITES

B ELEVATION
 SCALE: 1/20'

C ELEVATION
 SCALE: 1/20'



A ELEVATION
 SCALE: 1/20'



PRECAST CONCRETE PRODUCT IN SHADES OF GRAY
 WINDOW GLASS IN OCEAN BLUES W/ WHITE MULLIONS
 METAL PANEL SYSTEM IN WHITES

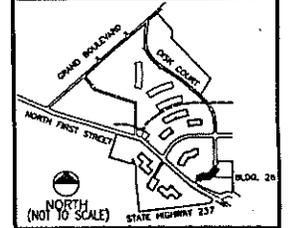
D ELEVATION
 SCALE: 1/20'



DEVCON CONSTRUCTION
 INCORPORATED
 601 Lee Street, Suite
 1000, Dallas, Texas
 75208-1000, U.S.A.

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KEY PLAN



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REVISIONS

NO.	DATE	DESCRIPTION	BY

**CONCEPTUAL ELEVATIONS
 BLDG(S) 26,27**

JOB NO. 88-318	SHEET NO.
DATE 3-28-2000	5b
DRAWN: md	
CHECKED: BRENT	
ISSUED: PG 23/26	OF SHEETS

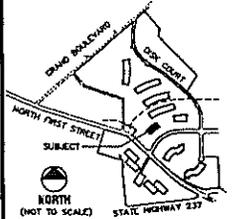
ILLUSTRATIVE:
 • BUILDING HEIGHTS
 • BUILDING ELEVATIONS

88-054 13



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KEY PLAN

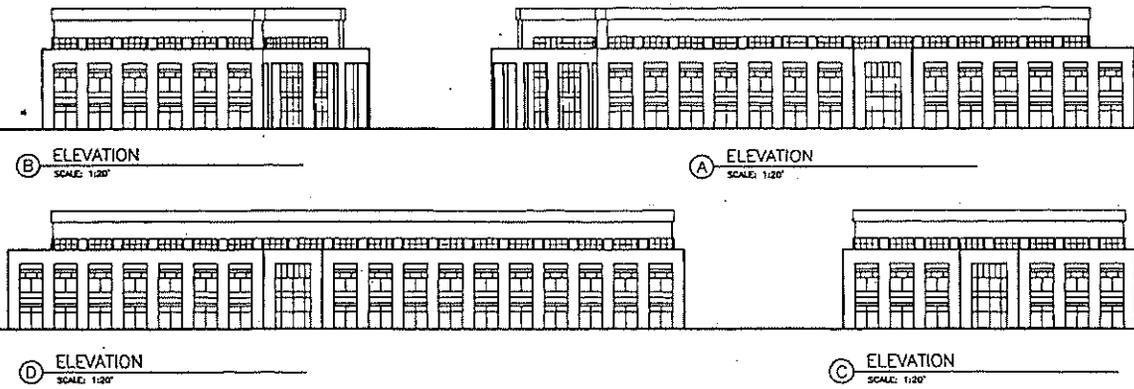


NOTES:
 1. THESE ELEVATIONS ARE FOR INFORMATION ONLY AND DO NOT REPRESENT A CONTRACT DOCUMENT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND CONDITIONS OF THE EXISTING BUILDING AND ADJUSTING THE ELEVATIONS AS NECESSARY.
 2. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS OF THE EXISTING BUILDING AND ADJUST THE ELEVATIONS AS NECESSARY.
 3. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS OF THE EXISTING BUILDING AND ADJUST THE ELEVATIONS AS NECESSARY.
 4. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS OF THE EXISTING BUILDING AND ADJUST THE ELEVATIONS AS NECESSARY.
 5. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS OF THE EXISTING BUILDING AND ADJUST THE ELEVATIONS AS NECESSARY.

REVISIONS			
NO.	DATE	DESCRIPTION	BY

CONCEPTUAL ELEVATIONS
BLDG(S) 30,31

JOB NO. 88-318	SHEET NO.
DATE: 2-28-2000	5c
DRAWN: JLF	OF SHEETS
CHECKED: BRENT	
ISSUE: PG 2086	



(B) ELEVATION
SCALE: 1/20'

(A) ELEVATION
SCALE: 1/20'

(D) ELEVATION
SCALE: 1/20'

(C) ELEVATION
SCALE: 1/20'

ILLUSTRATIVE:
 • BUILDING HEIGHTS
 • BUILDING ELEVATIONS

88-084 14

FULLY EXECUTED

ORIGINAL

**FIRST AMENDMENT TO
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF SAN JOSE
AND
CISCO TECHNOLOGY, INC.
RELATIVE TO THE DEVELOPMENT OF
REAL PROPERTY IN NORTH SAN JOSE**

This FIRST AMENDMENT TO DEVELOPMENT AGREEMENT ("First Amendment") is made and entered into as of this 21st day of July, 2008 by and between CITY OF SAN JOSE, a municipal corporation ("CITY") and CISCO TECHNOLOGY, INC., a California corporation ("DEVELOPER"), pursuant to the authorities provided under California Government Code Sections 65867.5 and 65858 and pursuant to CITY's powers as a charter city.

RECITALS

WHEREAS, on June 20, 2000, by CITY Ordinance No. 26136, the City Council of CITY approved that certain Development Agreement between CITY and DEVELOPER relative to the development of certain real property located in North San Jose, pursuant to the authorities provided under California Government Code Sections 65864 et seq. and the provisions of CITY Ordinance No. 24297, which ordinance establishes procedures and requirements for consideration of development agreements (the "Original Development Agreement"), and

WHEREAS, as of November 13, 2000, CITY and DEVELOPER signed and entered into the Original Development Agreement; and

WHEREAS, DEVELOPER has represented to CITY that on or about January 24, 2005, DEVELOPER transferred its interest in 22 of the 131 acres that comprise the Subject Property (which term is defined in the Original Development Agreement) to North First Street Properties, LLC, pursuant to that certain Grant Deed (Recorder's Instrument No. 18205337, recorded January 26, 2005), as such 22-acre portion of the Subject Property is more particularly described on the attached First Amendment Exhibit "A" (the "22-Acre Property"); and

WHEREAS, DEVELOPER has represented to CITY that on or about January 24, 2005, DEVELOPER assigned its interest in the Original Development Agreement to the extent such interest is applicable to the 22-Acre Property, to North First Street Properties, LLC, pursuant to that certain Assignment and Assumption Agreement – Development Agreement (Recorder's Instrument No. 18205338, recorded January 26, 2005), and

WHEREAS, on May 28, 2008, DEVELOPER applied for an amendment to the Original Development Agreement to be applicable to that certain portion of the Subject Property

still owned by DEVELOPER, which portion of real property is more particularly described on the First Amendment Exhibit "B," entitled "Developer's Property", which exhibit is attached hereto and incorporated herein by this reference (the "Developer Property"); and

WHEREAS, on June 24, 2008, by CITY Ordinance No.28339, the City Council of CITY approved a First Amendment to Development Agreement substantially in the form of this First Amendment and authorized the City Clerk to execute this First Amendment upon the effectiveness of Ordinance No. 28339; and

WHEREAS, CITY and DEVELOPER desire to amend the Original Development Agreement to modify certain project parameters with respect to timing of occupation of the Subject Property as described in Section 1.C of the Original Development Agreement as a corporate campus of DEVELOPER; and

WHEREAS, DEVELOPER has obtained a Planned Development Permit PDSH00-03-027, on June 19, 2000 ("Development Permit") to allow DEVELOPER to develop the Subject Property consistent with the terms and conditions of the Development Permit and the terms and conditions of the Original Development Agreement, and DEVELOPER has constructed approximately 400,000 square feet in two (2) buildings on the Subject Property, with one building of approximately 200,000 square feet occupied by a corporate user; and

WHEREAS, the Development Permit allows for a project, described therein, that is consistent with the terms and conditions of the Original Development Agreement, the Planning Director having determined pursuant to the terms and conditions of Section 2 of the Original Development Agreement that (i) the Development Permit is consistent with the "Vested Elements" in the Original Development Agreement, (ii) no amendment to the Original Development Agreement was required or necessary in order to vest the Development Permit under the terms of the Original Development Agreement, and (iii) the Development Permit continues to be vested as a Vested Element under the Original Development Agreement; and

WHEREAS, development of the Developer Property in accordance with the terms and conditions of this First Amendment will provide for the orderly growth and development of the Subject Property in accordance with the policies set forth in the General Plan, the Alviso Master Plan, the zoning applicable to the Subject Property, the Vesting Tentative Map (no. PTSH 00-03-035) and the other Vested Elements set forth in the Original Development Agreement for the reasons set forth in more detail in that certain memorandum from the Planning Director to the Planning Commission of CITY dated June 4, 2008; and

WHEREAS, an Environmental Impact Report for the Cisco Systems, Inc., Site 6 Project (which Project is defined in more detail in the Original Development Agreement) was certified by the on April 14, 2000 by the City Council of CITY as completed in

compliance with the requirements of the California Environmental Quality Act of 1970, as amended, as of the original certification date (the "EIR"); and

WHEREAS, the City Council finds that any and all environmental impacts that may arise from the terms and conditions of this First Amendment are consistent with, and are within the scope of analyses contained within, the terms and conditions of that EIR; and

WHEREAS, CITY and DEVELOPER have taken all actions mandated by and fulfilled all requirements set forth in CITY's Ordinance No. 24297 and under applicable State law in connection with this First Amendment; and

WHEREAS, on June 11, 2008, the Planning Commission, designated by CITY Ordinance No. 24297 as the advisory agency to CITY's City Council for purpose of development agreement review pursuant to California Government Code Section 65867 and CITY Ordinance No. 24297, considered this First Amendment to the Original Development Agreement, together with the application of the EIR to this First Amendment, at a duly noticed public hearing and recommended to the City Council of CITY that CITY enter into this First Amendment; and

WHEREAS, on June 17 and June 24, 2008, the City Council of CITY considered this First Amendment as a part of Ordinance No. 28339, together with the application of the EIR to this First Amendment, at duly noticed public hearings and found that the provisions of this First Amendment are consistent with all of the applicable provisions of the CITY'S General Plan and zoning codes, together with all of the Vested Elements listed in the Original Development Agreement, and voted to adopt Ordinance No. 28339, approving in substantive form this First Amendment and authorizing the City Clerk to execute this First Amendment.

AGREEMENT

NOW, THEREFORE, the parties hereto agree to amendments to the Original Development Agreement as follows:

1. Effective Date: The parties hereto agree that the effective date of this First Amendment shall be retroactive to July 21, 2008, provided however, that July 21, 2008 shall be the effective date of this First Amendment. only so long as Ordinance No. 28339 approving and authorizing the execution of this First Amendment to the Original Development Agreement also is effective as of July 21, 2008.
2. Definitions: All defined terms not otherwise defined herein shall have the same meaning as set forth in the Original Development Agreement.
3. Effective Date of Original Development Agreement: Section 1.B of the Original Development Agreement, "Condition Precedent," is hereby amended to read in its entirety as follows:

"This Agreement shall have no force and effect unless executed by CITY and DEVELOPER within a reasonable period of time after the effective date of Ordinance No. 26136 approving this Agreement."

By this provision of this First Amendment, the parties hereby memorialize their intent and understanding that the Original Development Agreement became effective as of the date such agreement was entered into and fully executed by all parties thereto on November 13, 2000. The parties to this First Amendment agree that this section of this First Amendment shall apply and be effective retroactively to July 21, 2000.

4. Subsequent Condition Regarding Occupancy: Section 1.C(1) of the Original Development Agreement, "Subsequent Conditions," is amended to read in its entirety as follows, and the parties hereto agree that the effectiveness of this provision:

"(1) DEVELOPER agrees that part of the Subject Property shall be occupied as part of the San Jose corporate campus of DEVELOPER on or before December 31, 2008. This Agreement, shall be null and void as of January 1, 2009 if DEVELOPER fails to fulfill this condition on or before December 31, 2008, provided that CITY is not in default under the terms of this Agreement."

5. Naming Correction: The Original Development Agreement erroneously refers to DEVELOPER as Cisco Technologies, Inc., rather than as Cisco Technology, Inc., its true corporate name. To correct this typographical error, the parties agree that all references in the Original Development Agreement to "Cisco Technologies, Inc." shall be deemed to mean "Cisco Technology, Inc."

6. Full Force and Effect; Conflicts: All of the terms and conditions of the Original Development Agreement not expressly modified by this First Amendment shall remain in full force and effect, and CITY and DEVELOPER hereby ratify and affirm all their respective rights and obligations under the Original Development Agreement as modified by this First Amendment. If there is a direct, irreconcilable conflict between the terms and conditions of the Original Development Agreement and this First

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Amendment, the terms and conditions contained within this First Amendment shall control.

WITNESS THE EXECUTION HEREOF, on the Effective Date first written hereinabove.

<p>APPROVED AS TO FORM:</p> <p>By: <u><i>Renée A. Guerra</i></u> Sr. Deputy City Attorney</p>	<p>"CITY"</p> <p>CITY OF SAN JOSE, a municipal corporation</p> <p>By: <u><i>Lee Price</i></u> LEE PRICE, MMC City Clerk</p>
	<p>"DEVELOPER"</p> <p>CISCO TECHNOLOGY, INC., a California corporation</p> <p>By: <u><i>Spiro C. Kafas</i></u></p> <p>Name: <u>Spiro C. Kafas</u> <u>Director, Americas Real Estate</u></p> <p>Title: <u>10/20/08</u></p>

RD:RG
6/17/08

FIRST AMENDMENT EXHIBIT A

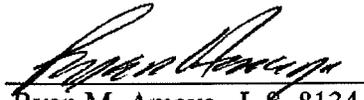
(Legal Description of 22-Acre Property)

EXHIBIT "A"
LEGAL DESCRIPTION

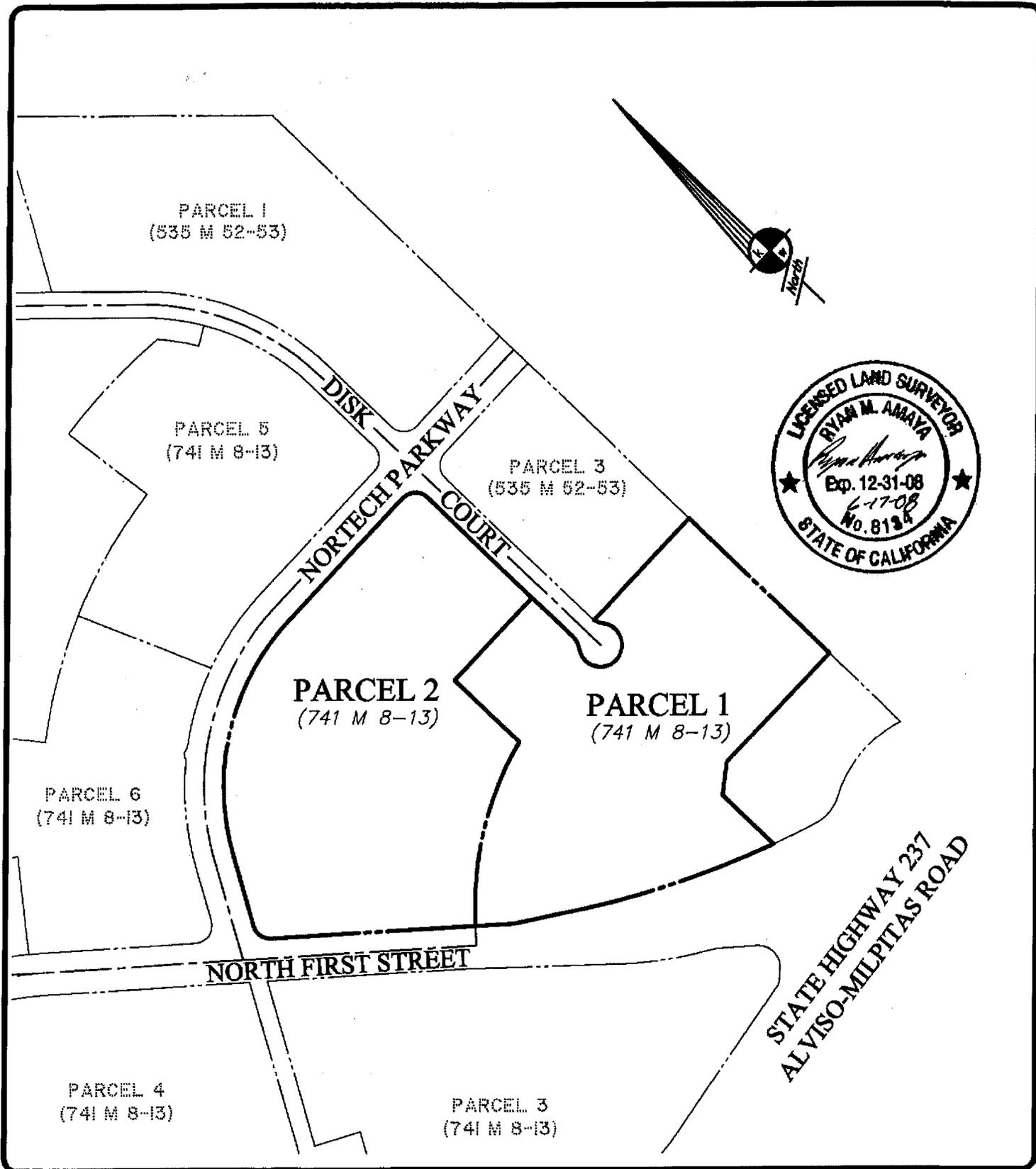
All that real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

All of Parcels 1 and 2, as shown upon that certain Parcel Map filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on August 6, 2001 in Book 741 of Maps, at pages 8 through 13.

6-17-08
Date


Ryan M. Amaya L.S. 8134





PLAT TO ACCOMPANY LEGAL DESCRIPTION FOR: CISCO SYSTEMS, INC.		DATE	JUNE, 2008
		SCALE	1" = 300'
SAN JOSE	CALIFORNIA	DR. BY	RMA
		JOB	98056-18
EXHIBIT " _ "		SHEET NO.	2 OF 2
		 KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC. 3350 Scott Boulevard, Building 22 (408) 727 6665 Santa Clara, California 95054 fax (408) 727 5641	

RD:RG
6/17/08

FIRST AMENDMENT EXHIBIT "B"

DEVELOPER PROPERTY

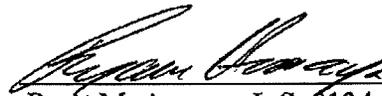
[Legal Description of Real Property Owned by
Cisco Technology, Inc. That is the Subject of
This First Amendment to Development Agreement]

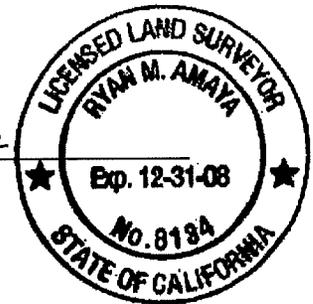
EXHIBIT " B "
LEGAL DESCRIPTION

All that real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

All of Parcels 3, 4, 5, 6, 7, 8, 9, and 10, as shown upon that certain Parcel Map filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on August 6, 2001 in Book 741 of Maps, at pages 8 through 13.

6-17-08
Date


Ryan M. Amaya L.S. 8134



State of California)
County of Santa Clara) ss.

On October 20, 2008, before me, Lisa R. Hernandez, Notary Public, personally appeared Spiro G. Kailas who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity~~(ies)~~, and that by ~~his/her/their~~ signature~~(s)~~ on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Lisa R. Hernandez (Seal)
Signature of Notary Public



CISCO TECHNOLOGY, INC.

OFFICER'S CERTIFICATE

I, Evan Sloves, certify on behalf of Cisco Technology, Inc., a California corporation (the "Company") as follows:

1. I am the duly elected and acting President and Chief Executive Officer of the Company, which is 100% owned by Cisco Systems, Inc. ("CSI");
2. I am duly authorized to make, execute and deliver this Certificate on behalf of the Company; and
3. Spiro Kailas is the duly elected Director, Workplace Resources (U.S. & Canada Region) of CSI and by virtue of serving in this position and, additionally, through express delegation of authority to him by the Company, has the authority, acting alone, to bind the Company, sign all documents and instruments on behalf of the Company, and to take any steps he deems necessary or advisable on behalf of the Company with respect to, real estate transactions within the City of San Jose, California.

Dated: 10/31, 2008



Evan Sloves, President and CEO
Cisco Technology, Inc.

CALIFORNIA ALL-PURPOSE NOTARY ACKNOWLEDGMENT

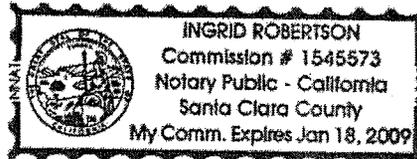
STATE OF CALIFORNIA)
) ss.
COUNTY OF SANTA CLARA)

On October 31, 2008 before me, Ingrid Robertson, a Notary Public for the State of California, personally appeared **Evan B. Sloves**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 (Seal)
Notary Public
State of California



My Commission Expires January 18, 2009

CISCO TECHNOLOGY, INC.

OFFICER'S CERTIFICATE

I, Evan Sloves, certify on behalf of Cisco Technology, Inc., a California corporation (the "Company") as follows:

1. I am the duly elected and acting President and Chief Executive Officer of the Company, which is 100% owned by Cisco Systems, Inc. ("CSI");
2. I am duly authorized to make, execute and deliver this Certificate on behalf of the Company; and
3. Spiro Kailas is the duly elected Director, Workplace Resources (U.S. & Canada Region) of CSI and by virtue of serving in this position and, additionally, through express delegation of authority to him by the Company, has the authority, acting alone, to bind the Company, sign all documents and instruments on behalf of the Company, and to take any steps he deems necessary or advisable on behalf of the Company with respect to, real estate transactions within the City of San Jose, California.

Dated: 10/31, 2008



Evan Sloves, President and CEO
Cisco Technology, Inc.

**SECOND AMENDMENT TO
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF SAN JOSE
AND
CISCO TECHNOLOGY, INC.
RELATIVE TO THE DEVELOPMENT OF
REAL PROPERTY IN NORTH SAN JOSE**

This SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (“Second Amendment”) is made and entered into as of this 31st day of December, 2008, by and between CITY OF SAN JOSE, a municipal corporation (“CITY”) and CISCO TECHNOLOGY, INC., a California corporation (“DEVELOPER”), pursuant to the authorities provided under California Government Code Sections 65867.5 and 65858 and pursuant to CITY’s powers as a charter city.

RECITALS

WHEREAS, on June 20, 2000, by CITY Ordinance No. 26136, the City Council of CITY approved that certain Development Agreement between CITY and DEVELOPER relative to the development of certain real property located in North San Jose, pursuant to the authorities provided under California Government Code Sections 65864 et seq. and the provisions of CITY Ordinance No. 24297, which ordinance establishes procedures and requirements for consideration of development agreements (the “Original Development Agreement”), and

WHEREAS, as of November 13, 2000, CITY and DEVELOPER signed and entered into the Original Development Agreement; and

WHEREAS, DEVELOPER has represented to CITY that on or about January 24, 2005, DEVELOPER transferred its interest in the portion of the Subject Property (as defined in the Original Development Agreement) referred to as the 22–Acre Property (as defined in the First Amendment, defined below) to North First Street Properties, LLC, pursuant to that certain Grant Deed (Recorder’s Instrument No. 18205337, recorded January 26, 2005); and

WHEREAS, DEVELOPER has represented to CITY that on or about January 24, 2005, DEVELOPER assigned its interest in the Original Development Agreement to the extent such interest is applicable to the 22-Acre Property, to North First Street Properties, LLC, pursuant to that certain Assignment and Assumption Agreement – Development Agreement (Recorder’s Instrument No.18205338, recorded January 26, 2005), and

WHEREAS, on June 17, 2008, by CITY Ordinance No. 28339, the City Council of CITY approved that certain First Amendment to the Original Development Agreement (the "First Amendment") to be applicable to that certain portion of the Subject Property still owned by DEVELOPER, which portion of real property is more particularly described on the Second Amendment Exhibit "A," entitled "Developer's Property", which exhibit is attached hereto and incorporated herein by this reference (the "Developer Property"); and

WHEREAS, as of July 31, 2008, CITY and DEVELOPER entered into the First Amendment; and

WHEREAS, CITY and DEVELOPER desire to amend the Original Development Agreement, as amended by the First Amendment, with respect to the Developer Property, to modify certain project parameters with respect to timing of occupation of the Subject Property as described in Section 1.C of the Original Development Agreement, as amended by the First Amendment, as a corporate campus of DEVELOPER; and

WHEREAS, DEVELOPER obtained Planned Development Permit PDSH00-03-027, on June 19, 2000, ("Development Permit") to allow DEVELOPER to develop the Subject Property consistent with the terms and conditions of the Development Permit and the terms and conditions of the Original Development Agreement, and DEVELOPER has constructed approximately 376,000 square feet in two (2) buildings on the Subject Property (the "Existing Buildings"), with one building of approximately 188,000 square feet occupied by a corporate user; and

WHEREAS, the number of employees employed by DEVELOPER in the City between the Effective Date of the Original Development Agreement and December 31, 2008, exceeds the number of employees that would have been expected to occupy the Existing Buildings; and

WHEREAS, the Development Permit allows for a project, described therein, that is consistent with the terms and conditions of the Original Development Agreement, the Planning Director having determined pursuant to the terms and conditions of Section 2 of the Original Development Agreement that (i) the Development Permit is consistent with the "Vested Elements" in the Original Development Agreement, (ii) no amendment to the Original Development Agreement was required or necessary in order to vest the Development Permit under the terms of the Original Development Agreement, and (iii) the Development Permit continues to be vested as a Vested Element under the Original Development Agreement; and

WHEREAS, development of the Developer Property in accordance with the terms and conditions of this Second Amendment will provide for the orderly growth and development of the Subject Property in accordance with the policies set forth in the

General Plan, the Alviso Master Plan, the zoning applicable to the Subject Property, the Vesting Tentative Map (no. PTSH 00-03-035) and the other Vested Elements set forth in the Original Development Agreement for the reasons set forth in more detail in that certain memorandum from the Planning Director to the Planning Commission of CITY dated _____, 2008; and

WHEREAS, an Environmental Impact Report for the Cisco Systems, Inc., Site 6 Project (which Project is defined in more detail in the Original Development Agreement) was certified by the on April 14, 2000 by the City Council of CITY as completed in compliance with the requirements of the California Environmental Quality Act of 1970, as amended, as of the original certification date (the "EIR"); and

WHEREAS, the City Council finds that any and all environmental impacts that may arise from the terms and conditions of this Second Amendment are consistent with, and are within the scope of analyses contained within, the terms and conditions of that EIR; and

WHEREAS, CITY and DEVELOPER have taken all actions mandated by and fulfilled all requirements set forth in CITY's Ordinance No. 24297 and under applicable State law in connection with this Second Amendment; and

WHEREAS, on _____, 2008, the Planning Commission, designated by CITY Ordinance No. 24297 as the advisory agency to CITY's City Council for purpose of development agreement review pursuant to California Government Code Section 65867 and CITY Ordinance No. 24297, considered this Second Amendment to the Original Development Agreement, as amended by the First Amendment, together with the application of the EIR to this Second Amendment, at a duly noticed public hearing and recommended to the City Council of CITY that CITY enter into this Second Amendment; and

WHEREAS, on _____ and _____, 2008, the City Council of CITY considered this Second Amendment as a part of Ordinance No. _____, together with the application of the EIR to this Second Amendment, at duly noticed public hearings and found that the provisions of this Second Amendment are consistent with all of the applicable provisions of the CITY'S General Plan and zoning codes, together with all of the Vested Elements listed in the Original Development Agreement, and voted to adopt Ordinance No. _____, approving in substantive form this Second Amendment and authorizing the City Clerk to execute this Second Amendment.

AGREEMENT

NOW, THEREFORE, the parties hereto agree to amendments to the Original Development Agreement as follows:

1. Second Amendment Effective Date: The parties hereto agree that the effective date of this Second Amendment shall be retroactive to December 31, 2008 once this Second Amendment has been fully executed by the parties hereto, provided however, that December 31, 2008, shall be the effective date of this Second Amendment only so long as Ordinance No. _____ approving and authorizing the execution of this Second Amendment to the Original Development Agreement contains a provision making that ordinance effective retroactively to December 31, 2008 and Ordinance No. _____ becomes final by January 16, 2009.

2. Definitions: All defined terms not otherwise defined herein shall have the same meaning as set forth in the Original Development Agreement and the First Amendment.

3. Subsequent Condition Regarding Occupancy: Section 1.C(1) of the Original Development Agreement, "Subsequent Conditions," is amended to read in its entirety as follows, and the parties hereto agree that the effectiveness of this provision:

"(1) DEVELOPER agrees that either (a) part of the Subject Property shall be occupied as part of the San Jose corporate campus of DEVELOPER on or before December 31, 2008; or (b) the increase in the number of employees employed by DEVELOPER in the City between the Effective Date and December 31, 2008, will exceed the number of employees that would have been expected to occupy the Existing Buildings. This Agreement, shall be null and void as of January 1, 2009 if DEVELOPER fails to fulfill this condition on or before December 31, 2008, provided that CITY is not in default under the terms of this Agreement."

4. Full Force and Effect; Conflicts: All of the terms and conditions of the Original Development Agreement, as amended by the First Amendment, not expressly modified by this Second Amendment shall remain in full force and effect, and CITY and DEVELOPER hereby ratify and affirm all their respective rights and obligations under the Original Development Agreement as modified

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by the First Amendment and this Second Amendment. If there is a direct, irreconcilable conflict between the terms and conditions of the Original Development Agreement, as amended by the First Amendment, and this Second Amendment, the terms and conditions contained within this Second Amendment shall control.

WITNESS THE EXECUTION HEREOF, on the date first written hereinabove.

<p>APPROVED AS TO FORM:</p> <p>By: _____ Sr. Deputy City Attorney</p>	<p>“CITY”</p> <p>CITY OF SAN JOSE, a municipal corporation</p> <p>By: _____ LEE PRICE, MMC City Clerk</p>
	<p>“DEVELOPER”</p> <p>CISCO TECHNOLOGY, INC., a California corporation</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p>

SECOND AMENDMENT EXHIBIT "A"

DEVELOPER PROPERTY

[Legal Description of Real Property Owned by
Cisco Technology, Inc. That is the Subject of
This Second Amendment to Development Agreement]

STATE OF CALIFORNIA)
) ss.
COUNTY OF SANTA CLARA)

On _____ before me, _____,
Notary Public, personally appeared _____,

_____ Personally known to me

or

_____ Proved to me on the basis of satisfactory evidence

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

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC

(S E A L)