

ENHANCED USE LEASE

BETWEEN

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,  
AMES RESEARCH CENTER

AND

PLANETARY VENTURES, LLC

REGARDING

BAY VIEW PARCELS 1, 2 AND 4, NASA RESEARCH PARK

May 14, 2008

NASA AMES RESEARCH CENTER  
ENHANCED USE LEASE

**Basic Lease Information**

Effective Date: May 14, 2008.

Landlord: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, an Agency of the United States, acting by and through Ames Research Center located at Moffett Field, California.

Tenant: PLANETARY VENTURES, LLC, a Delaware limited liability company.

Guarantor: GOOGLE INC., a Delaware corporation.

Premises: The parcels of land commonly known as "Parcel 1," "Parcel 2" and "Parcel 4" in the "Bay View" area of NASA Research Park, outlined in Exhibit A-1, containing approximately 42.28 acres of gross land area, located at NASA Ames Research Center, Moffett Field, California.

Property: The land, the buildings and other improvements known as NASA Ames Research Center, Moffett Field, California 94035 – 1000.

Initial Term: Forty (40) Lease Years plus the period from the Commencement Date to September 30, 2008, subject to the rights to extend the Term in accordance with section 3.2.

Commencement Date: May 14, 2008.

Expiration Date: September 30, 2048.

Quarterly Base Rent (dollars per quarter): \$914,375.00.

Permitted Use of the Premises: Permitted Uses on Parcel 1 and Parcel 2 shall be office and research and development uses (including Ancillary Uses) in an amount not more than the maximum number of Square Feet of Improvements that may be developed and occupied under the Entitled Use (subject to the limitation on the number of Square Feet of Ancillary Uses). The Permitted Use of Parcel 4 shall be open space, stormwater retention and other non – building uses. As of the Commencement Date, the Entitled Use is the development and occupancy of a maximum of one million two hundred five thousand (1,205,000) Square Feet as configured in the Bay View Conceptual Development Plan. Of that total Square Footage, the Entitled Use for Phase 1 Improvements and the Phase 2 Improvements shall consist of up to [REDACTED] of office and research and development uses (including Ancillary Uses other than housing) and the Entitled Use for the Phase 3 Improvements shall consist of up to [REDACTED] Improvements for residential housing purposes.

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Landlord's Address: NASA Ames Research Center  
Mail Stop 204 – 2  
Moffett Field, CA 94035 – 1000  
Attn: Chief, NRP Development Office

Tenant's Address: Planetary Ventures, LLC  
1600 Amphitheatre Parkway  
Mountain View, CA 94043  
Attn: Vice President – Real Estate

With a copy to Guarantor: Google Inc.  
1600 Amphitheatre Parkway  
Mountain View, CA 94043  
Attn: Legal Department – Real Estate

Exhibit A – Diagrams

Exhibit A-1 – Diagram Outlining the Premises and Legal Description

Exhibit A-2 – Diagram Outlining the Phase 1 Parcel and the Phase 2 Parcel

Exhibit A-3 – Diagrams Outlining Certain Off – Site Improvements

Exhibit B – Bay View Conceptual Development Plan

Exhibit C – Bay View Maintenance Costs

Exhibit D – Bay View MIMP

Exhibit E – Construction Provisions

Exhibit F – List of Landlord Provided Environmental Reports

Exhibit G – Guaranty of Lease

Exhibit H – Infrastructure Value Outstanding Balance

Exhibit I – Memorandum of Lease

Exhibit J – Scope of Off – Site Improvements

Exhibit K – Points of Connection of Utilities

Exhibit L – Project Schedule

Exhibit M – Support Agreement

Exhibit N – Temporary Construction License

The foregoing **Basic Lease Information** is incorporated in and made a part of the Lease to which it is attached. If there is any conflict between the **Basic Lease Information** and the Lease, the **Basic Lease Information** shall control.

Tenant:

PLANETARY VENTURES, LLC,  
a Delaware limited liability company

Landlord:

NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION,  
an Agency of the United States

By \_\_\_\_\_  
David Radcliffe  
Manager

By \_\_\_\_\_  
S. Pete Worden  
Director, Ames Research Center



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NASA AMES RESEARCH CENTER

ENHANCED USE LEASE

This Lease (as defined in section 1.67) is made as of the Effective Date (as defined in section 1.39), by and between Landlord (as defined in section 1.64) and Tenant (as defined in section 1.139). This Lease is made under the authority of section 315 of the Space Act (as defined in section 1.125) (42 U.S.C. §2459j), with reference to the following facts:

R E C I T A L S

A. Landlord is committed to using its resources to the greatest public benefit and thus will take advantage of its unique research capabilities, stock of land, buildings and existing partnerships with state and local government, academia, industry and non – profit organizations to create a center in which Landlord, its collaborative partners and the public can jointly work to advance the study of astrobiology, life and microgravity sciences, biotechnology, nanotechnology, aeronautical and space technology development, information science and technology, and promote science and technology education, the dissemination of information concerning Landlord's activities, and the commercial use of Landlord's basic research by the private sector.

B. In furtherance of Landlord's missions in astrobiology, life and microgravity sciences, biotechnology, nanotechnology, aeronautical and space technology development, information science and technology, science and technology education, dissemination of information concerning Landlord's activities, and commercialization of Landlord's basic research, this Lease furthers the development of a collaborative research environment on the Property (as defined in section 1.112) in which Landlord, industry and academia are co – located to further foster research related to said activities, as well as other research activities in furtherance of the goals and missions of both Landlord and Tenant.

C. Landlord and Guarantor (as defined in section 1.54) previously entered into the MOU (as defined in section 1.73), which outlined four (4) broad areas of collaboration between the parties in the areas of large – scale data management, massively distributed computing, Bio – Info – Nano convergence, and research and development activities to encourage the entrepreneurial space industry. The MOU also contemplated the planning and construction of facilities by or on behalf of Guarantor in support of those collaborative efforts on portions of the Property to be leased from Landlord.

D. Landlord and Guarantor subsequently entered into the Umbrella Space Act Agreement (as defined in section 1.149). The Umbrella Space Act Agreement establishes a framework for cooperative activities between Landlord and Guarantor, which may include the sharing of expertise and/or the sharing of facilities (including testing, equipment and related services). Landlord and Guarantor are actively engaged in developing projects under the Umbrella Space Act Agreement, each of which shall be documented in an annex to the Umbrella Space Act Agreement.

E. Landlord and Guarantor also entered into the Planning Space Act Agreement (as defined in section 1.104). Guarantor assigned the Planning Space Act Agreement to Tenant, which



is wholly – owned by GEV (as defined in section 1.52), which is in turn wholly – owned by Guarantor. Pursuant to the Planning Space Act Agreement, Tenant has conducted certain physical testing on the Premises (as defined in section 1.109) and Landlord has performed certain Tasks (as defined in the Planning Space Act Agreement), all related to the planning and development of facilities by Tenant on and about the Premises.

F. Pursuant to the MOU, the Initial Project Plan (as defined in section 1.62) was submitted to and approved by Landlord. The Initial Project Plan has been refined into the Bay View Conceptual Development Plan (as defined in section 1.15), which depicts the Entitled Use (as defined in section 1.41) of the Premises. The Bay View Conceptual Development Plan has been approved by Landlord and is attached hereto as Exhibit B. Tenant's final proposed development plan for the Premises shall be contained in the Bay View Development Plan (as defined in section 1.16); and Tenant shall submit to Landlord each BVDP Element (as defined in section 1.24) for Landlord's approval in accordance with ARTICLE 1 of the Construction Provisions (as defined in section 1.33).

G. Landlord has been engaged in a lengthy planning process regarding the reuse of the NASA Ames Research Center to promote and enhance NASA's missions as set forth above. In order to further that planning process, NASA, in collaboration with the cities of Sunnyvale and Mountain View and other cooperating agencies, prepared the EIS (as defined in section 1.40) to study the development of approximately five (5) million square feet of new facilities on the Property. Public input on the EIS took place over approximately two (2) years, and the EIS was adopted in November 2002. Landlord has now agreed to lease the Premises on the terms and conditions set forth in this Lease and for the purposes provided herein to facilitate the development and long – term operation of a collaborative research environment on the Property as contemplated in the EIS and to provide support to various activities in support of this goal. All collaborative efforts between Landlord and Tenant will be documented in annexes to the Umbrella Space Act Agreement or in other separate agreements. The Parties (as defined in section 1.93) acknowledge and agree that the Premises are not being provided to Tenant as government furnished property under any contract or subcontract with Landlord, and Tenant agrees that it shall not charge or submit for payment any Rent (as defined in section 1.118) as a direct or indirect cost or charge under any such contract or subcontract.

NOW, THEREFORE, the Parties agree as follows.

#### ARTICLE 1 Definitions

In addition to other terms that may be defined in this Lease, the following terms as used in this Lease shall have the following meanings, applicable, as appropriate, to both the singular and plural forms of the terms herein defined.

1.1 Additional Information. "Additional Information" means such other information, drawings (architectural, engineering, mechanical/electrical/plumbing or otherwise, and stamped by an appropriate design professional), calculations (architectural, engineering, mechanical/electrical/plumbing or otherwise, and stamped by an appropriate design professional) or other materials that Landlord's Authorized Representative (as defined in section 1.11) may reasonably

require in connection with a change proposed by Tenant pursuant to section 2.5 of the Construction Provisions or a Technical Submittal (as defined in section 1.136).

1.2 Additional Rent. "Additional Rent" means all charges, costs, expenses and other amounts (other than Base Rent (as defined in section 1.12)) that Tenant is required to pay to Landlord under this Lease (including Bay View Maintenance Costs (as defined in section 1.19), Demand Services (as defined in section 1.36) and Utilities (as defined in section 1.151)), together with all interest, late charges, penalties, costs and expenses payable to Landlord that may accrue thereto pursuant to specific provisions of this Lease or be incurred by Landlord to third parties in the event of Tenant's breach with respect to any refusal or failure to pay such amounts, and all damages, costs and expenses that Landlord may incur by reason of Tenant's breach of this Lease, and all other monetary obligations (except Base Rent) due or payable by Tenant to Landlord under this Lease.

1.3 Adjustment Index. "Adjustment Index" means the CPI (as defined in section 1.34) published most immediately before the applicable CPI Increase Date (as defined in section 1.35).

1.4 Affiliate. "Affiliate" means any entity that is wholly – owned or substantially wholly – owned, directly or indirectly, by Guarantor.

1.5 Alterations. "Alterations" means, with respect to each discreet building or other portion of the Improvements (as defined in section 1.57) to be constructed as part of each Phase of Improvements (as defined in section 1.98), any improvements, additions, renovations, remodeling, retrofitting, reconstruction, rehabilitation, restoration or other alterations of or to that discreet building or other portion of the Improvements occurring after the completion of construction thereof ; provided, however, Alterations exclude all Redevelopment (as defined in section 1.117).

1.6 Ancillary Uses. "Ancillary Uses" means use of the Improvements and other amenities on the Premises for internal meeting and employee assembly space, employee dining, sports, fitness and day care facilities, parking structures, support space, housing, open space areas and other campus – style amenities. The maximum number of Square Feet (as defined in section 1.126) of Improvements that may be used for housing, fitness and day care facilities shall not exceed fifteen percent (15%) of the maximum number of Square Feet that can be developed and occupied under the Entitled Use on the Premises. In addition, the aggregate number of Square Feet that may be used for day care facilities shall not exceed [REDACTED]. Furthermore, the aggregate number of Square Feet that may be used for housing shall not exceed [REDACTED]. Notwithstanding such fifteen percent (15%) limitation, once any housing has been built, such housing may remain as part of the Entitled Use regardless of any reduction in the Square Footage of the Entitled Use of the Premises that may thereafter occur as a consequence of any partial termination of this Lease or otherwise.

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1.7 APD. "APD" means an Ames Policy Directive.

1.8 Applicable Laws. "Applicable Laws" means all Federal, state and local laws, ordinances, rules, regulations and codes, and all policy directives, procedural requirements, procedures and guidelines, and standards promulgated by Landlord or NASA Ames Research Center from time to time in the course of Landlord's general administration of, and having application to the entirety of, the Property, now existing or later adopted during the Term (as defined in section 1.143) insofar as any thereof relate to or are required by the development, condition, use or occupancy of the Premises or the Improvements on the Premises.

1.9 Applicable Policy and Guidance Documents. "Applicable Policy and Guidance Documents" means the EIS as it relates to the Premises, and the Bay View Development Plan.

1.10 Appraisal Event. "Appraisal Event" means each of the following:

- (a) Each Scheduled Appraisal Date (as defined in section 1.122);
- (b) The date (if any) on which Landlord consents to any change in the Bay View Development Plan where such consent is required pursuant to section 1.15(a) of the Construction Provisions;
- (c) The effective date of a Post – Commencement Assignment, if elects to appraise the applicable Transfer Property (as defined in section 1.147) as contemplated in section 11.3; and
- (d) At Landlord's option, the commencement date of the term of the Sublease of Space that constitutes a Sublease Triggering Appraisal (as defined in section 1.130).

1.11 Authorized Representatives. "Authorized Representatives" means the employees, officers, agents, servants, contractors or any other individuals specifically authorized to represent Landlord or Tenant, as the case may be.

1.12 Base Rent. "Base Rent" means, as of the Commencement Date (as defined in section 1.30), the amount of quarterly base rent specified in the **Basic Lease Information** (subject to the terms of section 5.1(a) regarding the amount of the cash payment of Base Rent during the Initial Development Period (as defined in section 1.60) of the Term); and Base Rent shall be adjusted during the Term as provided in this Lease.

1.13 Basis for Appraisals. "Basis for Appraisals" means that, with respect to a determination of the fair market value of the Premises (or, if applicable, a Parcel (as defined in section 1.84), a Transfer Property, or other portion of the Premises), such fair market value determination shall be based upon the Premises (or such applicable portion thereof) as unimproved land that is approved for the Entitled Use applicable thereto (including the limitations on the number of Square Feet for housing, fitness and day care uses to the extent applicable to the portion of the Premises in question if less than the entire Premises is subject to such fair market value determination), subject to the terms and conditions of this Lease, including, as each Qualified Appraiser (as defined in section 1.113) may determine in its professional judgment to be applicable, the environmental condition of the Premises (or such applicable portion thereof), the Parking Ratio (as defined in section 1.91) and permitted uses of, and limitations on the use of, the Premises (or such applicable portion thereof). Such fair market

value of the Premises (or such applicable portion thereof) shall then be reduced by the amount of the Infrastructure Value Outstanding Balance (as defined in section 1.59), if any, for the Lease Year during which the fair market value determination is initiated (if less than the entire Premises is the subject of a fair market value determination at such time, then the Infrastructure Value Outstanding Balance shall be prorated based upon the Entitled Use allocable to the portion of the Premises in question). The Rate of Return (as defined and limited in section 1.115) shall be based upon the market rate of return a private third party ground lessor typically would expect to receive at the time of such fair market value determination for a property comparable to the Premises (or such applicable portion thereof). Neither the fair market value of the Premises (or such applicable portion thereof) nor Rate of Return shall be determined upon a theoretical highest and best use of the Premises (or any applicable portion thereof). The Parties agree to provide all Qualified Appraisers with all relevant information available to either or both Parties in connection with any such fair market value determination.

1.14 Bay View Design Guide. "Bay View Design Guide" means the document described in section 1.3 of the Construction Provisions.

1.15 Bay View Conceptual Development Plan. "Bay View Conceptual Development Plan" means Tenant's conceptual plan to develop the Premises with Improvements (together with the Off – Site Improvements (as defined in section 1.81) that support such development). Among other things, the Bay View Conceptual Development Plan depicts the current configuration of the Entitled Use. The Landlord – approved Bay View Conceptual Development Plan is attached hereto as Exhibit B.

1.16 Bay View Development Plan. "Bay View Development Plan" means the Bay View Conceptual Development Plan, the Bay View MIMP (as defined in section 1.20), and the Project Schedule (as defined in section 1.111), together with all of the documents, plans and studies described in ARTICLE 1 of the Construction Provisions when and as approved by Landlord, including all amendments, modifications or revisions thereof in accordance with this Lease.

1.17 Bay View EIMP. "Bay View EIMP" means the document described in section 1.4 of the Construction Provisions.

1.18 Bay View Maintenance Cost Review Date. "Bay View Maintenance Cost Review Date" means September 30, 2013 and every fifth September 30 thereafter during the Term.

1.19 Bay View Maintenance Costs. "Bay View Maintenance Costs" means, with respect to each Fiscal Year or portion thereof, the costs to maintain the Off – Site Improvements and other infrastructure and improvements that serve the Premises as set forth on Exhibit C attached hereto, together with the other categories of expenses itemized on Exhibit C. Exhibit C sets forth the estimated costs for each line item of Bay View Maintenance Costs for the Fiscal Year commencing October 1, 2008. Bay View Maintenance Costs shall be adjusted annually and shall be reviewed and revised as of each Bay View Maintenance Cost Review Date during the Term in accordance with section 5.2(c).

1.20 Bay View MIMP. "Bay View MIMP" means the Landlord – approved document attached hereto as Exhibit D.

1.21 Bay View TDM Plan. "Bay View TDM Plan" means the document described in section 1.7 of the Construction Provisions.

1.22 Beginning Index. "Beginning Index" means the CPI published most immediately before the Commencement Date (in the case of the first CPI Increase Date) or the Scheduled Appraisal Date preceding the applicable CPI Increase Date (in the case of each CPI Increase Date thereafter).

1.23 Bilateral Extension Term. "Bilateral Extension Term" means each of two (2) additional, consecutive ten (10) year periods pursuant to section 3.2(b), with Tenant's exercise of each Bilateral Extension Term being subject to Landlord's written approval, which approval may be given or withheld in Landlord's sole discretion. The Bilateral Extension Terms follow the last Unilateral Extension Term (as defined in section 1.150).

1.24 BVDP Element. "BVDP Element" means any one (1) or more (as the context may require) of the documents, plans and studies described in ARTICLE 1 of the Construction Provisions.

1.25 CBO. "CBO" means the NASA Ames Research Center Chief Building Official, or his or her Authorized Representative. As of the Effective Date, the CBO is Mr. Peter H. Chan.

1.26 Center Director. "Center Director" means the NASA Ames Research Center Director or his or her Authorized Representatives. As of the Effective Date, the Center Director is Dr. S. Pete Worden.

1.27 Claims. "Claims" means claims, actions, causes of action, suits, proceedings, demands, judgments, liens, damages (including but not limited to compensatory, punitive and consequential damages), penalties, fines, costs, expenses (including but not limited to reasonable attorneys' fees and costs), liabilities and losses.

1.28 Close Call. "Close Call" means an occurrence or a condition of employee concern in which there is no injury, or only minor injury requiring first aid, or damage to property or equipment of less than one thousand dollars (\$1,000.00), but which possesses a potential to cause a Mishap (as defined in section 1.70).

1.29 Commencement of Construction. "Commencement of Construction" means, with respect to each Phase of Improvements or any discreet building or other portion thereof, and the Off – Site Improvements or any discreet portion thereof, as applicable, the date on which the CBO issues to Tenant the first permit (for demolition, site work, building or otherwise) required therefor.

1.30 Commencement Date. "Commencement Date" means the commencement date specified in the **Basic Lease Information**.

1.31 Completion of Off – Site Improvements. “Completion of Off – Site Improvements” means the date on which the CBO approves of the completion of all of the Open Space Improvements (as defined in section 1.83), or the Park and Recreation Improvements (as defined in section 1.90), or the [REDACTED] or the Street Improvements (as defined in section 1.127), or the Water Tank Improvements (as defined in section 1.152) or the New Cooling Tower Improvements (as defined in section 1.79) (as applicable), and the Government (as defined in section 1.53) accepts title thereto in accordance with section 2.5 of the Construction Provisions.

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1.32 Construction Contract. “Construction Contract” means the contract with any general contractor, construction manager or prime contractor let in connection with the construction of any portion of the Improvements or the Off – Site Improvements.

1.33 Construction Provisions. “Construction Provisions” means the provisions set forth on Exhibit E attached hereto and incorporated into this Lease by reference.

1.34 CPI. “CPI” means the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index, All Urban Consumers, All Items, San Francisco – Oakland – San Jose, California (1982 – 84 equals 100), or if such index is no longer published, a successor or substitute index designated by the United States Department of Labor (or other applicable federal agency) or, if no successor or substitute index is so designated, then a successor or substitute index mutually agreed upon by Tenant and Landlord, published by a governmental agency reflecting changes in consumer prices in the San Francisco Bay Area that is most nearly comparable to the CPI.

1.35 CPI Increase Date. “CPI Increase Date” means October 1, 2013, and every tenth October 1 thereafter during the Term.

1.36 Demand Services. “Demand Services” means all studies, reviews, construction liaison services, architectural and engineering services, environmental oversight services, telecommunication and data communication services (including installation and/or connection to the Property’s Internet systems) furnished by Landlord, if any, and, to the extent requested by Tenant, waste and refuse collection and any other materials or services furnished by Landlord directly or indirectly to, for the benefit of, or used by, Tenant on or about the Premises.

1.37 Design and Construction Documents. “Design and Construction Documents” means schematic design documents, design development drawings, and construction drawings, specifications, calculations and other permit requirements for each Phase of Improvements required to be prepared by licensed professionals and in accordance with Applicable Policy and Guidance Documents and Applicable Laws, including APD 8822.1 (NASA Research Park Design Review Program) and APD 8829.1 (Construction Permits)’.

1.38 Dispute Notice. “Dispute Notice” means a notice of a dispute delivered by either Party to the other Party, which notice describes the nature of the dispute in reasonable detail and invokes the procedure for dispute resolution set forth in section 18.4.

1.39 Effective Date. "Effective Date" means the effective date specified in the **Basic Lease Information**.

1.40 EIS. "EIS" means the NASA Ames Development Plan Final Programmatic Environmental Impact Statement, which was adopted by the ROD (as defined in section 1.119).

1.41 Entitled Use. "Entitled Use" means the maximum number of Square Feet of the Permitted Use of the Premises that may be developed and occupied consistent with the Bay View Development Plan; provided, however, the area of any parking structure or other structure not intended for occupancy shall not be included in the total number of Square Feet of space that may be developed and occupied as part of the Entitled Use. As of the Commencement Date, the Entitled Use of Parcel 1 (as defined in section 1.85) and Parcel 2 (as defined in section 1.86) is the development and occupancy of a maximum of one million two hundred five thousand (1,205,000) Square Feet of the Permitted Use. The Entitled Use shall be adjusted as set forth in this Lease.

1.42 Environmental Law. "Environmental Law" means all Federal, state and local laws, statutes, ordinances, regulations, rules, judicial and administrative orders and decrees, permits, licenses, approvals and authorizations of all Federal, state and local governmental agencies (including Landlord) or other governmental authorities pertaining to the protection of human health and safety or the environment, now existing or later adopted during the Term.

1.43 Event of Default. "Event of Default" means the occurrence of one (1) or more of the events described in section 13.1.

1.44 Existing Cooling Tower Improvements. "Existing Cooling Tower Improvements" means the existing cooling tower (the location of which is shown on Exhibit A-3) and the related pipes, valves and other equipment located on the Premises and a portion of the Property adjacent thereto, which serve Landlord's building commonly known as building N258.

1.45 Existing Environmental Conditions. "Existing Environmental Conditions" means: (a) all Hazardous Material on, in, under or about the Property, including Hazardous Material present in the soils or groundwater, as of the Effective Date, including any impacts that have previously emanated from or hereinafter emanate from the Superfund sites described in this Lease; (b) the matters described in section 6.4, including in the environmental reports listed on attached Exhibit F; (c) all information regarding the environmental condition of the Premises and the Property provided to Tenant or Guarantor by any person or entity (including Landlord) pursuant to the Planning Space Act Agreement; and (d) such other documents or agreements regarding the environmental condition of the Premises and the Property (including agreements among some or all of Landlord, the United States Environmental Protection Agency, the State of California and other entities and governmental agencies that are involved in the remediation of, or that are responsible to remediate, existing contamination on or about the Property) provided to Tenant or Guarantor by any person or entity (including Landlord) prior to the Effective Date.

1.46 Expiration Date. "Expiration Date" means the expiration date specified in the **Basic Lease Information**.

1.47 Extension Term. "Extension Term" means either a Unilateral Extension Term or a Bilateral Extension Term.

1.48 Financing Transaction. "Financing Transaction" means, with respect to a Transfer Property, (a) any direct or indirect, voluntary, involuntary or by operation of law, sale (including a sale of any Improvements), assignment, subletting, encumbering, pledge or other transfer of the estate or interest in, or rights with respect to, this Lease as it pertains to such Transfer Property and/or the Improvements thereon to a Mortgagee (as defined in section 1.72) in connection with a Mortgage (as defined in section 1.71), or (b) a sale/leaseback transaction, a lease financing or a similar transaction that does not transfer, or pursuant to which Tenant retains, the right to occupy the Improvements constructed, or to be constructed, on that Transfer Property.

1.49 Fiscal Year. "Fiscal Year" means the Fiscal Year of the Government, as the same may be established or changed from time to time during the Term. As of the Commencement Date, each Fiscal Year begins on October 1 and ends on the immediately following September 30.

1.50 Force Majeure Delay. "Force Majeure Delay" means any delay in the performance of an obligation required by this Lease resulting from causes beyond Landlord's or Tenant's control. Such causes include acts of God or of public enemies, war, invasion, insurrection, rebellion, riots, terrorist acts, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, lockouts, freight embargoes, unavailability of equipment, supplies, materials or labor, environmental conditions and unusually severe weather delays, or any other similar cause. Force Majeure Delay also includes any delays resulting from any governmental agency action or inaction, other than Landlord Delay (except to the extent such governmental agency action or inaction results from Tenant's failure to comply with the Bay View Development Plan), a Landlord Housing Construction Delay, [REDACTED] No b4  
Force Majeure Delay shall operate to excuse, abate or delay Tenant's obligation to pay Rent except as specifically set forth in sections 6.2 or 6.3.

1.51 Full Insurable Replacement Value. "Full Insurable Replacement Value" means one hundred percent (100%) of actual costs to perform demolition and debris removal and the repair, replacement, reconstruction, restoration or rehabilitation of the Improvements on the Premises or any part thereof (without deduction for depreciation), and an increased cost of construction endorsement, and, in the case of builders' risk insurance, including materials and equipment not in place but in transit to or delivered to the Premises.

1.52 GEV. "GEV" means GEV Real Estate, Inc., a Delaware corporation, and its successors and permitted assigns (if any).

1.53 Government. "Government" means the Federal government of the United States of America.

1.54 Guarantor. "Guarantor" means Google Inc., a Delaware corporation, and its successors and permitted assigns (if any).



1.55 Guaranty. "Guaranty" means that certain Guaranty, in the form attached hereto as Exhibit G, to be executed and delivered by Guarantor concurrently with the execution of this Lease.

1.56 Hazardous Material. "Hazardous Material" means any substance that is (a) defined under any Environmental Law as a hazardous substance, hazardous waste, hazardous material, pollutant or contaminant, (b) a petroleum hydrocarbon, including crude oil or any fraction or mixture thereof, (c) hazardous, toxic, corrosive, flammable, explosive, infectious, radioactive, carcinogenic or a reproductive toxicant, or (d) otherwise regulated pursuant to any Environmental Law.

1.57 Improvements. "Improvements" means any one (1) or more of the Phase 1 Improvements (as defined in section 1.99), the Phase 2 Improvements (as defined in section 1.101) or the Phase 3 Improvements (as defined in section 1.103), as the context may require.

1.58 Infrastructure Parcel(s). "Infrastructure Parcel(s)" means any Parcel that may be created by Tenant's Subdivision Plan (as defined in section 1.128) or otherwise (such as, but not limited to, in connection with a Transfer, Redevelopment (if any) or to facilitate the repair or restoration of Improvements following damage or destruction) encompassing streets and such infrastructure as may be typically dedicated to a municipality or owner/tenant association – type organization (including parking structures or facilities, and open space, landscaping and common areas) for a development of the size and scope described in the Bay View Development Plan.

1.59 Infrastructure Value Outstanding Balance. "Infrastructure Value Outstanding Balance" means the amount for each Lease Year set forth on Exhibit H attached hereto.

1.60 Initial Development Period. "Initial Development Period" means the portion of the Initial Term (as defined in section 1.61) commencing on the Commencement Date and ending on September 30, 2011.

1.61 Initial Term. "Initial Term" means forty (40) Lease Years, plus the period from the Commencement Date to September 30, 2008, expiring on the Expiration Date, or on such earlier date as this Lease may be terminated as hereinafter provided.

1.62 Initial Project Plan. "Initial Project Plan" means the initial project plan for the development of the Premises submitted by Guarantor to Landlord pursuant to the MOU.

1.63 ISP Services. "ISP Services" means Institutional Shared Pool services related to the Property as a whole, which are currently comprised of: (i) common grounds and road maintenance; (ii) security; (iii) structural fire response and periodic Fire Marshal inspections; (iv) first responder operations (Hazardous Materials); (v) common area utility infrastructure systems maintenance and repair; and (vi) routine administrative support and management oversight (i.e., environmental oversight). ISP Services shall include such additional and substituted institutional services as Landlord may from time to time elect to include in the Institutional Shared Pool or any successor pool or other method of sharing the costs of institutional services provided at the Property.

1.64 Landlord. "Landlord" means the National Aeronautics and Space Administration, an Agency of the United States, acting by and through Ames Research Center located at Moffett Field, California.

1.65 Landlord Delay. "Landlord Delay" means delay in Tenant's performance of an obligation required by this Lease that results, directly or indirectly, from any of the following: (a) delays by Landlord in responding to Tenant requests for approval, consents, permits or other matters for which Landlord approval or action is required under this Lease or under Applicable Laws, Applicable Policy and Guidance Documents or requirements applicable to Landlord and/or the Premises, which delays either extend beyond the time frame (if any) required under this Lease for response or that is unreasonable (except to the extent such delay results from Tenant's failure to comply with the Bay View Development Plan); and/or (b) the negligence or willful misconduct of Landlord or its employees. No Landlord Delay shall operate to excuse, abate or delay Tenant's obligation to pay Rent.

1.66 Landlord Housing Construction Delay. "Landlord Housing Construction Delay" means a delay in Tenant's development or occupancy of any portion of the Improvements that is caused by a failure by Landlord to provide housing on the Property in accordance with the NADP MIMP, if and to the extent that Landlord, due to such failure, cannot or will not issue a permit to develop or a certificate to occupy any portion of the Premises.

1.67 Lease. "Lease" means this NASA Ames Research Center Enhanced Use Lease, as the same may be amended from time to time in accordance with the terms hereof.

1.68 Lease Year. "Lease Year" means:

(a) The first Lease Year shall be a partial year commencing on the Commencement Date and ending on September 30, 2008; and

(b) Each subsequent Lease Year shall be a full year commencing on October 1 of each year (starting October 1, 2008), and ending on the next September 30, or on the last day of the Term, whichever occurs first.

1.69 Memorandum of Lease. "Memorandum of Lease" means a memorandum of this Lease, in the form attached hereto as Exhibit I, to be executed and acknowledged by the Parties, which Tenant may record in the Official Records of Santa Clara County, California.

1.70 Mishap. "Mishap" shall mean an unplanned event on or about the Property and arising from the acts or omissions of Tenant or Tenant's Related Entities (as defined in section 1.141) that results in at least one (1) of the following: (a) injury to any person; (b) damage to public or private property (including foreign property); (c) occupational injury or occupational illness to any person; or (d) failure of a NASA mission.

1.71 Mortgage. "Mortgage" means a mortgage, deed of trust, a deed to secure debt or other security instrument, or a "synthetic lease" or other form of "lease financing" transaction, by which Tenant's leasehold estate under this Lease is mortgaged, encumbered, liened, conveyed, assigned or otherwise transferred to a Mortgagee to secure a debt or other obligation or otherwise as part of a Financing Transaction.

1.72 Mortgagee. "Mortgagee" means a commercial bank, savings bank, trust company, credit union, insurance company, college, university, real estate investment trust or pension fund, and such other lenders of substance that perform functions similar to any of the foregoing and which have assets in excess of two hundred fifty million dollars (\$250,000,000.00) at the time the Mortgage is made.

1.73 MOU. "MOU" means that certain Memorandum of Understanding (SAA2 – 401809) between Landlord and Guarantor, bearing an effective date of September 28, 2005, as amended.

1.74 NADP MIMP. "NADP MIMP" means the Mitigation Implementation and Monitoring Plan adopted pursuant to the EIS.

1.75 NADP TDM Plan. "NADP TDM Plan" means that certain draft report entitled "NASA Research Park and Bay View Transportation Demand Management Plan," dated July 2002 (prepared by Nelson/Nygaard Consulting Associates), which is a portion of Appendix B to the EIS.

1.76 NASA Main Entrance Improvements. "NASA Main Entrance Improvements" means that portion of the Street Improvements described in attached Exhibit J as "NASA Main Entrance" and depicted on attached Exhibit A-3.1.

1.77 NEPA. "NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. §4321 et seq.).

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1.79 New Cooling Tower Improvements. "New Cooling Tower Improvements" means the construction of a new cooling tower and related pipes, valves and other equipment, in compliance with Applicable Laws and Applicable Policy and Guidance Documents, necessary to serve Landlord's building commonly known as building N258 which is adjacent to the Premises, and, following the Completion of Off – Site Improvements with respect thereto, the demolition of the Existing Cooling Tower Improvements. The New Cooling Tower Improvements shall be constructed on the portion of the Property depicted on attached Exhibit A-3.4.

1.80 NRP Design Review Board. "NRP Design Review Board" means the Board established by APD 8822.1.

1.81 Off – Site Improvements. "Off – Site Improvements" means the Open Space Improvements, the Park and Recreation Improvements, [REDACTED] the Street Improvements, the Water Tank Improvements and the New Cooling Tower Improvements, or one (1) or more thereof as the context may require. The scope of each discreet portion of the Off

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– Site Improvements is separately summarized on Exhibit J attached hereto, and shall be more specifically described and depicted on the applicable Off – Site Improvements Construction Documents.

1.82 Off – Site Improvements Construction Documents. “Off – Site Improvements Construction Documents” means construction drawings, specifications, calculations and other permit requirements required to be prepared by licensed professionals in accordance with Applicable Policy and Guidance Documents and Applicable Laws , including APD 8822.1 (NASA Research Park Design Review Program) and APD 8829.1 (Construction Permits) for each discreet portion of the Off – Site Improvements to be submitted by Tenant to Landlord.

1.83 Open Space Improvements. “Open Space Improvements” means those certain open space improvements to be constructed and installed by Tenant on Parcel 10/11 (as defined in section 1.89).

1.84 Parcel. “Parcel” means (a) before Landlord’s approval of the Subdivision Plan, either the Phase 1 Parcel (as defined in section 1.100) or the Phase 2 Parcel (as defined in section 1.102), and (b) after Landlord’s approval of the Subdivision Plan, each of the subdivided parcels described and shown on such Subdivision Plan and the Infrastructure Parcel(s) (if any).

1.85 Parcel 1. “Parcel 1” means that certain parcel of unimproved real property commonly known as Parcel 1 in the Bay View area of NASA Research Park, outlined in Exhibit A-1, containing approximately 32.18 acres of gross land area, located at the Property.

1.86 Parcel 2. “Parcel 2” means that certain parcel of unimproved real property commonly known as Parcel 2 in the Bay View area of NASA Research Park, outlined in Exhibit A-1, containing approximately 5.2 acres of gross land area, located at the Property.

1.87 Parcel 4. “Parcel 4” means that certain parcel of unimproved real property commonly known as Parcel 4 in the Bay View area of NASA Research Park, outlined in Exhibit A-1, containing approximately 4.9 acres of gross land area, located at the Property.

1.88 Parcel 5. “Parcel 5” means that certain parcel of unimproved real property commonly known as Parcel 5 in the Bay View area of NASA Research Park, outlined in Exhibit A-3.6, containing approximately 8.18 acres of gross land area, located at the Property.

1.89 Parcel 10/11. “Parcel 10/11” means those certain parcels of unimproved real property commonly known as Parcels 10 and 11 in the Bay View area of NASA Research Park, outlined in Exhibit A-3.3, containing an aggregate of approximately 7.5 acres of gross land area, located at the Property.

1.90 Park and Recreation Improvements. “Park and Recreation Improvements” means those certain park and recreation improvements, and other improvements if any, to be constructed and installed by Tenant on Parcel 5.

1.91 Parking Ratio. “Parking Ratio” means, provided that Landlord has approved the Bay View TDM Plan, two and nine – tenths (2.9) parking spaces per one thousand (1,000)

Square Feet of Improvements that can be developed on the Premises (or any applicable portion thereof) pursuant to the Entitled Use.

1.92 Partial Taking. "Partial Taking" means a Taking (as defined in section 1.134) that is not a Total Taking (as defined in section 1.144) or a Temporary Taking (as defined in section 1.138), and includes a Taking described in clause (b) of section 1.144 as to which Landlord fails to receive timely the notice described in that clause (b).

1.93 Parties. "Parties" means Landlord and Tenant, and their respective successors and assigns permitted under this Lease.

1.94 Permitted Activities. "Permitted Activities" means the lawful activities of Tenant that are part of the ordinary course of Tenant's and Tenant's Related Entities' business in accordance with the Permitted Use specified in the **Basic Lease Information**.

1.95 Permitted Materials. "Permitted Materials" means the materials handled by Tenant and Tenant's Related Entities in the ordinary course of conducting Permitted Activities.

1.96 Permitted Use. "Permitted Use" means the uses of the Premises set forth in the **Basic Lease Information**.

1.97 Personal Property. "Personal Property" means all furniture, fixtures, equipment, appliances and apparatus placed in the Improvements or elsewhere on the Premises by Tenant and that neither are incorporated into nor form an integrated part of the Improvements on the Premises.

1.98 Phase of Improvements. "Phase of Improvements" means any one (1) or more of the Phase 1 Improvements, the Phase 2 Improvements or the Phase 3 Improvements, as the context may require.

1.99 Phase 1 Improvements. "Phase 1 Improvements" means an aggregate of approximately [REDACTED] of buildings (potentially including up to [REDACTED] of day care facilities and approximately [REDACTED] Square Feet of fitness facilities) to be constructed on the Phase 1 Parcel, together with: (a) the related surface parking improvements; (b) the infrastructure, including the street and roadway improvements (including curb and gutter, sidewalk, median, landscaping, street lights and other improvements associated with such streets and roadways) and Utilities to be constructed by Tenant on the Premises in connection with that Phase of Improvements (including the relocation of existing Utilities located on the Premises and the construction of any Utility lines and related improvements on other portions of the Property necessary to connect the building systems to the Utilities at the Points of Connection (as defined in section 1.106)); (c) the demolition of all existing improvements on the Premises; (d) the demolition of that portion of Victory Road located in Parcel 10/11; (e) the Off-Site Improvements (to the extent not previously constructed during the Initial Development Period), exclusive of the New Cooling Tower Improvements; (f) all landscaping on the Phase 1 Parcel; (g) the improvements Tenant elects to construct on Parcel 4; and (h) all other work and improvements shown on the Design and Construction Documents for the Phase 1 Improvements. B-4

The Phase 1 Improvements shall be used for office and research and development purposes (including the Ancillary Uses).

1.100 Phase 1 Parcel. "Phase 1 Parcel" means the portion of Parcel 1, and all of Parcel 2 (on which the Phase 1 Improvements shall be built) together with all of Parcel 4, consisting of an aggregate of approximately 19.17 acres of land, and designated as "Parcel A" on the diagram attached hereto as Exhibit A-2.

1.101 Phase 2 Improvements. "Phase 2 Improvements" means an aggregate of approximately [REDACTED] of buildings (potentially including any remaining portion of the Square Footage of day care facilities and/or fitness facilities not constructed as part of the Phase 1 Improvements) to be constructed on the Phase 2 Parcel, together with: (a) the related parking structures and other parking improvements; (b) the infrastructure, including the street and roadway improvements (including curb and gutter, sidewalk, median, landscaping, street lights and other improvements associated with such streets and roadways) and Utilities to be constructed by Tenant on the Premises in connection with that Phase of Improvements (including the relocation of existing Utilities located on the Premises and the construction of any Utility lines and related improvements on other portions of the Property necessary to connect the building systems to the Utilities at the Points of Connection); (c) the demolition of all existing improvements on the Phase 2 Parcel (if any); (d) all landscaping on the applicable portion of the Phase 2 Parcel; and (e) all other work and improvements shown on the Design and Construction Documents for the Phase 2 Improvements. The Phase 2 Improvements shall be used for office and research and development purposes (including the Ancillary Uses). B-4

1.102 Phase 2 Parcel. "Phase 2 Parcel" means all portions of the Premises other than the Phase 1 Parcel consisting of approximately 23.11 acres of land, and designated as "Parcel B" on the diagram attached hereto as Exhibit A-2.

1.103 Phase 3 Improvements. "Phase 3 Improvements" means up to [REDACTED] of housing Improvements to be constructed on the Phase 2 Parcel, together with: (a) the related parking structures and other parking improvements (if any); (b) the infrastructure, including the street and roadway improvements (including curb and gutter, sidewalk, median, landscaping, street lights and other improvements associated with such streets and roadways) and Utilities to be constructed by Tenant on the Premises in connection with that Phase of Improvements (including the relocation of existing Utilities located on the Premises and the construction of any Utility lines and related improvements on other portions of the Property necessary to connect the building systems to the Utilities at the Points of Connection); (c) the demolition of all existing improvements on the applicable portion of the Phase 2 Parcel (if any); (d) all landscaping on the applicable portion of the Phase 2 Parcel; and (e) all other work and improvements shown on the Design and Construction Documents for the Phase 3 Improvements. The Phase 3 Improvements shall be used for residential housing purposes. B-4

1.104 Planning Space Act Agreement. "Planning Space Act Agreement" means that certain Reimbursable Space Act Agreement for Planning and Development (SAA2 - 402086), between Landlord and Guarantor, bearing an effective date of March 16, 2007, as amended and assigned.

1.105 Plans in Progress. "Plans in Progress" means any Design and Construction Documents or any Off – Site Improvements Construction Documents that have been formally submitted to Landlord for permit approval.

1.106 Points of Connection. "Points of Connection" means the points of connection of Utilities and Off – Site Improvements specified on Exhibit K, as the same may be revised from time to time by the mutual agreement of the Parties.

1.107 Pre – Construction Assignment. "Pre – Construction Assignment" means a direct or indirect, voluntary, involuntary or by operation of law, sale, assignment, subletting, encumbering, pledge or other transfer of the estate or interest in, or rights with respect to, this Lease (other than a Financing Transaction) to any person or entity (other than an Affiliate) with respect to a Transfer Property before the Commencement of Construction of the Improvements to be constructed on such Transfer Property has occurred, including any Transfer of Ownership (as defined in section 1.146) occurring before such Commencement of Construction.

1.108 Post – Commencement Assignment. "Post – Commencement Assignment" means a direct or indirect, voluntary, involuntary or by operation of law, sale, assignment, subletting (other than a Sublease of Space (as defined in section 1.129)), encumbering, pledge or other transfer of the estate or interest in, or rights with respect to, this Lease (other than a Financing Transaction) to any person or entity (other than an Affiliate) with respect to a Transfer Property upon or after the Commencement of Construction of the Improvements to be constructed on such Transfer Property has occurred, including any Transfer of Ownership occurring upon or after such Commencement of Construction.

1.109 Premises. "Premises" means Parcel 1, Parcel 2 and Parcel 4 in the "Bay View" area of NASA Research Park, outlined in Exhibit A-1, containing approximately 42.28 acres of gross land area, located at the Property.

1.110 Product Data. "Product Data" means illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by any contractor or subcontractor to illustrate a material, product or system for any portion of the work described in the Design and Construction Documents or the Off – Site Improvements Construction Documents.

1.111 Project Schedule. "Project Schedule" means the agreed upon schedule with respect to the design and construction of the Phase 1 Improvements and Off – Site Improvements, as set forth in Exhibit L, as the same may be revised from time to time by the mutual agreement of the Parties.

1.112 Property. "Property" means the land, the buildings and other improvements known as NASA Ames Research Center, Moffett Field, California 94035 – 1000.

1.113 Qualified Appraiser. "Qualified Appraiser" means an appraiser designated Member, Appraisal Institute, licensed in the State of California, with at least five (5) years' full – time experience appraising commercial properties in the Silicon Valley; and with respect to

Landlord, an appraiser employed by another Federal agency (e.g., the Army Corps of Engineers or the General Services Administration) shall be deemed a Qualified Appraiser.

1.114 Quitclaim Deed. "Quitclaim Deed" means a quitclaim deed, signed by Tenant and acknowledged, in a recordable form reasonably requested by Landlord, remising, releasing and quitclaiming to Landlord all of Tenant's right, title and interest in and to a portion of the Premises (or to one (1) or more of the Parcels, if applicable).

1.115 Rate of Return. "Rate of Return" means the rate, expressed as an annual percentage rate, that will be applied to the fair market value of the Premises from time to time to determine the Base Rent due hereunder. The initial Rate of Return, as determined by a majority of three (3) Qualified Appraisers, is seven percent (7.0%) per annum. The Parties agree that in no event shall the Rate of Return at any time during the Term of this Lease be less than four and one – half percent (4.5%) per annum nor greater than nine and one – half percent (9.5%) per annum.

1.116 Reconveyance. "Reconveyance" means a request for full reconveyance of the lien of each Mortgage, executed by the applicable Mortgagee and acknowledged, in a form reasonably requested by Landlord, releasing a portion of the Premises (or one (1) or more of the Parcels, if applicable) and all other collateral related thereto from the lien of such Mortgage.

1.117 Redevelopment. "Redevelopment" means all construction of improvements, buildings or other structures on the Premises or any Parcel (excluding all Alterations) occurring after the completion of the Improvements initially constructed thereon.

1.118 Rent. "Rent" means all Base Rent, all Additional Rent, all other amounts of money and charges payable in accordance with this Lease.

1.119 ROD. "ROD" means the Record of Decision signed by Landlord in November 2002 selecting Mitigated Alternative 5 in the EIS, and adopting the mitigation measures set forth in the EIS.

1.120 R.T. Jones Road Improvements. "R.T. Jones Road Improvements" means that portion of the Street Improvements described in Exhibit J as "R.T. Jones Road" and depicted on Exhibit A-3.2.

1.121 Samples. "Samples" means physical examples of the materials to be supplied in connection with any portion of the work described in the Design and Construction Documents or the Off – Site Improvements Construction Documents.

1.122 Scheduled Appraisal Date. "Scheduled Appraisal Date" means October 1, 2018, and every tenth (10th) October 1 thereafter during the Term.

[REDACTED]

B-2 (A)  
B-7 (F)



1.124 Shop Drawings. "Shop Drawings" means drawings, diagrams, schedules and other data specifically prepared by any contractor and subcontractor, manufacturer, supplier or distributor for any portion of the work described in the Design and Construction Documents or the Off – Site Improvements Construction Documents to illustrate some portion of such work.

1.125 Space Act. "Space Act" means the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. §2451 et seq.).

1.126 Square Feet. "Square Feet" (or "Square Foot") means a calculation of gross square feet (or a gross square footage) as determined by the Standard Method for Measuring Floor Area in Office Buildings published by the Building Owners and Managers Association International in effect as of the Commencement Date.

1.127 Street Improvements. "Street Improvements" means (a) the R.T. Jones Road Improvements, (b) the NASA Main Entrance Improvements, and (c) such other street and roadway improvements (including curb and gutter, sidewalk, median, landscaping, street lights, other improvements associated with such streets and roadways, and underground Utilities) as may be necessary to serve the Premises, all of which shall be constructed and installed by Tenant on portions of the Property in the vicinity of the Premises.

1.128 Subdivision Plan. "Subdivision Plan" means the Subdivision Plan described in section 1.14 of the Construction Provisions.

1.129 Sublease of Space. "Sublease of Space" means any direct or indirect, voluntary, involuntary or by operation of law lease, sublease or other right to use and occupy space, granted to any person or entity other than an Affiliate, in any Improvements by Tenant upon or after the completion of construction thereof, including any Transfer of Ownership resulting in a Sublease of Space.

1.130 Sublease Triggering Appraisal. "Sublease Triggering Appraisal" means a Sublease of Space or an expansion under an existing Sublease of Space executed by Tenant as sublessor with any person or entity (other than an Affiliate) during any Sublease Triggering Appraisal Period which, when combined with all other Subleases of Space executed with all other persons or entities (other than an Affiliate) then in effect, results in an aggregate of one hundred thousand (100,000) Square Feet or more of space being sublet by Tenant under all such Subleases of Space. Further, if during any such Sublease Triggering Appraisal Period any additional Sublease of Space or any expansion under an existing Sublease of Space is executed by Tenant (other than with an Affiliate) that results in an additional one hundred thousand (100,000) Square Feet or more of space being sublet by Tenant, then the execution of such additional Sublease of Space or expansion under an existing Sublease of Space shall also constitute a Sublease Triggering Appraisal. In the event the Premises is subdivided at any time pursuant to Tenant's Subdivision Plan, the foregoing provisions shall apply on a Parcel – by – Parcel basis with respect to the Subleases of Space affecting each Parcel; and, in such case, the square footage threshold for the Sublease Triggering Appraisal shall be the following (instead of the one hundred thousand (100,000) Square Feet referred to above):

<b>Entitled Use of Subdivided Parcel</b>	<b>Square Footage Threshold</b>
Zero to 300,000 Square Feet	25,000 Square Feet
300,001 to 625,000 Square Feet	50,000 Square Feet
625,001 to 1,205,000 Square Feet	Eight and three-tenths percent (8.3%) of the Entitled Use

1.131 Sublease Triggering Appraisal Period. "Sublease Triggering Appraisal Period" means the five (5) Lease Year period commencing on each Scheduled Appraisal Date.

1.132 Subsequent Rental Period. "Subsequent Rental Period" means (i) with respect to each Scheduled Appraisal Date, the period of ten (10) Lease Years immediately following such Scheduled Appraisal Date, and (ii) with respect to any Appraisal Event other than a Scheduled Appraisal Date, the period from such Appraisal Event to the next Scheduled Appraisal Date.

1.133 Support Agreement. "Support Agreement" means Landlord's form, prepared for each Government Fiscal Year, setting forth the amounts that are estimated to be due and owing from Tenant as Rent under this Lease during that Fiscal Year. The current form of Support Agreement is attached hereto as Exhibit M, and sets forth the estimated Rent due during the first Lease Year (i.e., the partial year from the Commencement Date to September 30, 2008).

1.134 Taking. "Taking" means the acquisition of all or part of the Premises for a public use by exercise of the power of eminent domain or voluntary conveyance in lieu thereof, and a Taking shall be considered to occur as of the earlier of the date on which possession of the Premises (or part so taken) by the entity exercising the power of eminent domain is authorized as stated in an order for possession or the date on which title to the Premises (or part so taken) vests in the entity exercising the power of eminent domain.

1.135 Tangible Net Worth. "Tangible Net Worth" means (1) the total of all assets properly appearing on the consolidated balance sheet of the prospective tenant or its guarantor in accordance with Generally Accepted Accounting Principles, less (2) the sum of (i) the book amount of all such assets which would be treated as intangibles under GAAP, including all such items as goodwill, trademarks, trademark rights, trade names, trade name rights, brands, copyrights, patents, patent rights, licenses, deferred charges and unamortized debt discount and expenses, (ii) all reserves which have not already been deducted in calculating total assets on prospective tenant's or its guarantor's consolidated balance sheet, including reserves for depreciation, depletion, insurance, and inventory valuation, but not including contingency reserves not allocated for any particular purpose and not deducted from assets, (iii) the amount, if any, at which any shares of stock of prospective tenant or its guarantor appear on the asset side of such balance sheet, (iv) all liabilities of prospective tenant or its guarantor shown on such balance sheet, (v) all investments in foreign affiliates and non – consolidated domestic affiliates, and (vi) all accounts or notes due to prospective tenant or its guarantor from any shareholder, director, officer, employee or affiliate of prospective tenant or its guarantor or from any relative of such party.

1.136 Technical Submittal. "Technical Submittal" means Product Data, calculations, analyses, Shop Drawings or Samples submitted to Landlord so that Landlord may verify that the proposed materials or equipment correctly meet the intent of the approved project design.

1.137 Temporary Construction License. "Temporary Construction License" means a license to be executed by Landlord and Tenant from time to time pursuant to section 2.1 of the Construction Provisions, each of which shall be in the form attached as Exhibit N.

1.138 Temporary Taking. "Temporary Taking" means a Taking for a temporary period during the Term.

1.139 Tenant. "Tenant" means Planetary Ventures, LLC, a Delaware limited liability company, and its permitted successors and assigns.

1.140 Tenants' Association. "Tenants' Association" means, one (1) or more entities established by Landlord and/or other entities that have leased premises at the Property (with the first such Tenants' Association tentatively named NASA Research Park Tenants' Association, Inc.) to maintain and insure some or all of the common areas of the Property for the benefit of the tenants and other users and occupants of the Property, or, should a Tenants' Association not be formed, another entity that undertakes responsibility for the maintenance and insurance of some or all of the common areas of the Property for the benefit of the tenants and other users and occupants of the Property.

1.141 Tenant's Related Entities. "Tenant's Related Entities" means (a) Tenant, GEV, Guarantor and all Affiliates, (b) all contractors, consultants, subtenants and licensees of Tenant, GEV, Guarantor or any Affiliate, and (c) the employees, agents, representatives and invitees of any person or entity described in clauses (a) or (b) of this section 1.141.

1.142 Tenant's Utility Requirements. "Tenant's Utility Requirements" means the requirements for Utilities that Tenant shall provide to Landlord if Tenant requests Landlord to deliver Utilities for Tenant's use of the Premises.

1.143 Term. "Term" means the Initial Term, and each Unilateral Extension Term duly exercised by Tenant, if any, and each Bilateral Extension Term duly exercised by Tenant and approved by Landlord, if any.

1.144 Total Taking. "Total Taking" means either (a) a Taking of all of the Premises, or (b) a Taking of such a substantial portion of the Premises that, in Tenant's good faith, reasonable judgment, the remaining portion of the Premises (after repair and restoration of the remaining portion of the Improvements) would be unsuitable, inadequate or impractical for Tenant's use under this Lease. Tenant shall deliver to Landlord written notice of Tenant's determination pursuant to clause (b) above within one hundred eighty (180) days after a Taking occurs (as described in section 1.134). Landlord's failure to receive such notice within that one hundred eighty (180) day period shall be conclusively deemed Tenant's determination that the Taking is a Partial Taking.

1.145 Transfer. "Transfer" means any Pre – Construction Assignment, Financing Transaction, Post – Commencement Assignment or Sublease of Space, as the context may require.

1.146 Transfer of Ownership. "Transfer of Ownership" means (a) with respect to GEV or Tenant, any sale or other transfer of the voting stock of GEV or the membership interests in Tenant to any entity that is not an Affiliate, and (b) with respect to any permitted assignee or sublessee, any sale or other transfer (whether in a single transaction or in a series of related transactions, and whether directly or by sales or transfers of underlying partnership, limited liability company, or corporate ownership interests), including by consolidation, merger or reorganization, of a controlling interest in such entity. Notwithstanding the foregoing, the following transactions shall not be Transfers of Ownership: (i) a sale or transfer of partnership interests between partners in a partnership, or of membership interests between members of a limited liability company, or of voting stock between shareholders of a corporation, provided that such sale or transfer does not result in a change in the ownership of the majority interest of the partnership, limited liability company or corporation; (ii) transfers of partnership interests, membership interests or voting stock resulting from the death of a partner, member or shareholder; (iii) transfers of partnership interests, membership interests or voting stock to trusts established for the benefit of the transferor or his or her spouse, and/or descendants, provided that such transfer does not release transferor from his or her liabilities with respect to the partnership, limited liability company or corporation; (iv) the sale or transfer of any partnership interest, membership interest or voting stock that is publicly traded on a widely recognized, national exchange (whether pursuant to any consolidation, merger, reorganization or otherwise); or (v) any transfer of partnership interest, membership interests or voting stock that is part of a Financing Transaction.

1.147 Transfer Property. "Transfer Property" means, with respect to a Pre – Construction Assignment, a Post – Commencement Assignment or a Financing Transaction, the portion of the Premises (or, if applicable, one (1) or more of the Parcels comprising the Premises) which is the subject thereof.

1.148 Transportation Management Association. "Transportation Management Association" means one (1) or more entities established by Landlord and/or other entities that have leased premises at the Property to implement some or all of the NADP TDM Plan, or, should a Transportation Management Association not be formed, another entity that undertakes responsibility to implement some or all of the NADP TDM Plan for the benefit of the tenants and other users and occupants of the Property.

1.149 Umbrella Space Act Agreement. "Umbrella Space Act Agreement" means that certain Reimbursable Space Act Agreement (SAA2 – 402045), between Landlord and Guarantor, bearing an effective date of November 3, 2006, as amended and supplemented.

1.150 Unilateral Extension Term. "Unilateral Extension Term" means each of three (3) additional, consecutive ten (10) year periods which is the subject of Tenant's unilateral right to extend the Initial Term pursuant to section 3.2(a).

1.151 Utility. "Utility" means any of water, reclaimed water, storm water services, sanitary sewer services, electricity or other power needs, natural gas, telecommunications and data communications and any other utilities necessary for the development or use of the Premises and the Improvements.

1.152 Water Tank Improvements. "Water Tank Improvements" means the above – ground storage tanks to be constructed by Tenant on the Water Tank Parcel, holding an aggregate of approximately two million one hundred twenty thousand (2,120,000) gallons of water, which shall provide emergency water storage for the Premises and a portion of the Property, together with the pipes, valves, meters and other equipment necessary to operate such emergency water system.

1.153 Water Tank Parcel. "Water Tank Parcel" means that certain unimproved real property located near the Premises and more particularly depicted on attached Exhibit A-3.3.

## ARTICLE 2 Premises

2.1 Lease of Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, for the Term and subject to the covenants hereinafter set forth, the Premises located at the Property. The Premises are described and outlined on the diagram attached hereto as Exhibit A-1. Landlord and Tenant agree that, for purposes of this Lease, the Premises contains the number of acres of gross land area specified in section 1.109. The Parties shall execute and acknowledge a Memorandum of Lease promptly after the Commencement Date. Tenant may thereafter record the Memorandum of Lease in the Official Records of Santa Clara County, California, and Tenant shall pay all costs, fees and expenses (including transfer taxes and recording fees) in connection therewith.

2.2 Common Areas. During the Term, Tenant shall have the non – exclusive right, in common with other tenants and users of the Property, to use only for their intended purposes the common areas (such as Parcel 5, driveways, sidewalks, parking areas, loading areas and access roads) in the Property that are designated by Landlord as common areas and not leased to or allocated for the use of another tenant or user of the Property. Landlord shall have the right from time to time to change the size, location, configuration, character or use of any such common areas, construct additional improvements or facilities in any such common areas, or close any such common areas so long as any such action does not materially adversely affect Tenant's use of or access to the Premises. Tenant shall not interfere with the rights of Landlord and other tenants or users of the Property to use such common areas.

2.3 Landlord's Easement Rights. Landlord and Tenant acknowledge that, as of the Commencement Date, certain Utilities are located on portions of the Premises. Tenant agrees that it shall not construct any buildings or other structures on, over or above any such Utilities (provided that Tenant may relocate any such Utilities as provided in this section 2.3). Landlord and Tenant further acknowledge that (i) in connection with the development of the Premises, certain roadways that are to be constructed on the Premises may connect with and become part of the general roadway circulation system serving the Property, and (ii) in connection with the future development of the Property, Landlord may desire to install Utilities to serve other

portions of the Property (or portions of the Premises as to which this Lease has terminated) that cross the Premises. With respect to the foregoing, Tenant agrees that it shall from time to time allow connections to such Utilities without reimbursement and shall grant easement rights in favor of Landlord affecting the Premises, subject to the following:

(a) the right of Landlord and other tenants, users and occupants of the Property to use the roadways and adjacent sidewalks on the Premises shall be limited to those portions thereof that connect with the general roadway circulation system serving the Property, and shall not include any right to use that portion of any roads, streets, driveways and sidewalks that provide only internal circulation within the Premises;

(b) any Utilities to be installed by Landlord for the purpose of serving any other portions of the Property (or portions of the Premises as to which this Lease has terminated) shall be installed within or immediately adjacent to roadways constructed on the Premises or along the perimeter of the Premises, and the same shall be installed and maintained by Landlord at no cost or expense to Tenant;

(c) any Utilities (including any existing Utilities) may be relocated by Tenant from time to time if necessary to accommodate Tenant's development and operation of the Premises, or by Landlord from time to time if necessary to accommodate Landlord's development and operation of other portions of the Property (or portions of the Premises as to which this Lease has terminated); and

(d) any such easement to be granted by Tenant shall be limited such that it shall not unreasonably interfere with Tenant's development and use of the Premises in accordance with this Lease and shall comply with Tenant's security requirements regarding the Premises.

Landlord shall notify Tenant in the event Landlord requires any such easement rights, and with such notice Landlord shall provide Tenant with a detailed description of the nature and extent of such required easement, including engineered drawings in the case of any Utilities. Promptly following delivery of any such notice, Landlord and Tenant shall, reasonably and in good faith, agree upon the terms and conditions of the necessary easement agreement to be entered into between Landlord and Tenant with respect thereto.

(e) Landlord's grant to Tenant of the leasehold estate under this Lease is subject to Landlord's reservation of the right to own, operate, inspect, maintain, repair, renovate and replace the Existing Cooling Tower Improvements and the Utilities located on the Premises as of the Commencement Date, and Tenant hereby consents thereto. Tenant further agrees that, pursuant to section 6.8, Landlord may enter the portion of the Premises on which the Existing Cooling Tower Improvements or such Utilities are located, together with such additional, adjoining portions of the Premises as may be reasonably necessary to operate, inspect, maintain, repair, renovate and replace the Existing Cooling Tower Improvements or such Utilities. With respect to the Existing Cooling Tower Improvements, the Parties agree that the Existing Cooling Tower Improvements shall remain on the Premises until and unless the New Cooling Tower Improvements are constructed by Tenant, are determined to be operational, and title thereto is conveyed to the Government, all in accordance with section 2.5 of the Construction Provisions. With respect to the Utilities located on the Premises as of the Commencement Date, the Parties

agree that such Utilities shall remain in place until such Utilities are relocated by Tenant in connection with its development of the Premises, and such relocated Utilities are determined to be operational, and title thereto is conveyed to the Government, all in accordance with section 2.5 of the Construction Provisions.

2.4 Landlord's Grant of Other Rights. In connection with Tenant's development of the Premises, Landlord agrees to grant to Tenant or to third parties providing Utilities such non-exclusive easements, permits, licenses or rights-of-way over, under, in and across portions of the Property as are reasonably necessary to provide Utilities to the Improvements, or to connect the Water Tank Improvements to the Improvements, or to use, operate, maintain, repair or replace the same. The terms and conditions of such easements, permits, licenses or rights-of-way shall be reasonably acceptable to Landlord. Tenant shall reimburse Landlord for its reasonable costs and expenses in connection with all such easements, permits, licenses or rights-of-way.

2.5 Guaranty. Concurrently with Tenant's execution of this Lease, Guarantor shall execute and deliver to Landlord the Guaranty, unconditionally guarantying, for the benefit of Landlord, the timely payment and performance of all of Tenant's obligations under this Lease.

2.6 Tenants' Associations. Tenant acknowledges that Landlord may convey an interest in some or all of the common areas of the Property to one (1) or more Tenants' Associations, or that Landlord may transfer to one (1) or more Tenants' Associations, and the same shall assume, the obligations to perform some or all of the services the costs of which are included in the Bay View Maintenance Costs and/or other services or obligations with respect to the Off-Site Improvements or common areas of the Property. In any such event, Tenant shall execute, acknowledge as appropriate, and deliver to Landlord (within thirty (30) days following Landlord's written request) such documents, instruments and agreements (such as, but not limited to, amendments to this Lease and consents and subordination to declarations of covenants, conditions and restrictions) as Landlord may reasonably require and Tenant shall reasonably approve. Tenant may, at its option, become a member of any Tenants' Association.

2.7 Transportation Management Associations. With respect to each Transportation Management Association created that implements some or all of the NADP TDM Plan which affects or impacts Tenant or the Premises (or any portion thereof), Tenant shall execute, acknowledge as appropriate, and deliver to Landlord (within thirty (30) days following Landlord's written request) such documents, instruments and agreements (such as, but not limited to, amendments to this Lease and consents and subordination to declarations of covenants, conditions and restrictions) as Landlord may reasonably require and Tenant shall reasonably approve. Tenant may, at its option, become a member of any Transportation Management Association.

### ARTICLE 3

#### Term

3.1 Initial Term. The Initial Term of this Lease shall be the term specified in the **Basic Lease Information**, which shall commence on the Commencement Date and, unless sooner terminated as specifically provided in this Lease, shall end on the Expiration Date.

Landlord shall deliver possession of the Premises to Tenant on the Commencement Date, and Tenant shall accept such delivery of the Premises. Tenant acknowledges that: Tenant has inspected the Premises or has had the Premises inspected by professional consultants retained by Tenant; Tenant is familiar with the condition of the Premises; the Premises are suitable for Tenant's purposes; and the condition of the Premises is acceptable to Tenant. Tenant accepts the Premises in its "AS IS" condition, with all faults, without any covenant, representation or warranty of any kind or nature whatsoever, express or implied (including with respect to the suitability of the Premises or any Utility systems serving the Premises for Tenant's purposes), and Tenant is relying solely on its own investigation of the Premises. Tenant agrees that Landlord has made no representations or warranties concerning such conditions, state of repair and use, nor any agreement or promise to alter, improve, adapt, repair or keep in repair the same, or any portion thereof. Landlord shall have no obligation to construct or install any improvements on or about the Premises or to remodel, renovate, recondition, alter or improve the Premises in any manner.

### 3.2 Extension Terms.

(a) So long as this Lease has not been terminated as a consequence of an Event of Default or as may otherwise be provided herein, Tenant shall have the unilateral right to extend the Initial Term for up to three (3) Unilateral Extension Terms on and subject to the following terms and conditions. Tenant may exercise each such right to extend the Term only by delivering written notice to Landlord of Tenant's election to extend the Term at least twelve (12) full calendar months before the expiration of the then – current Term. If Landlord does not receive Tenant's notice of its election to extend the Term at least twelve (12) full calendar months before the expiration of the then – current Term, then Tenant's rights to extend pursuant to this section 3.2(a) shall be void and of no further force, and any notice purporting to exercise a Unilateral Extension Term received after the date that is twelve (12) full calendar months before the expiration of the then – current Term shall be void and of no force. In addition, Tenant shall have no right to exercise its second or third Unilateral Extension Terms unless Tenant shall have duly exercised all prior Unilateral Extension Term(s).

(b) So long as (i) this Lease has not been terminated as a consequence of an Event of Default or as may otherwise be provided herein, (ii) Tenant has duly exercised all of its Unilateral Extension Terms, and (iii) Landlord, in its sole and absolute discretion, consents in writing, then Tenant shall have the right to extend the Term for up to two (2) Bilateral Extension Terms on and subject to the following terms and conditions. Tenant may exercise each such right to extend the Term only by delivering written notice to Landlord of Tenant's election to extend the Term at least twelve (12) full calendar months before the expiration of the then – current Term. If Landlord does not receive Tenant's notice of its election to extend the Term at least twelve (12) full calendar months before the expiration of the then – current Term, then Tenant's rights to extend pursuant to this section 3.2(b) shall be void and of no further force, and any notice purporting to exercise a Bilateral Extension Term received after the date that is twelve (12) full calendar months before the expiration of the then – current Term shall be void and of no force. Upon Landlord's receipt of any such notice, Landlord shall promptly consider Tenant's request and deliver to Tenant written notice granting or withholding Landlord's consent in Landlord's sole and absolute discretion. In addition, Tenant shall have no right to exercise its second Bilateral Extension Term unless Tenant shall have duly exercised the first Bilateral



Extension Term and Landlord shall have consented thereto in accordance with this section 3.2(b).

(c) If the Term is duly extended in accordance with this section 3.2, Tenant shall continue to occupy the Premises on all of the other terms and conditions of this Lease. In no event shall the Term extend beyond September 30, 2098.

3.3 Periodic Programmatic Review. Commencing on October 1, 2018, and on each tenth October 1 thereafter during the Term, the Parties intend to meet and confer with each other during the Lease Year commencing on each such October 1 to evaluate their collaborations and programmatic partnerships under the Umbrella Space Act Agreement and such other agreements as the Parties may have executed. This Lease shall not be void or voidable if the Parties fail to conduct such evaluation.

3.4 Holding Over. If, with consent by Landlord, Tenant holds possession of the Premises after the Expiration Date, Tenant shall become a tenant from month to month under this Lease, but the Base Rent during such month to month tenancy shall be equal to one hundred fifty percent (150%) of the Base Rent in effect on the Expiration Date. Landlord and Tenant each shall have the right to terminate such month to month tenancy by giving at least thirty (30) days' written notice of termination to the other at any time, in which event such tenancy shall terminate on the termination date set forth in such termination notice.

3.5 Surrender of the Premises.

(a) Upon expiration of the Term, or any earlier termination of this Lease, Tenant shall remove all Personal Property, shall comply with the provisions of sections 6.4(c)(vii) and 6.4(c)(viii), and surrender the Premises and the Improvements to Landlord, free and clear of all liens, encumbrances or exceptions to title other than the exceptions to title as of the Commencement Date and such other exceptions to title created or approved by Landlord during the Term. Upon such termination, title to the Improvements then existing on the Property automatically shall vest in the Government and shall be in – kind consideration in lieu of any Claim by Landlord for any future Rent that would be owing hereunder for any period following any termination of this Lease. The Improvements shall be broom – clean and in reasonably good operating condition taking into account the age and nature thereof, ordinary wear and tear excepted; provided, however, Tenant shall not be obligated to repair or restore any damage or destruction, or to restore the Improvements in connection with a Taking, unless required by the provisions of ARTICLE 14 or ARTICLE 15, respectively. Tenant shall promptly deliver to Landlord reasonably satisfactory evidence of Tenant's then – current book value of such Improvements to permit Landlord to capitalize such Improvements on Landlord's real property and financial records.

(b) Notwithstanding the provisions of section 3.4 or the foregoing provisions of this section 3.5, if this Lease terminates before the Expiration Date, Tenant shall nevertheless surrender possession of the Premises and the Improvements to Landlord, but the Parties shall execute a license granting Tenant a period of ninety (90) days thereafter to remove its Personal Property, to comply with the provisions of sections 6.4(c)(vii) and 6.4(c)(viii), and to comply with its other obligations pursuant to this section 3.5 and its obligations pursuant to section 3.6;

provided, however, if Tenant requires more than such ninety (90) day period to comply with the provisions of sections 6.4(c)(vii) and 6.4(c)(viii), Tenant shall have such reasonable period of time as is necessary to comply with such sections as long as Tenant commences such work with due diligence and dispatch within such ninety (90) day period and, having so commenced, thereafter prosecutes with diligence and dispatch and completes such work. During the term of any such license, Tenant shall pay to Landlord rent for Tenant's continued access to the Premises, such rent to be determined based upon the extent to which Tenant's continued access to and activities on the Premises preclude Landlord from the use of the Premises or portions thereof.

(c) The provisions of this section 3.5 shall survive any termination of this Lease.

3.6 Documentation Upon Termination or Partial Termination. If this Lease terminates, in whole or in part, Tenant shall remain liable to Landlord for Tenant's obligations under this Lease that arose prior to the termination (or partial termination) hereof, and Tenant shall cause the following documents to be executed and acknowledged (as appropriate) to evidence or implement such termination (or partial termination) of this Lease, and shall deliver them to Landlord within ten (10) business days after any such termination (or partial termination): (i) a Quitclaim Deed covering the Premises or the applicable portion thereof; (ii) a Reconveyance from each Mortgagee of the Premises or the applicable portion thereof; (iii) an agreement terminating this Lease in whole or in part, as applicable; and (iv) a termination of the Memorandum of Lease covering the Premises or the applicable portion thereof. Landlord shall execute and acknowledge (as appropriate) such of the foregoing documents as require Landlord's execution thereof, and deliver the same to Tenant. In addition, the Parties shall enter into such other documents as may reasonably be required, including in the case of a partial termination, such amendment or restatement of this Lease with respect to the portion of the Premises as to which this Lease shall remain in effect as well as such additional documents as may be necessary pursuant to section 6.9. Tenant shall pay all costs and expenses (including transfer taxes, if any, and recording fees) to record such documents in the Official Records of Santa Clara County, California. Finally, in connection with the termination of this Lease in its entirety, within sixty (60) days after such termination, Tenant shall execute and deliver such documents (if any) and take such other actions as is reasonably necessary (if any), pursuant to section 2.5 of the Construction Provisions, regarding the conveyance to the Government of any Off - Site Improvements previously constructed by Tenant.

#### ARTICLE 4

##### Construction of Improvements and Off - Site Improvements

4.1 Construction. The construction of all Improvements (including all Redevelopment) on the Premises, and the construction of all Off - Site Improvements on the Property, shall be performed at Tenant's sole cost and expense, in accordance with the Construction Provisions and the other terms and conditions of this Lease, Applicable Policy and Guidance Documents, and Applicable Laws. Title to any Improvements shall remain in Tenant (or any permitted transferee) until termination of this Lease, at which time title thereto shall pass to Landlord as provided in section 3.5. Title to any Off - Site Improvements shall be vested in the Government following the completion thereof as provided in the Construction Provisions.

4.2 Failure of Commencement of Construction. The failure of Tenant to cause the Commencement of Construction of each Phase of Improvements on or before the applicable date specified below shall not constitute an Event of Default hereunder by Tenant; however, the following provisions shall apply:

(a) If Tenant fails to cause the Commencement of Construction with respect to the Phase 1 Improvements to occur on or before September 30, 2013, then this Lease shall terminate in its entirety, and Tenant shall surrender possession of the Premises to Landlord.

(b) If Tenant fails to cause the Commencement of Construction with respect to the Phase 2 Improvements to occur on or before September 30, 2018, then this Lease shall terminate with respect to the Phase 2 Parcel, and Tenant shall surrender possession of the Phase 2 Parcel to Landlord; provided, however, this Lease shall remain in effect with respect to the Phase 1 Parcel, and the Base Rent owing hereunder shall be adjusted based upon the Entitled Use allocable to the Phase 1 Parcel. As of the date of such termination, the Entitled Use of the Phase 1 Parcel shall be the development and occupancy of a maximum of [REDACTED] of the Permitted Use. In partial satisfaction of the loss of Rent to Landlord resulting from such termination, Tenant shall convey to Landlord, in accordance with section 3.5, all of Tenant's right, title and interest in and to all improvements (including road and parking improvements, fences, and other infrastructure) constructed by Tenant on the Phase 2 Parcel. Finally, as soon as is reasonably possible following such termination, Tenant shall design and construct on the Phase 1 Parcel security or other access improvements, and parking structures sufficient to provide the required number of parking spaces for the Phase 1 Improvements based upon the Parking Ratio. The design and construction of such improvements shall be in accordance with the Construction Provisions. B-4

(c) If Tenant fails to cause the Commencement of Construction with respect to the Phase 3 Improvements to occur on or before September 30, 2022, then this Lease shall not terminate; however, Tenant shall have no further right to construct the Phase 3 Improvements and the Entitled Use shall thereafter be reduced by [REDACTED], and the Base Rent owing hereunder shall be adjusted based upon such reduction in the Entitled Use. B-4

4.3 Commencement of Phase 2 Improvements; Effect on Phase 1 Improvements. So long as Tenant has caused the Commencement of Construction with respect to the Phase 1 Improvements to occur on or before September 30, 2013, Tenant may thereafter proceed with the construction of the Phase 1 Improvements over time in accordance with the Construction Provisions and the Project Schedule. However, if Tenant elects to initiate the Commencement of Construction with respect to the Phase 2 Improvements prior to the Commencement of Construction of any remaining discreet building(s) comprising the Phase 1 Improvements, then Tenant shall not be permitted to commence construction of any further buildings as part of the Phase 1 Improvements. In such case, the Entitled Use applicable to the Phase 1 Parcel shall be limited to the Square Footage of the Phase 1 Improvements completed or then under construction pursuant to valid permits and thereafter diligently completed, and the Base Rent owing hereunder shall be adjusted based upon such limitation in the Entitled Use allocable to the Phase 1 Parcel.

4.4 Lease Termination; Off – Site Improvements. In the event this Lease terminates pursuant to section 4.2(a), the following provisions shall apply with respect to the Off – Site Improvements.

(a) Tenant shall have no obligation to proceed with any portion of the Off – Site Improvements if the Commencement of Construction thereof has not occurred prior to the termination of this Lease.

(b) For those portions of the Off – Site Improvements with respect to which substantial construction has already commenced, then:

(i) Water Tank Improvements, Park and Recreation Improvements and Open Space Improvements – Tenant shall complete construction thereof; and

(ii) [REDACTED] Street Improvements and New Cooling Tower Improvements – Tenant shall remove such improvements unless Landlord is willing to accept such improvements in their then – current state.

B2 (H)  
B7 (F)

4.5 Signs. Tenant may install, without Landlord’s prior written consent, any sign (construction, building, monument, directional or other signs) on or about the Premises or the Improvements that comply with the Bay View Design Guide, Applicable Laws and Applicable Policy and Guidance Documents and for which Tenant has obtained any permit required under Applicable Laws and Applicable Policy and Guidance Documents. Tenant shall not install any other sign on or about the Premises or the Improvements without Landlord’s prior written consent, which shall be given or withheld in accordance with Landlord’s then – existing sign guidance and standards, and any subsequently enacted sign policy (as any of the foregoing may be adopted and change from time to time).

ARTICLE 5  
Rent

5.1 Base Rent.

(a) Beginning on the Commencement Date and continuing throughout the Term, Tenant shall pay Base Rent to Landlord, as the amount thereof may be adjusted from time to time in accordance with this section 5.1. The initial amount of Base Rent is specified in the **Basic Lease Information**. Notwithstanding the foregoing, provided that Tenant proceeds with construction of the Water Tank Improvements, the Park and Recreation Improvements and [REDACTED] in accordance with the Project Schedule, then, during the Initial Development Period, Landlord agrees to accept as in - kind consideration an amount equal to one hundred six thousand two hundred fifty dollars (\$106,250.00) per quarter, which is the Parties’ reasonable estimate of the value of the useful life of such Off - Site Improvements during each quarter of the Initial Development Period. Accordingly, during the Initial Development Period, Tenant’s cash payment of quarterly Base Rent shall be eight hundred eight thousand one hundred twenty – five dollars (\$808,125.00). To the extent that Tenant fails to so construct one or more of such portions of the Off – Site Improvements (other than to the extent of any Force Majeure Delay or Landlord Delay), the amount of such in – kind consideration shall be equitably adjusted

B2 (H)  
B7 (F)

for the Initial Development Period based upon the value of each such portion of the Off – Site Improvements, and there shall be a corresponding increase in the cash payment of quarterly Base Rent with respect to the Initial Development Period.

(b) The amount of Base Rent shall be increased on each CPI Increase Date by the cumulative increase in the CPI (but in no event to exceed fifteen percent (15%) in the aggregate) during the period from the Commencement Date (in the case of the first CPI Increase Date), or the immediately preceding Scheduled Appraisal Date (in the case of each subsequent CPI Increase Date), to the then – current CPI Increase Date, with each such increase in Base Rent determined as follows. The Beginning Index for computing each such increase in Base Rent shall be the amount of the CPI in effect as of the Commencement Date or the immediately preceding Scheduled Appraisal Date, as applicable, and the Adjustment Index shall be the amount of the CPI in effect as of the applicable CPI Increase Date. If such Adjustment Index has increased over such Beginning Index, then the Base Rent shall be increased by multiplying the amount of the last payment of Base Rent by a fraction, the numerator of which is such Adjustment Index and the denominator of which is such Beginning Index, subject to a maximum increase in Base Rent of fifteen percent (15%) as specified above. Notwithstanding the foregoing, if an Appraisal Event has occurred between the preceding Scheduled Appraisal Date and the then – current CPI Increase Date, then with respect to that portion of the Premises as to which such Appraisal Event has occurred, the Beginning Index for such CPI adjustment shall be the CPI in effect as of the date of such Appraisal Event (as opposed to the preceding Scheduled Appraisal Date) and the maximum increase in Base Rent applicable to such portion of the Premises shall be three percent (3%) per annum times the number of Lease Years (appropriately prorated for any partial Lease Year) between the date of such Appraisal Event and such CPI Increase Date.

(c) The amount of Base Rent shall be adjusted as of each Scheduled Appraisal Date for the Subsequent Rental Period based on the fair market value of the Premises and the market Rate of Return as of each Scheduled Appraisal Date, which adjustment shall be determined as follows. During the forty – five (45) day period beginning on the date that is nine (9) full calendar months prior to each Scheduled Appraisal Date, the Parties shall meet and confer (by telephone, electronically, in person or otherwise) as frequently as is reasonably possible in a good faith effort to agree on the fair market value of the Premises (based on the Basis for Appraisals) and the Rate of Return (subject to the minimum and maximum percentages specified in section 1.115) for the applicable Subsequent Rental Period. If the Parties are unable to agree on such fair market value or Rate of Return for the Subsequent Rental Period during that forty – five (45) day period, then each Party (at its own cost) shall, within forty – five (45) days thereafter, obtain from a Qualified Appraiser a determination of such fair market value (based on the Basis for Appraisals) and Rate of Return for the Subsequent Rental Period. If the Qualified Appraisers' fair market values and/or Rates of Return differ by less than ten percent (10%) (measured from the higher fair market value or Rate of Return), the fair market value of the Premises and/or the Rate of Return, as applicable, shall be the mean average of the two (2) fair market values or Rates of Return. If the Qualified Appraisers' fair market values and/or Rates of Return differ by ten percent (10%) (measured from the higher fair market value or Rate of Return) or more, then the two (2) Qualified Appraisers appointed by the Parties shall, within five (5) business days, jointly appoint a third Qualified Appraiser. If the Parties' Qualified Appraisers are unable to agree upon the identity of a third Qualified Appraiser during that five

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(5) business day period, then either Party may request that such appointment be made by the District Court for the Northern District of California. If, within forty – five (45) days after the appointment of the third Qualified Appraiser, a majority of the Qualified Appraisers agree on the fair market value of the Premises (based on the Basis for Appraisals) and/or the Rate of Return (subject to the minimum and maximum percentages specified in section 1.115), as applicable, then such determination of the Qualified Appraisers shall be binding and conclusive upon the Parties. If, within forty – five (45) days after the appointment of the third Qualified Appraiser, a majority of the Qualified Appraisers cannot reach agreement on the fair market value of the Premises and/or the Rate of Return, as applicable, then the three (3) Qualified Appraisers shall each simultaneously submit their independent appraisal to the Parties; the fair market value and/or Rates of Return (as the case may be) farthest from the median of the three (3) appraisals, as applicable, shall be disregarded, and the mean average of the fair market values and/or Rates of Return (as the case may be) determined by the remaining two (2) appraisals shall be deemed to be the fair market value of the Premises and/or Rate of Return (as the case may be) and shall be binding and conclusive upon the Parties. Each Party shall pay the fees and expenses of the Qualified Appraiser appointed by it and the Parties shall share equally the fees and expenses of the third Qualified Appraiser. Once the fair market value of the Premises and Rate of Return for a Subsequent Rental Period is established pursuant to this section 5.1(c), then the quarterly Base Rent for that Subsequent Rental Period shall be determined by multiplying the fair market value of the Premises so determined by the Rate of Return so determined, and dividing by four (4). Such quarterly Base Rent for that Subsequent Rental Period shall be subject to further adjustment as provided in section 5.1(b). Notwithstanding the foregoing provisions of this section 5.1(c) or any contrary provision in this Lease, in no event shall quarterly Base Rent for a Subsequent Rental Period be less than nine hundred fourteen thousand three hundred seventy – five dollars (\$914,375.00), nor shall quarterly Base Rent for a Subsequent Rental Period be more than two hundred sixteen percent (216%) of the quarterly Base Rent in effect as of the commencement of the ten (10) Lease Year period preceding such Scheduled Appraisal Date (i.e., the Commencement Date or prior Scheduled Appraisal Date, as the case may be).

(d) The amount of Base Rent for the Premises (or the applicable portion thereof) shall be adjusted to the then current fair market value of the Premises (or the applicable portion thereof) (based on the Basis for Appraisals) and the market Rate of Return (subject to the minimum and maximum percentages set forth in section 1.115) as of each Appraisal Event described in section 1.10(b), which adjustment shall be determined as follows. The provisions of section 5.1(c) shall apply; provided, however, the forty – five (45) day period during which the Parties shall attempt to agree on the fair market value of the Premises (or the applicable portion thereof) and the market Rate of Return for the applicable Subsequent Rental Period shall begin on the date Landlord elects to consent to the change in Bay View Development Plan rather than on the date that is nine (9) full calendar months prior to a Scheduled Appraisal Date. In such event, Tenant shall pay any additional amount due (without interest) with respect to the period beginning on the date of Landlord's consent to the change to the Bay View Development Plan and ending on the date that the new fair market value of the Premises (or the applicable portion thereof) and the market Rate of Return are determined pursuant to this section 5.1(d). With respect to the Base Rent adjustment thereafter to be made on the next Scheduled Appraisal Date, the maximum increase in Base Rent for the Premises (or such applicable portion thereof) shall be eight percent (8%) compounded annually over the Subsequent Rental Period described above in

this section 5.1(d), appropriately prorated for any partial Lease Year (as opposed to the maximum increase specified in the last sentence of section 5.1(c)).

(e) If Landlord consents to a Post – Commencement Assignment and elects to determine the fair market value of the applicable Transfer Property pursuant to section 11.3, then the Parties shall determine the fair market value of the applicable Transfer Property (based on the Basis for Appraisals) and the market Rate of Return (subject to the minimum and maximum percentages set forth in section 1.115) as of the effective date of such Post – Commencement Assignment. Such determination shall be made in accordance with the provisions of section 5.1(c) and the Base Rent for the applicable Subsequent Rental Period shall be adjusted as provided in section 5.1(c); provided, however, any reference in section 5.1(c) to a forty – five (45) day period shall be reduced to thirty (30) days, and the period during which the Parties shall attempt to agree on the fair market value of the Transfer Property and the Rate of Return shall begin on the date Landlord consents to the applicable Post – Commencement Assignment, rather than on the date that is nine (9) full calendar months prior to a Scheduled Appraisal Date. In such event, the transferee of such Transfer Property shall pay to Landlord any additional amount due (without interest) with respect to the period beginning on the effective date of consummation of the Post – Commencement Assignment and ending on the date that the new fair market value of the Transfer Property and the Rate of Return are determined pursuant to this section 5.1(e).

(f) If Landlord elects that a Sublease Triggering Appraisal shall be an Appraisal Event, then the Parties shall determine the fair market value of the Premises or, if applicable, each Parcel that is affected by such Sublease Triggering Appraisal (based on the Basis for Appraisals) and the market Rate of Return (subject to the minimum and maximum percentages set forth in section 1.115) as of the commencement date of the term of the Sublease of Space that constitutes such Sublease Triggering Appraisal. Such determination shall be made in accordance with the provisions of section 5.1(c); provided, however, any reference in section 5.1(c) to a forty – five (45) day period shall be reduced to thirty (30) days, and the period during which the Parties shall attempt to agree on the fair market value of the Premises (or such Parcel(s)) shall begin on the date Landlord elects that a Sublease Triggering Appraisal shall be an Appraisal Event, rather than on the date that is nine (9) full calendar months prior to a Scheduled Appraisal Date. In such event, Tenant shall pay any additional amount due (without interest) with respect to the period beginning on the commencement date of the term of the Sublease of Space that constitutes such Sublease Triggering Appraisal and ending on the date that the new fair market value of the Premises (or such Parcel(s)) and Rate of Return are determined pursuant to this section 5.1(f).

## 5.2 Additional Rent.

(a) During each Fiscal Year (or part thereof) during the Term, Tenant shall pay to Landlord, as Additional Rent, quarterly in advance on the first day of each calendar quarter during the Term, and in accordance with this Lease and the terms and conditions of the annual Support Agreement:

(i) The costs of Demand Services, if any, to be provided to Tenant by Landlord in such year;

(ii) Subject to the provisions of section 5.2(c), the Bay View Maintenance Costs in such year; and

(iii) The costs of Utilities, if any, to be provided to Tenant by Landlord in such year.

(b) Throughout the Term, Tenant shall pay, as Additional Rent, all other amounts of money and charges required to be paid by Tenant under this Lease, whether or not such amounts of money or charges are designated "Additional Rent."

(c) The Parties agree that Tenant's obligation to pay Bay View Maintenance Costs shall not commence until the later of the Completion of Off – Site Improvements with respect to the R.T. Jones Road Improvements or the Commencement of Construction of the Phase 1 Improvements. With respect to each Lease Year during the Term, the aggregate annual amount of Bay View Maintenance Costs shall be determined as of the first day of such Lease Year pursuant to section 5.2(c)(i), such aggregate amount shall be divided by the maximum number of Square Feet that can be developed pursuant to the Entitled Use, and the quotient so calculated shall be multiplied by the number of Square Feet of Improvements as to which the Commencement of Construction has occurred prior to the first day of such Lease Year. The result of those calculations shall be Tenant's share of Bay View Maintenance Costs for that Lease Year, which share shall be paid by Tenant as provided in this section 5.2.

(i) Bay View Maintenance Costs initially shall be based on the estimated costs set forth on Exhibit C attached hereto (and, if applicable, the estimated costs as determined upon any Bay View Maintenance Cost Review Date that occurs prior to the Completion of Off – Site Improvements with respect to the R.T. Jones Road Improvements). Landlord and Tenant, acting reasonably and in good faith, shall review and revise the types and categories of services included in Bay View Maintenance Costs as of each Bay View Maintenance Cost Review Date to include (A) such additional or substituted services to maintain the Off – Site Improvements and other infrastructure and improvements that serve the Premises as Landlord may then be providing, and (B) changes (whether increases or decreases) in the level of such services or costs thereof that Landlord is then providing. Beginning on each Bay View Maintenance Cost Review Date, Bay View Maintenance Costs shall be the estimated costs, mutually agreed upon by Landlord and Tenant acting reasonably and in good faith, expected to be incurred by Landlord to maintain the Off – Site Improvements. Any dispute between Landlord and Tenant with respect to the foregoing matters shall be resolved by the Parties in accordance with section 18.4.

(ii) During the initial five (5) year period of the Term of this Lease, and during each five (5) year period following each Bay View Maintenance Cost Review Date, the amount of Bay View Maintenance Costs shall be increased by four percent (4%) per annum starting with the second Lease Year during each such five (5) year period.

5.3 Procedures for Additional Rent. The Additional Rent payable by Tenant pursuant to section 5.2 (such as costs for Demand Services, Bay View Maintenance Costs and Utilities) shall be calculated and paid in accordance with the following procedures:



(a) Immediately following the execution of this Lease, Landlord and Tenant shall execute the initial Support Agreement. Thereafter, Tenant agrees to execute and deliver to Landlord each annual Support Agreement promptly following Landlord's delivery to Tenant of the same, which Support Agreement shall set forth the amount of Base Rent, the estimated costs for Demand Services and Utilities for the applicable Lease Year, as well as Bay View Maintenance Costs (if any), for such Lease Year. In addition, Tenant shall execute amendments to each Support Agreement in accordance with the Construction Provisions.

(b) Cost estimates for Demand Services and Utilities, and payments thereof by Tenant, shall be consistent with Applicable Laws and Landlord's policy, including the requirement for payment in advance of the rate at which Landlord anticipates incurring costs. Landlord shall reconcile on a quarterly basis the actual costs incurred by Landlord for Demand Services and Utilities for the previous quarter against the estimated payment previously made by Tenant for such quarter. Landlord and Tenant, reasonably and in good faith, will review costs for Demand Services and Utilities periodically to ensure that the rates are based on actual costs to Landlord.

(c) If the Term commences or ends on a day other than the first or last day of a Fiscal Year, respectively, the amounts payable by Tenant under section 5.2 applicable to the Fiscal Year in which the Term commences or ends shall be prorated according to the ratio which the number of days during the Term in such Fiscal Year bears to three hundred sixty – five (365). Termination of this Lease shall not affect the obligations of Landlord and Tenant pursuant to section 5.2 to be performed after such termination.

5.4 Initial Payments. Within five (5) business days after the Commencement Date, Tenant shall pay to Landlord (a) an amount equal to the Base Rent for the calendar quarter during which the Commencement Date occurs (appropriately prorated on the basis of a three hundred sixty – five (365) day year if the Commencement Date is not the first day of a calendar quarter), and (b) such other amounts, if any, as are set forth on the initial Support Agreement for the calendar quarter (similarly prorated, if applicable) during which the Commencement Date occurs.

5.5 Late Payment. Tenant acknowledges that the late payment by Tenant of any installment of Base Rent or Additional Rent will cause Landlord to incur costs and expenses, the exact amount of which is extremely difficult and impractical to fix. Such costs and expenses will include administration and collection costs and processing and accounting expenses. Therefore, if any installment of Base Rent or Additional Rent is not received by Landlord within ten (10) days after such installment is due, Tenant shall immediately pay to Landlord a late charge equal to two percent (2%) of such delinquent installment. Landlord and Tenant agree that such late charge represents a reasonable estimate of such costs and expenses and is fair reimbursement to Landlord. In no event shall such late charge be deemed to grant to Tenant a grace period or extension of time within which to pay any Rent or, subject to the terms of section 13.1(a), prevent Landlord from exercising any right or enforcing any remedy available to Landlord upon Tenant's failure to pay each installment of Rent due under this Lease when due. All amounts that become payable by Tenant to Landlord under this Lease shall bear interest from the date due until paid. The interest rate per annum shall be the interest rate established pursuant to Public Law 95 – 563, 31 U.S.C. §3717, 14 C.F.R. §1261.412, OMB Circular A – 94, and any other

Applicable Laws which are applicable to the period in which the amount becomes due. Amounts shall be due upon the earliest one of (i) the date fixed pursuant to this Lease, or (ii) thirty (30) days after the date of the first written demand for payment, consistent with this Lease, including demand upon default.

5.6 Construction of Off – Site Improvements. As additional consideration for entering into this Lease, during the Initial Development Period Tenant shall construct, at its sole cost, the Water Tank Improvements, the Park and Recreation Improvements and [REDACTED] all in accordance with the Construction Provisions. Furthermore, as additional consideration for entering into this Lease, during the Term Tenant shall construct, at its sole cost, all other Off – Site Improvements in accordance with the Construction Provisions.

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5.7 Taxes Payable by Tenant.

(a) Landlord advised Tenant that execution of this Lease and Tenant's development of the Premises may create possessory interests subject to property taxation, and that Tenant may be subject to the payment of property taxes levied on such possessory interests. Tenant shall pay, to the applicable taxing authority upon written demand and prior to delinquency, all ad valorem property taxes, possessory interest taxes and all other taxes, assessments, excises, levies, fees and charges, including all payments related to the cost of providing facilities or services, of every kind and description, general or special, ordinary or extraordinary, foreseen or unforeseen, secured or unsecured, whether or not now customary or within the contemplation of Landlord and Tenant, that are levied, assessed, charged, confirmed or imposed by any public or government authority upon or against, or measured by, or reasonably attributable to, or otherwise with respect to (a) the Premises, any Improvements thereon or any Personal Property used in connection with the Premises, or any part of the Premises, Improvements or Personal Property, (b) the cost or value of Tenant's Personal Property located at the Premises or the cost or value of any Improvements made in or to the Premises by or for Tenant, regardless of whether title to such Improvements is vested in Tenant or Landlord, (c) any Rent payable under this Lease, including any gross income tax or excise tax levied by any public or government authority with respect to the receipt of any such Rent, (d) the possession, leasing, operation, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, or (e) this transaction or any document to which Tenant is a party creating or transferring an interest or an estate in the Premises. All taxes, assessments, excises, levies, fees and charges payable by Tenant under this section 5.7 shall be deemed to be, and shall be paid as, Rent.

(b) Tenant shall have the right to pay any such real property or other tax under protest and Tenant shall not be required to pay, discharge or remove any such tax so long as Tenant shall: (i) in good faith contest the same or the validity thereof by appropriate legal proceedings in such a manner as to prevent the tax sale of any portion of the Premises, the Improvements and/or Tenant's leasehold estate; and (ii) give Landlord prompt written notice of its intention to do so at least thirty (30) days before Tenant would have been obligated to pay any such tax pursuant to this Lease, but for such contest. In the event of any such contest, within thirty (30) days after the final determination thereof adversely to Tenant, Tenant shall pay and discharge the amounts determined to be due from Tenant together with any penalties, fines, interest, costs and expenses resulting from such contest or other proceeding. During any such contest, Tenant shall pay the uncontested amount of any such tax and, to the extent required by

Applicable Law, the contested amount of any such tax. Landlord shall not interfere with Tenant's right to so initiate and prosecute a contest of any such tax.

(c) The Parties acknowledge that the initial quarterly Base Rent established pursuant to the Parties' appraisal process reflects, among other things, Tenant's obligations to pay ad valorem or possessory interest taxes pursuant to section 5.7(a) and the fact that Landlord provides ISP Services to the Premises, the costs of which are included in the Base Rent. Tenant shall immediately deliver to Landlord written notice if Tenant, for any reason, is not required by the applicable taxing authority to pay ad valorem or possessory interest taxes during any portion of the Term. During any such portion of the Term, the Parties agree to increase equitably the Base Rent in direct proportion to Tenant's savings in tax obligations, but limited to the extent such savings in tax obligations are equal to or less than Landlord's costs of providing ISP Services, and Tenant shall pay such increase in Base Rent as of the date Tenant was no longer required to pay such taxes. Such increase shall be made within thirty (30) days after Tenant delivers to Landlord the notice described above, at which time the Parties shall execute an amendment to this Lease setting forth the amount of the increase and Tenant shall pay the amount of any increase (without interest) then due.

5.8 Rent Payments. Tenant shall pay all Base Rent under section 5.1 and all Additional Rent under section 5.2 via wire transfer in accordance with such instructions as Landlord may from time to time designate in writing. Landlord's wire instructions shall include the number of this Lease.

## ARTICLE 6 Use of the Premises

### 6.1 Permitted Use.

(a) Tenant shall use the Premises only for the Permitted Use of the Premises and for lawful purposes incidental thereto, and no other purpose whatsoever. In no event shall the Permitted Use include any Improvements for use as a commercially competitive hotel and/or conference center. Unless Landlord consents to any change in the Permitted Use or increase in the Entitled Use (including changes to the Bay View TDM Plan or requests to construct parking in excess of the Parking Ratio), Tenant shall not construct improvements, buildings or other structures (including in connection with any Alterations or Redevelopment) exceeding the limitations of the Entitled Use. Tenant shall not do or permit to be done in, on or about the Premises, nor bring or keep or permit to be brought or kept therein, anything which is prohibited by or will in any way conflict with any Applicable Laws or Applicable Policy and Guidance Documents.

(b) The EIS was prepared by Landlord in accordance with 14 C.F.R. Subpart 1216.2, Floodplain and Wetlands Management. Pursuant to 14 C.F.R. §1216.204(g), the EIS sets forth uses that are restricted under identified Federal, State, and local floodplain regulations, which are intended to assure that (i) harm to lives, property and floodplain values are identified and (ii) such harm is minimized and floodplain values are restored and preserved.

(c) Tenant shall not do or permit anything to be done in or about the Premises which will unreasonably obstruct or interfere with the rights of Landlord or other tenants or users of the Property, or injure or cause damage to them, or which is prohibited by or would cause a cancellation of any insurance policy applicable to the Premises. Tenant shall not use or allow the Premises to be used for any unlawful activity, nor shall Tenant cause, maintain or permit any nuisance in, on or about the Premises or commit or suffer to be committed any waste in, on or about the Premises. Tenant shall not receive, store or otherwise handle any product or material that is explosive or highly inflammable, except in accordance with Applicable Laws and/or Applicable Policy and Guidance Documents.

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

6.3 Landlord Housing Construction Delay. In the event of a Landlord Housing Construction Delay, Landlord agrees that Base Rent payable hereunder shall be reduced during such Landlord Housing Construction Delay to an amount equal to the dollar amount of the Base Rent divided by the maximum number of Square Feet of the Entitled Use, which quotient shall be multiplied by the number of Square Feet of Improvements that are completed and occupiable or under construction. Further, during the period of a Landlord Housing Construction Delay, Tenant shall have the right to terminate this Lease with respect to that portion of the Premises as to which Tenant is prohibited from proceeding with development, use or occupancy as a consequence of such Landlord Housing Construction Delay.

6.4 Environmental Requirements.

(a) Portions of the Property are underlain by a plume of contaminated groundwater that comprises two Superfund sites: the former Naval Air Station Moffett Field; and the Middlefield – Ellis – Whisman site. Tenant understands that the groundwater is contaminated with solvents and petroleum hydrocarbons. The United States Environmental Protection Agency has identified potentially responsible parties for the contamination which is the subject of the Superfund sites. Those parties include Landlord, the United States Navy and the MEW Companies (as defined in the EIS). In addition, a groundwater plume contaminated with chlorinated solvents, primarily trichloroethylene (TCE), is migrating onto the Property from the former Naval Air Station housing area, commonly known as the Orion Park Housing Area. Based on Tenant's own due diligence investigation of the Premises, Tenant understands that

certain Hazardous Material is present in the soils and groundwater on and under the Premises. Tenant hereby acknowledges receipt of the environmental reports listed on attached Exhibit F. It is not the intention of the Parties that this Lease allocate any liability for the contamination identified in this section 6.4(a) to Tenant, except as provided in section 10.1.

(b) Landlord acknowledges that Tenant has not conducted due diligence activities on portions of the Property outside of the Premises (other than Parcel 5) although Landlord has provided to Tenant certain reports and documents pertaining to the condition of portions of the Property in the vicinity of the Premises, which reports and documents are listed in Exhibit F. If Tenant desires to conduct additional testing of those portions of the Property on which the Off-Site Improvements are to be constructed, Landlord will cooperate in allowing such testing on the terms and conditions of the Planning Space Act Agreement. In the event that Tenant determines that such reports and documents or any such testing indicates construction issues on any such portion of the Property, Landlord and Tenant will work cooperatively to identify any appropriate modifications to the Bay View Development Plan.

(c) Tenant hereby agrees that:

(i) Tenant shall not conduct, or permit to be conducted, on the Premises any activity which is not a Permitted Activity;

(ii) Tenant shall not use, store or otherwise handle, or permit any use, storage or other handling of, any Hazardous Material which is not a Permitted Material on or about the Premises;

(iii) Tenant shall obtain and maintain in effect all permits and licenses required pursuant to any Environmental Law for Tenant's activities on the Premises, and Tenant shall at all times comply with all applicable Environmental Law;

(iv) Tenant shall not engage in the storage, treatment or disposal on or about the Premises of any Hazardous Material except those used, stored, handled or generated in the course of Permitted Activities;

(v) Tenant shall not install any aboveground or underground storage tank or any subsurface lines for the storage or transfer of any Hazardous Material, except in accordance with Environmental Law, and Tenant shall store all Hazardous Materials in a manner that protects the Premises, the Improvements, the Property and the environment from accidental spills and releases;

(vi) Tenant shall not cause any release of any Hazardous Material on or about the Premises, whether affecting surface water or groundwater, air, the land or the subsurface environment;

(vii) Tenant shall promptly remove from the Premises any Hazardous Material introduced, or permitted to be introduced, onto the Premises by Tenant which is not a Permitted Material and, on or before the date Tenant ceases to occupy the Premises (or any portion thereof), Tenant shall remove from the Premises (or such portion thereof) all Hazardous Material

and all Permitted Materials handled by or permitted on the Premises (or such portion thereof) by Tenant; and

(viii) If any release of a Hazardous Material to the environment, or any condition of pollution or nuisance, occurs on or about or beneath the Premises or the Improvements as a result of any act or omission of Tenant or Tenant's Related Entities, Tenant, at Tenant's sole cost and expense, shall promptly undertake all remedial measures required to clean up and abate or otherwise respond to the release, pollution or nuisance in accordance with all applicable Environmental Law.

If Landlord gives written notice to Tenant that Tenant's use, storage or handling of any Hazardous Material on the Premises may not comply with this Lease, Tenant shall correct any such violation within ninety (90) days after Landlord gives written notice thereof to Tenant; provided, however, that if, by the nature of such violation, the same cannot reasonably be cured within such period of ninety (90) days, Tenant shall have such reasonable time as may be necessary as long as Tenant commences with due diligence and dispatch the curing of such violation within such period of ninety (90) days and, having so commenced, thereafter prosecutes with diligence and dispatch and completes the same.

6.5 EPA Cooperation. Landlord acknowledges that Tenant may seek to obtain assurance from the United States Environmental Protection Agency and/or United States Department of Justice with regard to statutory liability protections under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §9601 et seq.). If requested by Tenant prior to the Commencement of Construction of any of the Improvements or Off - Site Improvements, Landlord shall undertake such ministerial acts and shall execute as the fee owner of the Property such documents as may be reasonably required by such agencies in connection therewith.

6.6 Compliance With Law.

(a) Except as otherwise specifically set forth in the Construction Provisions with regard to the application of APD 8822.1 and APD 8829.1 to Plans in Progress, and changes to the NADP TDM Plan, Tenant shall, at Tenant's sole cost and expense, promptly comply with all Applicable Laws and Applicable Policy and Guidance Documents.

(b) Notwithstanding section 6.6(a), Tenant shall not be obligated to comply with APD 1700.1, except with respect to: explosive materials; radioactive materials (as defined by the Nuclear Regulatory Commission); Class IIIa, IIIb or IV lasers or microwave or radio frequency transmitters; cryogenics; pressure systems; or human pathogens that require Center for Disease Control Biosafety level III or IV containment. Tenant shall deliver prior written notice to Landlord before Tenant manufactures, uses, stores or transports any such items on or about the Premises or the Property, and Landlord shall have the right to approve (and establish requirements for, or conditions of, approval) before Tenant manufactures, uses, stores or transports any such items.

(c) This Lease does not grant Tenant any rights to use the NASA or NASA Ames Research Center name, initials or logo. Tenant agrees to submit to Landlord for its approval all

promotional and advertising material that uses the NASA or NASA Ames Research Center name, initials or logo prior to publication. Approval by Landlord shall be based on Applicable Laws (e.g., 42 U.S.C. §§2459b, 2472(a) and 2473(c)(1); and 14 C.F.R. §1221.100 et seq.) and Applicable Policy and Guidance Documents governing the use of the words "National Aeronautics and Space Administration" and the letters "NASA."

6.7 Environmental Stewardship and Sustainability.

(a) Tenant agrees to participate actively in Landlord's recycling, energy, and water conservation programs, including the use of reclaimed water for irrigation whenever feasible.

(b) Tenant, at its sole cost and expense, shall comply with the Bay View TDM Plan. In addition, Tenant will cooperate with Landlord with respect to the NADP TDM Plan (including reimbursement of Tenant's fair share allocation of the cost of Landlord's annual Property – wide TDM cordon count) and hereby authorizes Landlord (and any Tenants' Association or Transportation Management Association) to complete a transportation survey of the employees of Tenant and Tenant's Related Entities as may be requested from time to time.

(c) Tenant shall comply with the Landlord's integrated pest management program, which emphasizes preventative measures and Tenant's use of chemicals and pesticides only in the absence of other measures.

(d) Tenant shall comply with the provisions of the Bay View Development Plan in selecting California native plants in connection with its landscaping of the Premises.

(e) Tenant agrees to apply, to the maximum extent reasonably feasible, sustainable design principles to the design and construction of the Improvements and Off – Site Improvements, and any Redevelopment.

6.8 Entry by Landlord. Landlord shall have the right, subject to the provisions below, to enter the Premises during normal business hours to (a) inspect the Premises, (b) determine whether Tenant is performing Tenant's obligations hereunder, (c) supply any service to be provided by Landlord, or (d) post notices of non – responsibility, provided that any such entry shall be undertaken so as to cause as little interference to Tenant as reasonably practicable. Any such entry shall be made upon not less than seventy – two (72) hours prior written notice and subject to Tenant's security requirements, including the requirement that Landlord be accompanied at all times by a representative of Tenant (unless such entry is required for emergency or security purposes and such prior notice is not possible, in which event no prior notice shall be required, such entry may occur at any time and such entry shall not be subject to Tenant's security requirements). Landlord also specifically reserves the following rights: (i) to control ingress to and egress from the Property (as opposed to ingress to and egress from the Premises from within the Property), to erect and maintain gates, and to regulate or prevent traffic; and (ii) on behalf of Landlord, the United States Environmental Protection Agency, the State of California and other entities and governmental agencies that are involved in the remediation of, or that are responsible to remediate, existing or future contamination on or about the Property, the right to have reasonable access to known or suspected areas of contamination or other areas upon which any containment system, treatment system, monitoring system, or other



environmental response action is installed or implemented, or to be installed or implemented, for the purposes of the complying with Environmental Law and requirements; provided, however, that any such installation and implementation shall be undertaken so as to cause as little interference to Tenant and Tenant's Related Entities as reasonably practicable. Landlord shall cooperate with Tenant in locating any such required equipment in locations and installing and implementing such systems in a manner that are compatible with the Bay View Development Plan. Tenant waives all Claims against Landlord for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises or any other loss occasioned by such entry or Landlord's exercise of such reserved right, except to the extent arising as a consequence of Landlord's gross negligence or willful misconduct. Any entry to the Premises obtained by Landlord by any of such means shall not under any circumstances be construed or deemed to be a forcible or unlawful entry into or a detainer of the Premises or an eviction, actual or constructive, of Tenant from the Premises or any portion thereof.

6.9 Parcelization. At such time as there shall be two or more entities leasing, using or occupying different Parcels (whether as a consequence of a partial termination of this Lease, or a Transfer of one or more Parcels), or in the case of a Financing Transaction affecting one or more but less than all of the Parcels comprising the Premises, the Parties shall restate this Lease into separate, independent leases for each of the Parcels (to the extent necessary given the nature and/or extent of the partial termination or Transfer in question), and the following provisions shall apply:

(a) The Base Rent, Bay View Maintenance Costs and other applicable items of Additional Rent shall be allocated among the Parcels based upon the number of Square Feet of the Entitled Use allocable to each Parcel. Such restated leases shall not be cross-defaulted; except that two or more such restated leases shall be cross - defaulted to the extent the tenant under any such restated leases is the same entity or the tenants under any such restated leases are affiliated with each other, except in the case that any such restated lease is subject to a Financing Transaction (in which case a default under any other restated lease shall not be a default under the restated lease which is subject to a Financing Transaction).

(b) Tenant shall create and implement a governance structure among the various Parcels comprising the Premises to address, among other things, the need for an Infrastructure Parcel, the maintenance, repair, replacement and operation of the common areas and infrastructure within the Premises (whether pursuant to a reciprocal easement agreement, declaration of covenants, conditions and restrictions, or otherwise) and the allocation of the costs thereof, which governance structure shall be subject to Landlord's approval, which shall not be unreasonably withheld, conditioned or delayed.

(c) The Parties and Guarantor shall execute, acknowledge and deliver such documents as may be reasonably required to effect the purposes of this section 6.9.

ARTICLE 7  
Utilities and Demand Services

7.1 Landlord's Responsibilities.

(a) Tenant shall provide Landlord with Tenant's Utility Requirements for Landlord's review and approval. Landlord shall furnish water, sanitary sewer service conveyance and storm water service, as well as such other Utilities as Tenant may request and Landlord agrees to provide, to the Premises in accordance with Landlord's then – current practices and standards for the Property, subject to temporary shut down for repairs, for security purposes, for compliance with any Applicable Laws, or due to any event or occurrence beyond Landlord's reasonable control. With respect to those Utilities that Landlord agrees to provide, Landlord will provide those services in accordance with Tenant's Utility Requirements as approved by Landlord. Landlord makes no representations or warranties to Tenant regarding the adequacy or fitness of any Utilities for Tenant's use, occupancy or enjoyment of the Premises (including Tenant's needs, if any for additional or unique fire suppression). If Tenant requires Utility capacity exceeding Tenant's Utility Requirements, then Tenant shall bear all costs and expenses to provide the additional Utility capacity. Landlord shall not be in default under this Lease or be liable for any Claim directly or indirectly resulting from, nor shall the Rent be abated or a constructive or other eviction be deemed to have occurred by reason of, any interruption of or failure to supply or delay in supplying any Utilities or any limitation, curtailment, rationing or restriction on use of water, electricity, gas or any resource or form of energy or other service serving the Premises or the Property, whether such results from mandatory restrictions or voluntary compliance with guidelines so long as Utilities are made equitably available to all users and occupants thereof. Landlord shall have the right, at its option, to transfer, assign, delegate or otherwise convey its Utilities systems or its obligations to furnish Utilities pursuant to this section 7.1(a) to a third party. In such event, Tenant shall execute such documents as may reasonably be required in connection with such transaction.

(b) If Tenant desires that Landlord provide any Demand Service, Tenant shall request the same in writing describing in reasonable detail the scope of the Demand Service. Landlord shall promptly provide Tenant with an estimated cost for the Demand Service requested. If Tenant elects to have Landlord provide the requested Demand Service, Tenant shall pay the costs thereof as Additional Rent in accordance with section 5.2.

7.2 Tenant's Responsibilities. Tenant shall pay before delinquency the costs for all Utilities and Demand Services supplied to the Premises in accordance with section 5.2, together with all taxes, assessments, surcharges and similar expenses relating to such Utilities and Demand Services (if any). At Tenant's option from time to time, and at Tenant's expense, Tenant may make arrangements with appropriate service providers for any or all Utilities or Demand Services to be provided directly to Tenant, in which event Tenant shall pay the costs thereof to the entity providing the same.

ARTICLE 8  
Maintenance and Repairs

8.1 Obligations of Landlord. Landlord shall maintain and repair the common areas of the Property (including the Off – Site Improvements following the applicable Completion of Off – Site Improvements, but excluding Parcel 4 and any common areas on the Premises), and keep them in good condition, ordinary wear and tear and any periods of restoration or replacement excepted. With respect to Utilities, the Off – Site Improvements and any other infrastructure serving the Premises and located on portions of the Property other than the Premises, the Parties agree that Landlord’s obligations under this section 8.1 extend to, but exclude, the Points of Connection (or with respect to roads, streets and any other such improvements for which there is no Point of Connection, the boundary of the Premises). After the Completion of Off – Site Improvements with respect to the Water Tank Improvements, Landlord shall operate and maintain the Water Tank Improvements as part of Landlord’s water Utility system serving the Property, and Tenant shall pay as Additional Rent an equitable portion (as set forth in Exhibit J) of all costs to maintain, repair, replace and refurbish the Water Tank Improvements during the Term. Tenant shall give Landlord written notice of the need for any maintenance or repair for which Landlord is responsible, after which Landlord shall have a reasonable opportunity to perform the maintenance or make the repair, and Landlord shall not be liable for any failure to do so unless such failure continues for thirty (30) days after Tenant gives such written notice to Landlord; provided, however, such thirty (30) day period shall be extended so long as Landlord commences the maintenance or repairs within the thirty (30) day period and diligently completes the same. Landlord’s liability with respect to any maintenance or repair for which Landlord is responsible shall be limited to the cost of the maintenance or repair. With respect to any dispute between Landlord and Tenant regarding the Landlord’s maintenance or repair of the R.T. Jones Road Improvements or the Water Tank Improvements, such dispute shall be resolved in accordance with section 18.4. If Landlord is unable to perform any agreed upon repairs or replacements of the R.T. Jones Road Improvements or Water Tank Improvements in a timely manner (whether as a consequence of the lack of funding therefor or otherwise), Landlord shall so notify Tenant and, following the agreement between Landlord and Tenant on the scope and cost of such work, Tenant shall have the right to perform such work. Upon completion of such work, Tenant shall provide Landlord with invoices or other reasonably satisfactory evidence of the actual cost of such work, and Landlord shall accept such amount as in – kind consideration in partial satisfaction of Base Rent next owing hereunder. Any damage to any part of the Property for which Landlord is responsible that is caused by Tenant or any of Tenant’s Related Entities shall be repaired by Landlord at Tenant’s expense and Tenant shall pay to Landlord, as Additional Rent, the reasonable cost of such repairs incurred by Landlord.

8.2 Obligations of Tenant. During the Term, Tenant shall, at Tenant’s sole cost and expense, keep the Premises free from dirt, rubbish, waste and debris, and maintain and repair the Premises, the Improvements and all other infrastructure, roads, streets, sidewalks, Utilities, fencing, equipment, fixtures and improvements on the Premises, in good order and operating condition, ordinary wear and tear and any periods of repair, restoration or Redevelopment excepted.

[REDACTED]

[REDACTED] Landlord reasonably believes that Tenant is not performing any of its  
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obligations pursuant to this section 8.2, Landlord shall give Tenant written notice of the need for any maintenance or repair for which Tenant is responsible, after which Tenant shall have a reasonable opportunity to perform the maintenance or make the repair, and Tenant shall not be liable for any failure to do so unless such failure continues for thirty (30) days after Landlord gives such written notice to Tenant; provided, however, such thirty (30) day period shall be extended so long as Tenant commences the maintenance or repairs within the thirty (30) day period and diligently completes the same. With respect to Utilities and any other infrastructure serving the Premises and located on portions of the Property other than the Premises, the Parties agree that Tenant's obligations under this section 8.2 extend to and include the Points of Connection. Tenant shall promptly repair any damage to the Property caused by Tenant or any of the Tenant Related Entities.

## ARTICLE 9 Alterations

9.1 Alterations by Tenant. After the completion of construction of a discreet building or other portion of the Improvements, Tenant may make from time to time, without Landlord's prior consent, any Alterations thereto that comply with the Bay View Development Plan. Tenant shall not make any other Alterations thereto without Landlord's prior written consent, which consent shall be given or withheld in accordance with section 1.15 of the Construction Provisions. All Alterations (whether or not Landlord's consent is required) shall be made by Tenant at Tenant's sole cost and expense in accordance with the provisions of this ARTICLE 9.

9.2 Plans and Specifications. Tenant's plans and specifications for all Alterations shall be prepared by responsible licensed architect(s) and engineer(s), shall comply with all Applicable Laws and Applicable Policy and Guidance Documents, shall not adversely affect any Utility systems of the Property, and shall be in a form sufficient to secure the approval of all government authorities with jurisdiction over the Property. Without limiting the foregoing, all Alterations shall be designed and constructed in accordance with the Entitled Use of the Premises, Applicable Laws and Applicable Policy and Guidance Documents.

9.3 Permits. Tenant shall obtain all required permits for all Alterations from the Ames Construction Permit Office, in accordance with APD 8829.1. In addition, Tenant shall obtain from the Ames Construction Permit Office (a) hot - work permits at least twenty - four (24) hours prior to performing any welding, cutting, torching or similar open flame work, and (b) permits for excavation/drilling, confined space entry, facility closure/obstruction and high voltage electrical work, in each case before any such work commences. Water discharge permits shall be handled through the Ames Construction Permit Office, but shall be issued by the applicable governmental agencies. All other required permits, if any, shall be obtained by Tenant directly from the applicable governmental agencies, and Tenant shall promptly provide copies thereof to the Ames Construction Permit Office. Tenant shall engage responsible licensed contractor(s) to perform all work. Tenant shall perform all work, in a good and workmanlike manner, in full compliance with all Applicable Laws and Applicable Policy and Guidance Documents, and free and clear of any mechanics' liens. Tenant shall pay for all work (including the cost of all Utilities, permits, fees, taxes, and property and liability insurance premiums in connection therewith) required to make such Alterations.

9.4 Other Provisions. The provisions of ARTICLE 5 and ARTICLE 6 of the Construction Provisions shall apply to Tenant's Alterations.

ARTICLE 10  
Indemnification and Insurance

10.1 Damage or Injury.

(a) Landlord shall not be liable to Tenant, and Tenant hereby waives and releases all Claims against Landlord, for any damage to or loss or theft of any property or for any bodily or personal injury, illness or death of any person in, on or about the Premises or the Property (including the portions of the Property that are the subject of any Temporary Construction License or on which any of the Off – Site Improvements are constructed), arising at any time from or related to (i) the use or occupancy of, or the development, construction, maintenance, repair or restoration of the Improvements on, the Premises by Tenant or Tenant's Related Entities, (ii) the construction of the Off – Site Improvements on the Property by Tenant or Tenant's Related Entities, (iii) activities conducted under this Lease by Tenant or Tenant's Related Entities, or (iv) any act or omission of Tenant or Tenant's Related Entities, except in the case of gross negligence or willful misconduct of Landlord or any default in the performance of Landlord's obligations under this Lease.

(b) Tenant shall indemnify and defend Landlord against and hold Landlord harmless from all Claims against Landlord arising from or related to (i) the use or occupancy of, or the development, construction, maintenance, repair or restoration of the Improvements on, the Premises by Tenant or Tenant's Related Entities (excluding Claims arising from (A) Landlord's entry on the Premises pursuant to this Lease, [REDACTED] (C) Landlord's failure to provide housing on the Property in accordance with the NADP MIMP), (ii) the construction of the Off – Site Improvements on the Property by Tenant or Tenant's Related Entities, (iii) any default in the performance of Tenant's obligations under this Lease, (iv) any damage to any property (including property of Tenant's Related Entities) or any bodily or personal injury, illness or death of any person (including Tenant's Related Entities) occurring in, on or about the Premises or any part thereof arising at any time and from any cause whatsoever (excluding Claims arising from Landlord's entry on the Premises pursuant to this Lease), (v) any damage to any property (including property of Tenant's Related Entities) or any bodily or personal injury, illness or death of any person (including Tenant's Related Entities) occurring in, on or about any part of the Property other than the Premises when such damage, bodily or personal injury, illness or death is caused by any act or omission of Tenant or Tenant's Related Entities, or (vi) the use, storage, transportation, treatment, disposal, release or other handling, on or about or beneath the Premises, of any Hazardous Material introduced or permitted on or about or beneath the Premises by any act or omission of Tenant or Tenant's Related Entities; provided, however, in no event shall Tenant be obligated to indemnify, defend or hold harmless Landlord from any Claims arising from the gross negligence or willful misconduct of Landlord or any default in the performance of Landlord's obligations under this Lease.

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(c) Except to the extent of Claims against Landlord arising as a consequence of the failure of Tenant and/or Tenant's Related Entities to comply with (i) Applicable Laws and Applicable Policy and Guidance Documents, (ii) the documents and agreements described in

section 1.45 to the extent Landlord has provided such documents and agreements to Tenant and informed Tenant regarding the applicability of such documents and agreements to Tenant's Permitted Activities, (iii) the terms and conditions of any applicable permit or other document related to Tenant's development, construction and installation of the Improvements or the Off-Site Improvements, and (iv) the other applicable terms and conditions of this Lease, then, notwithstanding the provisions of section 10.1(a) or 10.1(b), Landlord waives and agrees not to make any Claims against Tenant with respect to the Existing Environmental Conditions, including any obligation Landlord may have to perform or contribute to or pay for remediation or removal of the Existing Environmental Conditions or to perform any other obligation of Landlord under any agreements relating to the Existing Environmental Conditions.

(d) This section 10.1 shall survive the termination of this Lease with respect to any Claims occurring prior to such termination.

## 10.2 Insurance Coverages and Amounts.

(a) Tenant shall, at all times during the Term and at Tenant's sole cost and expense, obtain and keep in force the insurance coverages and amounts set forth in this section 10.2(a):

(i) Tenant shall maintain commercial general liability insurance, including contractual liability, broad form property damage liability, fire legal liability, premises and completed operations, and medical payments, with limits not less than twenty million dollars (\$20,000,000.00) per occurrence and aggregate, insuring against claims for bodily injury, personal injury and property damage arising from the use, occupancy or maintenance of the Premises and the Property. The policy shall contain an exception to any pollution exclusion which insures damage or injury arising out of heat, smoke or fumes from a hostile fire. Any general aggregate shall apply on a per occurrence basis.

(ii) If Tenant uses owned, hired or non-owned vehicles, Tenant shall maintain business auto liability insurance with limits not less than one million dollars (\$1,000,000.00) per accident covering such vehicles.

(iii) Tenant shall maintain, and shall cause Tenant's Related Entities to maintain, worker's compensation insurance in statutory limits as required by California law, and such other forms of insurance as may from time to time be required by Applicable Law or may otherwise be reasonably necessary to protect Landlord and the Premises from claims of any person who may at any time work on the Premises, whether as a servant, agent, or employee of Tenant or otherwise. The foregoing insurance shall be maintained at the expense of Tenant or Tenant's Related Entities, and not at the expense of Landlord. In addition, Tenant shall maintain employers liability insurance which affords coverage of not less than one million dollars (\$1,000,000.00) per occurrence.

(iv) Tenant shall maintain property insurance for the perils covered by a standard fire insurance policy, extended coverage perils and vandalism and malicious mischief, including coverage for increased costs due to changes in building codes and, if applicable, boiler machinery and pressure vessel insurance. The amount of such insurance shall be the Full Insurable Replacement Value. All such policies shall specify that proceeds shall be payable on a

“Full Replacement Value” basis if the Improvements are actually repaired or rebuilt and on an “Actual Cash Value” basis if the Improvements are neither repaired nor replaced, and shall include a “guaranteed amount” or “stipulated amount” endorsement of coverage in lieu of a coinsurance provision under the policy.

(v) All other insurance that Tenant or Guarantor customarily maintains to adequately protect the Premises, consistent with Tenant’s or Guarantor’s insurance program for other similar properties. Landlord may from time to time request such reasonable evidence that the Premises are being so insured by Tenant or Guarantor.

(b) In addition to the insurance required by section 10.2(a), but only to the extent not covered by other property insurance maintained by Tenant, Tenant (or Tenant’s Related Entities) shall obtain and keep in force during the period of any construction comprehensive “all risk” or “special form” builder’s risk insurance, including vandalism and malicious mischief. Such builder’s risk insurance shall cover all portions of the Improvements under construction on the Premises or other portions of the Property, all portions of the Off – Site Improvements under construction on the Property, all materials and equipment stored at the Premises or the Property by Tenant or Tenant’s Related Entities and furnished under a Construction Contract, and all materials and equipment that are in the process of fabrication at the premises of any third party or that have been placed in due course of transit to the Premises when such fabrication or transit is at the risk of, or when title to or an insurable interest in such materials or equipment, has passed to Tenant or Tenant’s Related Entities (excluding any tools and equipment, and property owned by the employees of Tenant’s Related Entities). Such builder’s risk insurance shall be written on a completed value basis in an amount not less than the full estimated replacement cost of such Improvements and Off – Site Improvements, as applicable.

(c) Guarantor shall have the right to establish a company – wide self insurance program (including Tenant) with respect to any of the insurance requirements required under this Lease. In such event, Tenant shall provide Landlord with a detailed description of such self – insurance program (and such financial statements of Guarantor as Landlord may reasonably require) and such program shall be applicable to the Premises and the insurance coverages required hereunder, so long as such self – insurance program is approved by Landlord, which approval shall not be unreasonably withheld if such self – insurance program is consistent with self – insurance programs acceptable to prudent institutional ground lessors of property in Santa Clara County comparable to the Premises. In the event that Guarantor elects to self – insure with respect to any of the insurance requirements required under this Lease and Landlord approves such program, Tenant shall submit to Landlord a certificate of self – insurance signed by a duly authorized representative of Guarantor, and such certificate shall evidence that Guarantor’s self – insurance program is in full force and effect and in compliance with the terms of this Lease.

(d) All deductibles under any insurance policy described in this section 10.2 and all self insured retentions shall be consistent with Tenant’s or Guarantor’s company – wide insurance program and shall be paid by Tenant.

10.3 Conditions on Property Insurance. In addition to the other conditions and requirements for insurance policies set forth in this ARTICLE 10, Tenant’s construction and property insurance policies shall satisfy the following conditions. The policy or policies

evidencing construction and property insurance shall provide that, in the event of loss thereunder, and subject to the terms of any Mortgage, the proceeds of the policy or policies shall be payable to Tenant (or to a Mortgagee) (except as provided in the last sentence of this section 10.3) to be used solely for the repairs or replacement of the property damaged or destroyed, with any balance of the proceeds not required for such repairs or replacement to be paid to Tenant (or to a Mortgagee) (except as provided in the last sentence of this section 10.3); provided, however, that the insurer, after payment of any proceeds in accordance with the provisions of the policy or policies shall have no obligation or liability with respect to the use or disposition of the proceeds. Nothing herein contained shall be construed as an obligation upon Landlord to perform construction, improvements, repairs or replacement of the Premises or any part thereof. Notwithstanding the foregoing, Landlord shall be named as a loss payee of insurance proceeds in excess of five million dollars (\$5,000,000.00), subject and subordinate to the rights of any Mortgagee as primary loss payee.

#### 10.4 Insurance Requirements.

(a) All insurance and all renewals thereof shall be issued by companies with a rating of at least "A-" "VII" (or its equivalent successor) or better in the current edition of Best's Insurance Reports (or its equivalent successor, or, if there is no equivalent successor rating, otherwise mutually acceptable to the Parties).

(b) Each policy shall provide that the policy shall not be canceled or materially altered without thirty (30) days prior written notice to Landlord (ten (10) days in the case of cancellation for non – payment of premiums) and shall remain in effect notwithstanding any such cancellation or alteration until such notice shall have been given to Landlord and such period of thirty (30) days (or ten (10) days, if applicable) shall have expired; provided, however, if any insurance company of Tenant agrees only to "endeavor" to notify Landlord of cancellation or alteration of any such insurance policy, then it shall be the responsibility of Tenant to notify Landlord at least twenty (20) days prior to such cancellation or alteration of insurance coverage.

(c) The commercial general liability and any automobile liability insurance shall be endorsed to name Landlord (and any other parties reasonably designated by Landlord) as an additional insured and shall be primary and noncontributing with any insurance which may be carried by Landlord.

(d) Tenant shall deliver certificates of insurance and endorsements, in form reasonably acceptable to Landlord, to Landlord upon the Commencement Date and thereafter during the Term prior to the expiration of each policy. Such documents shall be delivered to the address for certificate holder set forth below. If Tenant fails to insure or fails to furnish any such insurance certificate or endorsement, Landlord shall have the right from time to time to effect such insurance for the benefit of Tenant or Landlord or both of them, and Tenant shall pay to



Landlord on written demand, as Additional Rent, all premiums paid by Landlord. Each certificate of insurance shall list the certificate holder as follows:

National Aeronautics and Space Administration  
Ames Research Center  
Attn: Office of the Chief Counsel  
Mail Stop 200 – 12  
Moffett Field, CA 94035 – 1000

(e) No approval by Landlord of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount shall be construed as a representation by Landlord of the solvency of the insurer or the sufficiency of any policy or any coverage or amount of insurance or deductible. By requiring insurance herein, Landlord makes no representation or warranty that coverage or limits will necessarily be adequate to protect Tenant, and such coverage and limits shall not be deemed as a limitation on Tenant's liability under the indemnities granted to Landlord in this Lease.

(g) Failure of Landlord to demand such certificate or other evidence of full compliance with these insurance requirements or failure of Landlord to identify a deficiency from evidence that is provided shall not be construed as a waiver of Tenant's obligation to maintain such insurance.

10.5 Subrogation. Tenant waives on behalf of all insurers under all policies of insurance now or hereafter carried by Tenant insuring or covering the Premises, or any portion or any contents thereof, or any operations therein, all rights of subrogation which any such insurer might otherwise, if at all, have to any claims of Tenant against Landlord. Tenant shall procure from each of the insurers under all such policies of insurance a waiver of all rights of subrogation which the insurer might otherwise, if at all, have to any claims of Tenant against Landlord as required by this section 10.5 stating substantially the following: "The insurer waives any right of subrogation against the United States of America which might arise by reason of any payment made under this policy."

## ARTICLE 11 Assignment and Subletting

11.1 Pre – Construction Assignment. Tenant shall not, directly or indirectly, without the prior written consent of Landlord (which consent may be given or withheld in Landlord's sole and absolute discretion), enter into a Pre – Construction Assignment with respect to a Transfer Property. If Landlord withholds its consent pursuant to section 11.6, then this Lease shall terminate as to such Transfer Property unless, within ninety (90) days after the date on which Landlord withholds its consent, Landlord receives Tenant's written notice (which also shall be consented to by Guarantor) withdrawing its request to a Pre – Construction Assignment and reaffirming that this Lease shall nevertheless remain in full force with respect to such Transfer Property. If Landlord consents to the Pre – Construction Assignment, the Premises shall be parcelized as provided in section 6.9, and Tenant shall be released from all of its obligations under this Lease with respect to the Transfer Property that arise or occur after the date such Pre – Construction Assignment is consummated.

11.2 Financing Transaction. Tenant may, with the prior written consent of Landlord (which consent shall not be unreasonably withheld, delayed or conditioned), enter into a Financing Transaction with respect to a Transfer Property. If Landlord consents to the Financing Transaction, the Premises shall be parcelized as provided in section 6.9. Tenant shall not be released from any of its obligations under this Lease (or any restatement of this Lease in connection with such Financing Transaction), nor shall Guarantor be released from any of its obligations under the Guaranty, in connection with or as a result of the consummation of such Financing Transaction.

11.3 Post – Commencement Assignment. Tenant shall not, directly or indirectly, without the prior written consent of Landlord (which consent shall not be unreasonably withheld, delayed or conditioned), enter into a Post – Commencement Assignment with respect to a Transfer Property. Without limiting the foregoing, Tenant agrees that it shall be reasonable for Landlord to withhold its consent to Tenant's request to enter into a Post – Commencement Assignment pursuant to this section 11.3 if the proposed transferee, in Landlord's judgment:

- (a) Is an entity whose business or other activities are not consistent with the mission of Landlord;
- (b) Lacks the relevant experience to use the Transfer Property for the use(s) set forth in the Bay View Development Plan as approved by Landlord;
- (c) Fails to possess the financial capacity to perform its responsibilities and obligations set forth in this Lease;
- (d) Comprises a security risk to the United States; or
- (e) Is listed on the General Service Administration's List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

If Landlord consents to the Post – Commencement Assignment, Landlord shall deliver to Tenant notice whether Landlord elects, at its option, such Post – Commencement Assignment to be an Appraisal Event, in which event the fair market value of the Transfer Property (and the Base Rent allocable thereto) shall be determined in accordance with section 5.1(e). If Landlord consents to the Post – Commencement Assignment, the Premises shall be parcelized as provided in section 6.9. If the Tangible Net Worth of the transferee at the time of the Post – Commencement Assignment is at least one hundred sixty – five (165) times the annual Base Rent applicable to the Transfer Property as of the consummation of such Post – Commencement Assignment, Tenant shall be released from all of its obligations under this Lease (or any restatement of this Lease) with respect to the Transfer Property that arise or occur after the date such Post – Commencement Assignment is consummated. If the net worth of the transferee at such time does not satisfy such requirement, Tenant shall not be released from such obligations. The foregoing Tangible Net Worth requirement shall not be determinative of section 11.3(c) with respect to Landlord's consent to such Post – Commencement Assignment. In no event shall Tenant be relieved from its obligations under this Lease (or any restatement of this Lease) with respect to all portions of the Premises other than the Transfer Property.

11.4 Sublease of Space. Tenant shall not, directly or indirectly, without the prior written consent of Landlord (which consent shall not be unreasonably withheld, delayed or conditioned), enter into a Sublease of Space. Without limiting the foregoing, Tenant agrees that it shall be reasonable for Landlord to withhold its consent to Tenant's request to enter into a Sublease of Space pursuant to this section 11.4 for any of the reasons set forth in sections 11.3(a) through 11.3(e). Notwithstanding the foregoing, Landlord's consent will not be required, but Tenant shall give Landlord prior written notice in the case of either (a) a Sublease of Space at a fair market value rent to an existing programmatic partner of Landlord then leasing space at the Property, or (b) a Sublease of Space (including all amendments thereto and any series of Subleases of Space with a single subtenant or its affiliates) covering less than twenty – five thousand (25,000) Square Feet of the Improvements so long as the subtenant satisfies the criteria set forth sections 11.3(a) through 11.3(e). If Tenant executes a Sublease Triggering Appraisal, then, at Landlord's option, the Parties shall cause the fair market value of the Premises (or the applicable portion thereof) and the Rate of Return to be determined in accordance with section 5.1(f). Tenant shall not be released from any of its obligations under this Lease, nor shall Guarantor be released from any of its obligations under the Guaranty, in connection with or as a result of the consummation of any Sublease of Space (whether or not Landlord's consent is required).

Landlord shall, promptly following Tenant's request, enter into a mutually acceptable nondisturbance and attornment agreement with any subtenant subleasing space in the Improvements, provided that the Sublease of Space in question provides: (i) for regular payments of rent throughout the term of such Sublease of Space, which rent shall be at fair market rates at the time the Sublease of Space was made; (ii) that such Sublease of Space is subject to the provisions of this Lease; (iii) that the only consideration for possession of the subleased space is in the form of rent and no rent is to be paid more than two (2) months in advance; (iv) that Landlord shall have no liability for prior acts, omission or defaults of Tenant as sublessor under the Sublease of Space; and (v) the remaining provisions of the Sublease of Space are acceptable to Landlord in its reasonable judgment.

11.5 Transactions with Affiliates and Other Permitted Transfers. Notwithstanding the provisions of sections 11.1, 11.3 and 11.4, Tenant may enter into a Pre – Construction Assignment, a Post – Commencement Assignment or a Sublease of Space with an Affiliate so long as such Affiliate satisfies the criteria set forth in sections 11.3(a) through 11.3(e), and a Transfer of this Lease at any time in connection with a merger, consolidation or other reorganization affecting Guarantor or a transfer of all or substantially all of the assets of Guarantor shall be permitted, in either case without Landlord's prior written consent; provided, however, that, unless prohibited or restricted by Applicable Law, Tenant shall give Landlord prior written notice of any such Transfer; and any such Transfer shall not constitute an Appraisal Event.

11.6 Procedure. If Tenant wishes to enter into any of the Transfers described in sections 11.1 through 11.4, Tenant shall give written notice to Landlord identifying the intended transferee by name and address and specifying all of the terms of the intended Transfer. Tenant shall give Landlord such additional information concerning the intended transferee, including audited financial statements (or if audited financial statements are not available, financial statements certified by an officer of the intended transferee) and a business history, or the

intended Transfer (including true copies thereof) as Landlord reasonably requests. If Landlord's consent to the intended Transfer is required, for a period of thirty (30) days after such written notice requesting Landlord's consent thereto is given by Tenant, Landlord shall determine whether or not to consent to the intended Transfer in accordance with this ARTICLE 11. Landlord shall deliver to Tenant written notice of its determination on or before the last day of that thirty (30) day period. Consummation of any Transfer which requires Landlord's consent without the prior written consent of Landlord and compliance with any conditions to consummation set forth in this ARTICLE 11 shall be void.

11.7 Completion of Transfer. Tenant may complete a Transfer pursuant to sections 11.1 through 11.5 (provided that Landlord consents thereto if such consent is required) subject to the following covenants, as applicable: (a) the Transfer shall be on substantially the same terms as set forth in the written notice given by Tenant to Landlord; (b) no Transfer shall be valid and no transferee shall take possession of the Premises or any part thereof until (i) an executed duplicate original of all applicable documentation has been delivered to Landlord, and (ii) if applicable, Landlord has entered into such restated leases with Tenant and with such transferee as may be required pursuant to section 6.9; (c) with respect to a Post – Commencement Assignment, the transferee shall agree (i) to pay to Landlord the portion of the amount of Rent then in effect and allocable to the applicable Transfer Property when the same becomes due and payable, (ii) if elected by Landlord, to determine the fair market value of the Transfer Property in accordance with section 5.1(e), (iii) once such fair market value is determined, to pay to Landlord any shortfall in Base Rent from the date on which the Post – Commencement Assignment was consummated, and (iv) thereafter to pay Base Rent when due and payable based upon such determination of fair market value of the Transfer Property; and (d) Tenant agrees that, to the extent the same is not otherwise covered by the terms of a restated lease to be entered into by and between Landlord and the transferee covering the Transfer Property in question, the instrument by which any such Transfer is accomplished (whether or not Landlord's consent is not required) shall expressly provide that the transferee will perform all of the covenants to be performed by Tenant under this Lease (only insofar as such covenants relate to the Transfer Property or Parcel subject to such Transfer) as and when performance is due after the effective date of the Transfer and that Landlord will have the right to enforce such covenants directly against such transferee. Any purported Transfer without an instrument containing the foregoing provisions (as applicable to the Transfer in question) shall be void.

11.8 Other Requirements. The acceptance of Rent by Landlord from any other person or entity shall not be deemed to be a waiver by Landlord of any provision of this Lease. Consent to one such Transfer shall not be deemed consent to any subsequent Transfer. Tenant shall pay to Landlord all reasonable direct costs and shall reimburse Landlord for all third – party expenses reasonably incurred by Landlord in connection with any such Transfer requested by Tenant. Except to the extent Tenant has been released from its obligations as specifically set forth in this ARTICLE 11, if any transferee or successor of Tenant defaults in the performance of any obligation to be performed by Tenant under this Lease, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such transferee or successor.

ARTICLE 12  
Mortgages

12.1 Right to Mortgage. Landlord agrees and consents that Tenant may, at any time and from time to time, Mortgage all or any portion of the right, title and interest of Tenant in the leasehold estate created by this Lease and in any or all Improvements on the Premises or any Parcel to one or more Mortgagees for security for a loan or loans or other obligations of Tenant. However, the making of a Mortgage shall in no event constitute an assumption by Mortgagee of Tenant's obligations under this Lease. Concurrently with executing each Mortgage, Tenant shall furnish Landlord with the name and address of the Mortgagee and shall prepare and deliver to Landlord a request for notice of default in recordable form providing that Landlord shall receive copies of notices of default under that Mortgage at the address for notice to Landlord set forth in the **Basic Lease Information**.

12.2 Mortgagee's Rights. Any Mortgagee shall have the right at any time during the Term:

(a) To do any act required of Tenant hereunder, and all such acts done or performed shall be effective to prevent a termination of this Lease, as if the same had been done or performed by Tenant;

(b) To rely on the security afforded by the leasehold estate and to acquire and to succeed to the interest of Tenant hereunder by foreclosure, whether by judicial sale, by power of sale contained in any security instruments, or by assignment or deed given in lieu of foreclosure, and thereafter convey or assign title to the leasehold estate so acquired to any other person as provided in section 11.3; and

(c) To enforce its Mortgage and acquire title to the leasehold estate and any Improvements on the Premises in any lawful manner and, pending foreclosure of such Mortgage, may take possession of and enter into one (1) or more Subleases of Space in accordance with section 11.4, and upon foreclosure of such Mortgage may enter into one (1) or more Post – Commencement Assignments of this Lease as provided in section 11.3.

However, Mortgagee shall not be liable to perform Tenant's obligations under this Lease until Mortgagee acquires Tenant's rights by foreclosure or deed in lieu of foreclosure. After acquiring Tenant's rights, Mortgagee shall be liable to perform Tenant's obligations under this Lease. Mortgagee shall not, however, be required to cure Tenant's defaults occurring before Mortgagee's acquisition of Tenant's rights by foreclosure or deed in lieu of foreclosure. The obligation of Mortgagee for the performance of the terms of this Lease shall terminate upon the Post – Commencement Assignment of the right, title and interest of Mortgagee in the leasehold estate for the Premises to any other person or entity in accordance with section 11.3.

12.3 Cure by Mortgagee. Until the earlier of the time, if any, that the Mortgage has been satisfied or Mortgagee has given written notice that the Mortgage has been satisfied, if an Event of Default occurs which is not cured within the time allowed in ARTICLE 13, Landlord shall not terminate this Lease by reason of such Event of Default by Tenant if and so long as:

(a) All defaults referenced in the notice of default given by Landlord to Tenant and to Mortgagee that can be cured by the payment of money only are cured within thirty (30) days after the later of (i) the date such notice of default is given by Landlord to such Mortgagee or (ii) the date by which Tenant was required to have made such payment pursuant to section 13.1(a);

(b) With respect to all non – monetary defaults referenced in the notice of default given by Landlord to Tenant and to Mortgagee that reasonably can be cured by Mortgagee (in light of the fact that it does not have the right to possession of the Premises and Improvements thereon), the curing of same is commenced within forty – five (45) days after the date on which Landlord notifies Mortgagee that Tenant has failed to cure such default pursuant to section 13.1(b) and thereafter is prosecuted diligently to completion by or on behalf of Mortgagee; and

(c) With respect to all other non – monetary defaults referenced in the notice of default given by Landlord to Tenant and to Mortgagee that are incurable by nature or which cannot reasonably be cured by Mortgagee because it does not have the right to possession of the Premises and Improvements thereon, within ninety (90) days from the date Landlord gives such notice, Mortgagee (i) initiates foreclosure, judicially or by trustee's sale, of the Mortgage and thereafter proceeds diligently to foreclose the Mortgage or to acquire by other means Tenant's leasehold estate, and (ii) keeps and performs all of the covenants and conditions of this Lease requiring the payment of money and those non – monetary covenants and conditions reasonably susceptible of performance by Mortgagee, subject to the notice and grace period provisions of ARTICLE 13. Failing either of (i) or (ii) above, Landlord shall be released automatically from its covenant to forbear from terminating this Lease and may, at its option thereafter, terminate this Lease forthwith. Mortgagee shall be relieved from its obligations to initiate foreclosure of the Mortgage and to proceed diligently therewith during such time as Mortgagee is legally stayed (as in the case of a bankruptcy proceeding) or enjoined from so proceeding, provided that Mortgagee has taken reasonable action to obtain relief from such stay or injunction. Nothing herein shall be construed to extend the Term beyond the then current Expiration Date; provided, however, that such Mortgagee shall have the right to exercise on behalf of Tenant any right to extend the Term for an Unilateral Extension Term. If all Events of Default to which this section 12.3(c) applies have been cured prior to the completion of foreclosure of the Mortgage, Mortgagee need not complete such foreclosure.

12.4 New Lease. If this Lease terminates by reason of an Event of Default of Tenant, or if this Lease is disaffirmed in a bankruptcy proceeding affecting Tenant, and if, within ninety (90) days after such termination or disaffirmation, Mortgagee delivers written notice to Landlord requesting Landlord to enter into a new lease of the Premises or such portion thereof as was covered by the Mortgage of such Mortgagee, then Landlord shall enter into a new lease with Mortgagee (or its nominee), within sixty (60) days after Mortgagee's notice is deemed delivered. Simultaneously with the giving of its notice to request a new lease, Mortgagee shall deliver to Landlord a written instrument (in a form reasonably acceptable to Landlord) agreeing to cure all Events of Default of Tenant under this Lease or the portion hereof that is applicable to such Mortgagee (other than Events of Default which cannot be cured by Mortgagee) as soon as is reasonably possible. The new lease shall commence, and rent and all obligations of the tenant under the new lease shall accrue, as of the date of termination or disaffirmation of this Lease.

The term of the new lease shall continue for the period which would have constituted the remainder of the Term of this Lease had this Lease not been terminated or disaffirmed, including any rights to extend the Term, and shall be upon all of the terms, covenants, conditions, conditional limitations and agreements contained in this Lease which were in force and effect immediately prior to the termination or disaffirmation of this Lease. The new lease, and this covenant, shall be superior to all rights, liens and interests other than those to which this Lease was subject immediately prior to termination or disaffirmation and those matters to which this Lease may, by its terms, become subject. The provisions of the immediately preceding sentence shall be self-executing, and Landlord shall have no obligation to do anything other than to execute the new lease. Each subtenant, if any, of space in the Improvements whose sublease was in force immediately prior to the delivery of the new lease shall attorn to the tenant under the new lease, unless the tenant, at its option, elects to dispossess any such subtenant or otherwise terminate its sublease. Each subtenant who hereafter subleases space within the Improvements shall be deemed to have agreed to the provisions of this section 12.4. The foregoing shall not be deemed to obligate Landlord to keep any sublease in force after the termination or disaffirmation of this Lease, nor shall Landlord have any obligation to terminate any sublease or to dispossess any subtenant. Mortgagee shall, simultaneously with the delivery of the new lease, pay (a) all Rent and other sums of money due under this Lease (or any restatement of this Lease made in connection with such Financing Transaction) on the date of termination or disaffirmation of this Lease and remaining unpaid, plus (b) all rent and other sums of money due under the new lease. Simultaneously therewith, Landlord shall pay over to Mortgagee any rentals, less costs and expenses of collection, received by Landlord between the date of termination or disaffirmation of this Lease and the date of execution of the new lease, from subtenants or other occupants of the Premises, which shall not theretofore have been applied by Landlord towards the payment of Rent or any other sum of money payable by Tenant or towards the cost of operating the Premises or performing the obligations of Tenant hereunder.

If Mortgagee exercises its right to obtain a new lease, but fails to execute the new lease when tendered by Landlord (so long as such new lease conforms to the terms of this Lease as applicable to the portion of the Premises to be covered thereby), or fails to comply timely with the other provisions of this section 12.4, Mortgagee shall have no further rights to a new lease or any other rights under this Lease. If Mortgagee shall, however, execute a new lease, then Mortgagee shall be entitled to enter into a Post-Commencement Assignment to a third party in accordance with section 11.3, and upon such Post-Commencement Assignment Mortgagee shall be relieved prospectively of all liability under the new lease.

12.5 Mortgagee Consent to Modification of Lease. Until the earlier of the time, if any, that the Mortgage has been satisfied or Mortgagee has given written notice that the Mortgage has been satisfied, Landlord shall not, without the prior written consent of Mortgagee, accept any surrender of this Lease, consent to any material modification hereof or consent to the Transfer hereof, or of any part or portion, of the Term created hereby or of any interest therein.

12.6 Notice. Service of any notice required to be served upon Mortgagee under this Lease at the address contained in the recorded request for notice of default (or at such other address as Mortgagee has last specified by written notice to Landlord) shall be deemed to be made upon actual receipt. No notice of default, notice of intention to terminate this Lease, or notice of termination of this Lease which is given by Landlord to Tenant shall be binding upon

or affect Mortgagee unless a copy of said notice has been given at substantially the same time to Mortgagee at the address contained in the recorded request for notice of default under this Lease or at such other address as Mortgagee has last specified by written notice to Landlord.

12.7 Modification for Mortgagee. If, in connection with obtaining construction, interim or permanent financing for a Phase of Improvements, Mortgagee shall request reasonable modifications or amendments to this Lease as a condition to financing, Landlord will not unreasonably withhold, delay or defer its consent, provided that such modifications do not materially decrease the obligations of Tenant or materially adversely affect Landlord's fee interest or its rights and remedies under this Lease.

ARTICLE 13  
Events of Default and Remedies

13.1 Default by Tenant. The occurrence of one (1) or more of the following Events of Default shall constitute a breach of this Lease by Tenant:

(a) Tenant fails to pay any Base Rent, or any Additional Rent under section 5.2, or any Additional Rent or other amount of money or charge payable by Tenant under any other provision of this Lease, and such failure continues for more than thirty (30) days after Landlord gives written notice to Tenant that such Rent is due and unpaid; or

(b) Tenant fails to perform or breaches any other agreement or covenant of this Lease to be performed or observed by Tenant as and when performance or observance is due and such failure or breach continues for more than ninety (90) days after Landlord gives written notice thereof to Tenant; provided, however, that if, by the nature of such agreement or covenant, such failure or breach cannot reasonably be cured within such period of ninety (90) days, an Event of Default shall not exist as long as Tenant commences with due diligence and dispatch the curing of such failure or breach within such period of ninety (90) days and, having so commenced, thereafter prosecutes with diligence and dispatch and completes the curing of such failure or breach; or

(c) Tenant (i) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (ii) makes an assignment for the benefit of its creditors, or (iii) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Tenant or of any substantial part of Tenant's property; or

(d) Without consent by Tenant, a court or government authority enters an order, and such order is not vacated within ninety (90) days, (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Tenant or with respect to any substantial part of Tenant's property, or (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, or (iii) ordering the dissolution, winding - up or liquidation of Tenant; or



(e) This Lease or any estate of Tenant hereunder is levied upon under any attachment or execution and such attachment or execution is not vacated within ninety (90) days; or

(f) Tenant abandons the Premises; or

(g) Cancellation or breach of, or default under, the Guaranty by Guarantor.

13.2 Termination. If an Event of Default occurs, Landlord shall have the right at any time to give a written termination notice to Tenant and, on the date specified in such notice, Tenant's right to possession shall terminate and this Lease shall terminate and the provisions of section 3.5 shall apply. Upon such termination, Landlord shall have the full and immediate right to possession of the Premises (subject to the provisions of section 12.4) and to collect all amounts that would otherwise be due to Tenant under all Subleases of Space or other use or occupancy agreements affecting all or any portion of the Premises. In addition, Landlord shall have the right to recover from Tenant all unpaid Rent which had been earned at the time of termination and all other amounts necessary to compensate Landlord for all costs to recover possession of the Premises and the detriment proximately caused by Tenant's failure to perform all of Tenant's obligations under this Lease. Furthermore, as in-kind consideration in satisfaction of all unpaid Rent for the balance of the Term after termination, Tenant agrees that all Tenant's right, title and interest in and to all of the Improvements shall be vested in the Government and shall be the sole and exclusive property of the Government, and the provisions of section 3.5 shall apply.

13.3 Continuation. If an Event of Default occurs, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession, and Landlord shall have the right to enforce all its rights and remedies under this Lease, including the right to recover all Rent as it becomes due under this Lease. Acts of maintenance or preservation or efforts to relet the Premises or the appointment of a receiver upon initiative of Landlord to protect Landlord's interest under this Lease shall not constitute a termination of Tenant's right to possession unless written notice of termination is given by Landlord to Tenant.

13.4 Remedies Cumulative. Upon the occurrence of an Event of Default, Landlord shall have the right to exercise and enforce all rights and remedies granted or permitted by law, subject to the limitation on Tenant's liability for unpaid Rent for the balance of the Term after termination of this Lease provided for in section 13.2. The remedies provided for in this Lease are cumulative and in addition to all other remedies available to Landlord at law or in equity by statute or otherwise. Exercise by Landlord of any remedy shall not be deemed to be an acceptance of surrender of the Premises by Tenant, either by agreement or by operation of law. Surrender of the Premises can be effected only by the written agreement of Landlord and Tenant.

13.5 Tenant's Primary Duty. All agreements and covenants to be performed or observed by Tenant under this Lease shall be at Tenant's sole cost and expense and without any abatement of Rent except to the extent otherwise expressly provided herein. If an Event of Default occurs hereunder as a consequence of Tenant's failure to pay any sum of money to be paid by Tenant or to perform any other act to be performed by Tenant under this Lease, Landlord shall have the right, but shall not be obligated, and without waiving or releasing Tenant from any obligations of Tenant, to make any such payment or to perform any such other act on behalf of

Tenant in accordance with this Lease. All sums so paid by Landlord and all costs incurred or paid by Landlord shall be deemed Additional Rent hereunder and Tenant shall pay the same to Landlord on written demand, together with interest on all such sums and costs from the date of expenditure by Landlord to the date of repayment by Tenant at the rate of ten percent (10%) per annum.

13.6 Abandoned Property. If Tenant abandons the Premises, or is dispossessed by process of law or otherwise, all Improvements made by Tenant and left in the Premises, and all Personal Property belonging to Tenant and left in the Premises, shall be deemed to be abandoned. Landlord may retain the same, or at the option of Landlord, dispose of the same as authorized by the Government.

13.7 Landlord Default. If Landlord defaults under this Lease, Tenant shall give written notice to Landlord specifying such default with particularity, and Landlord shall have thirty (30) days after receipt of such notice within which to cure such default. In the event of any default by Landlord, Tenant's exclusive remedy shall be an action for damages or specific performance.

#### ARTICLE 14

##### Damage or Destruction

14.1 Restoration. If the Improvements, or any part thereof, are damaged by fire or other casualty during the Term, and this Lease is not terminated pursuant to section 14.2, Tenant shall promptly commence (in all events within three hundred sixty (360) days after the fire or other casualty) and complete the repairs, restoration and rebuilding of the Improvements to substantially the same condition, utility and character in which the Improvements existed before the occurrence of such fire or other casualty (whether or not the insurance proceeds, if any, are sufficient for the purpose) and this Lease shall remain in full force and effect. In the event Landlord as loss payee has received any insurance proceeds as a consequence of such casualty, Landlord shall deliver such insurance proceeds to or as directed by Tenant following Tenant's satisfaction of the requirements of section 4.1 of the Construction Provisions.

14.2 Termination of Lease. If the Improvements, or any part thereof, are damaged by fire or other casualty during the last five (5) years of the then – current Term, then Tenant shall have the right, by giving written notice to Landlord within one hundred eighty (180) days after the occurrence of such fire or other casualty, to terminate this Lease (or the portion thereof covering the applicable Parcel, in which case the terms of section 6.9 shall apply) as of the date of such notice. If Tenant does not duly exercise the right to terminate this Lease, in whole or in part as the case may be, in accordance with this section 14.2, Tenant shall repair, restore and rebuild the Improvements in accordance with section 14.1 and this Lease shall remain in full force and effect. If this Lease is terminated in whole or in part, Tenant shall remove any damaged Improvements to the extent required by Landlord and any debris, and Tenant shall deliver the Premises (or the applicable portion thereof) and any undamaged Improvements in a neat and orderly condition. If Tenant fails to do so, any net insurance proceeds shall be paid first to Landlord to remove such Improvements and debris, and the balance shall be paid to Tenant or any Mortgagee in accordance with the terms of the Mortgage or such other agreement between Tenant and Mortgagee.

ARTICLE 15  
Eminent Domain

15.1 Tenant's Notice of Takings. Tenant or Landlord, as the case may be, shall deliver to the other Party written notice of each Taking promptly after such Party receives notice of or otherwise becomes aware of the commencement of proceedings for a Taking or negotiations which might result in a Taking. Any such notice shall identify the entity exercising the power of eminent domain and shall describe in reasonable detail the nature and extent of the Taking (or negotiations, as the case may be). Landlord and Tenant may each file and prosecute their respective claims for an award, but all awards and other payments on account of a Taking shall be paid in accordance with this ARTICLE 15. With respect to their respective claims for an award, Landlord's claim shall be based upon and limited to the value of the Premises as unimproved and encumbered by this Lease, and Tenant's claim shall be based upon the value of its leasehold estate hereunder plus all Improvements and Off – Site Improvements constructed by Tenant (including severance damages) as well as Tenant's Personal Property, goodwill and relocation costs; provided, however, that in any event any award shall first be paid to any Mortgagee to the extent of the indebtedness owing under any Mortgage (and the amount of any award otherwise payable to Tenant shall be reduced by the amount thereof paid to any such Mortgagee).

15.2 Total Taking. If a Total Taking occurs, this Lease shall terminate as of the date of the Taking. Each Party shall be entitled to its award and other amounts paid on account of the Total Taking for its interest in the Premises and this Lease. With respect to such award and other amounts payable to Tenant, the same shall be paid to Tenant and any Mortgagee as provided in the Mortgage or other agreement between Tenant and such Mortgagee.

15.3 Partial Taking. If a Partial Taking occurs, this Lease shall terminate as to the portion of the Premises so taken and shall remain in effect as to the portion remaining (except that Rent shall abate as provided in section 15.5). In such case, Tenant shall promptly commence and complete repairs, restoration and rebuilding of the portion of the Premises and the Improvements remaining immediately after the Partial Taking to an architecturally complete and economically viable condition consistent with the then current Entitled Use. Tenant's obligations under this section 15.3 shall be performed by Tenant whether or not the awards, if any, or other payments on account of the Taking, if any, are sufficient to pay the costs to repair, restore and rebuild the Premises and the Improvements.

15.4 Temporary Taking. If a Temporary Taking of all or any part of the Improvements or the Premises occurs during the Term (i) this Lease shall not be affected in any way; (ii) Tenant shall continue to pay and perform all of its obligations hereunder; and (iii) any award made as a result of said Temporary Taking shall be paid solely to Tenant.

15.5 Abatement of Rent. If a Partial Taking occurs, then, during the period from the date the Partial Taking is effective until the next Appraisal Event occurs, Base Rent shall be equitably reduced based upon the Square Feet of the Premises and Improvements subject to such Partial Taking; and the Entitled Use shall thereafter reflect the Premises as reduced by such Partial Taking. All Additional Rent that is calculated by reference to the Square Feet of the

Improvements shall be reduced in the proportion that the Square Feet of the Improvements so taken bears to the total Square Feet of the Improvements immediately before such Partial Taking.

## ARTICLE 16

### Sale or Conveyance; Estoppel Certificates

16.1 Sale or Conveyance of the Property. If the original Landlord hereunder, or any successor owner of the Property, sells or conveys the Property, all liabilities and obligations on the part of the original Landlord, or such successor owner, under this Lease accruing after such sale or conveyance shall terminate and the original Landlord, or such successor owner, shall automatically be released therefrom, and thereupon all such liabilities and obligations shall be binding upon the new owner. Tenant agrees to attorn to such new owner.

### 16.2 Estoppel Certificates.

(a) At any time and from time to time, Tenant shall, within twenty (20) days after written request by Landlord, execute, acknowledge and deliver to Landlord a certificate certifying: (i) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect as modified, and stating the date and nature of each modification); (ii) the Commencement Date and the Expiration Date and the date, if any, to which all Rent and other sums payable hereunder have been paid; (iii) that no notice has been received by Tenant of any Event of Default by Tenant which has not been cured, except as to defaults specified in such certificate; (iv) that to the actual knowledge of the person signing such certificate, without investigation or inquiry, Landlord is not in default under this Lease, except as to defaults specified in such certificate; and (v) such other matters as may be reasonably requested by Landlord or any actual or prospective purchaser or mortgage lender. Any such certificate may be relied upon by Landlord and any actual or prospective purchaser or mortgage lender of the Property or any part thereof.

(b) At any time and from time to time, Landlord shall, within twenty (20) days after written request by Tenant or any Mortgage, execute and deliver to Tenant or such Mortgagee, a certificate certifying: (i) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect as modified, and stating the date and nature of each modification); (ii) the Commencement Date and the Expiration Date and the date, if any, to which all Rent and other sums payable hereunder have been paid; (iii) that no notice has been received by Landlord of any default by Landlord hereunder which has not been cured, except as to defaults specified in such certificate; (iv) that to the actual knowledge of the person signing such certificate, without investigation or inquiry, Tenant is not in default under this Lease, except as to defaults specified in such certificate; and (v) such other matters as may be reasonably requested by Tenant or any such existing or prospective Mortgagee, assignee or sublessee. Any such certificate may be relied upon by Tenant, any such existing or prospective Mortgagee, assignee or sublessee (or, if any Mortgagee has acquired Tenant's leasehold estate pursuant to ARTICLE 12, to a prospective transferee of such Mortgagee).

ARTICLE 17  
Notices

17.1 Method. Except as otherwise specifically provided in this Lease, all requests, approvals, consents, notices and other communications under this Lease shall be properly given only if made in writing and either deposited in the United States mail, postage prepaid, certified with return receipt requested, or delivered by hand (which may be through a messenger or recognized delivery, courier or air express service), and addressed to the applicable Party as specified in the **Basic Lease Information** (or to such other personnel or place as a Party may from time to time designate in a written notice to the other Party). Such requests, approvals, consents, notices and other communications shall be effective on the date: of receipt (evidenced by the certified mail receipt) if delivered by United States mail; or of hand delivery if hand delivered. If any such request, approval, consent, notice or other communication is not received or cannot be delivered due to a change in the address of the receiving Party of which notice was not previously given to the sending Party or due to a refusal to accept by the receiving Party, such request, approval, consent, notice or other communication shall be effective on the date delivery is attempted. Any request, approval, consent, notice or other communication under this Lease may be given on behalf of a Party by the attorney for such Party.

17.2 Close Calls and Mishaps.

(a) If, in Tenant's discretion, Tenant believes that a Close Call or Mishap may become highly visible outside of Tenant's or Guarantor's organization (such as by the media or a governmental agency), then Tenant shall promptly notify Landlord by telephoning the NASA Ames Safety, Health and Medical Services Division at 650 - 604 - 5602.

(b) In addition, if a Mishap involves the death of an employee, or the hospitalization for inpatient care of three (3) or more employees, then as soon as possible after the Mishap but in no event more than eight (8) hours after Tenant has knowledge of any such Mishap, Tenant shall notify both the Occupational Safety and Health Administration by telephoning the area office nearest the site of the Mishap or its toll - free number (800 - 321 - 6742), and the NASA Ames Safety, Health and Medical Services Division at 650 - 604 - 5602.

(c) The Center Director reserves the right to investigate any Mishap in accordance with Landlord's policies and procedures.

17.3 Current Officials. Landlord shall endeavor to deliver to Tenant notice of changes in the Center Director and the CBO; provided, however, Landlord shall not incur any liability as a result of its failure to do so.

ARTICLE 18  
Miscellaneous

18.1 General. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The words "approval," "consent," "notice" and "notification" shall be deemed to be preceded by the word "written." If there is more than one Tenant, the obligations hereunder imposed upon Tenant shall be joint and several. Time is of the

essence of this Lease and each and all of its provisions. This Lease shall benefit and bind Landlord and Tenant and the permitted personal representatives, heirs, successors and assigns of Landlord and Tenant. The liability of Tenant under this Lease shall survive the termination of this Lease with respect to acts or omissions that occur before such termination. If any provision of this Lease is determined to be illegal or unenforceable, such determination shall not affect any other provision of this Lease and all such other provisions shall remain in full force and effect. Article and section headings in this Lease are for convenience only and are not to be construed as a part of this Lease or in any way limiting or amplifying the provisions thereof.

18.2 Delay.

(a) Tenant shall not be considered in breach or default under this Lease (including Exhibit E) in the event of a delay in the performance of its obligations due to Force Majeure Delay or Landlord Delay, and the time or times for performance of Tenant under this Lease (including the times for Commencement of Construction specified in section 4.2) shall be extended for the period of such delay (including any remobilization or recovery period required as a consequence of such event of Force Majeure or Landlord Delay). Tenant shall give Landlord notice if Tenant becomes aware that a Landlord Delay has occurred or is in danger of occurring, and if Landlord takes appropriate measures to prevent such delay or to cure the effects of such delay to Tenant's satisfaction, in Tenant's reasonable discretion, within ten (10) business days after receipt of Tenant's notice, no Landlord Delay shall be deemed to have occurred. Notwithstanding the foregoing provisions of this section 18.2(a), no Force Majeure Delay or Landlord Delay shall operate to excuse, abate or delay Tenant's obligation to pay Rent except as specifically set forth in sections 6.2 or 6.3.

(b) Landlord shall not be considered in breach or default under this Lease (including Exhibit E) in the event of a delay in the performance of its obligations due to Force Majeure Delay, and the time or times for performance of Landlord under this Lease (including Exhibit E) shall be extended for the period of such delay.

18.3 Cooperation; Further Assurances. In light of the long – term nature of this Lease and the significant investments that the Parties will make over the Term, the Parties agree that they shall cooperate reasonably and in good faith in the conduct of the landlord/tenant relationship arising hereunder. The Parties agree to cooperate with each other to minimize adverse impacts to, and unreasonably interference with, the other Party's operations and activities on and about the Property or the Premises as the case may be. The Parties further acknowledge that this Lease and the proposed development of the Premises may generate public inquiries, including inquiries from the media, and the Parties agree to use best efforts to address such inquiries and coordinate responses, as appropriate. During the Term, the Parties agree to do such things, perform such acts, and make, execute, acknowledge and deliver such documents and agreements as may be reasonably necessary or proper to carry out the purpose and effect the terms of this Lease.

18.4 Dispute Resolution. If either Party believes that a dispute exists under this Lease, then such Party may elect to declare a dispute by delivering a Dispute Notice "" to the other Party. If a dispute is so declared, then Landlord's NASA Research Park Account Manager assigned to Tenant and Tenant's Project Manager/Director assigned to the Premises shall meet

and communicate (in person, by telephone, electronically or otherwise) as frequently as reasonably possible during the thirty (30) days following delivery of the Dispute Notice in a good faith effort to resolve the dispute. If such individuals are unable to resolve the dispute within that thirty (30) day period, then the dispute shall be referred to Landlord's Director of NASA Research Park and Tenant's Vice President of Real Estate and Workplace Services. Such individuals shall meet and communicate (in person, by telephone, electronically or otherwise) as frequently as reasonably possible during the thirty (30) days following referral of the dispute in a good faith effort to resolve the dispute. If such individuals are unable to resolve the dispute within that thirty (30) day period, then the dispute shall be referred to the Center Director and Tenant's Chairman and Chief Executive Officer (or their respective designees), who shall meet and communicate (in person, by telephone, electronically or otherwise) as frequently as reasonably possible during the thirty (30) days following referral of the dispute in a good faith effort to resolve the dispute. If such individuals are unable to resolve the dispute within that thirty (30) day period, then either Party may exercise any right or remedy set forth in this Lease or which is otherwise available at law or in equity.

18.5 No Waiver. The waiver by Landlord or Tenant of any breach of any covenant in this Lease shall not be deemed to be a waiver of any subsequent breach of the same or any other covenant in this Lease, nor shall any custom or practice which may grow up between Landlord and Tenant in the administration of this Lease be construed to waive or to lessen the right of Landlord or Tenant to insist upon the performance by Landlord or Tenant in strict accordance with this Lease. The subsequent acceptance of Rent hereunder by Landlord or the payment of Rent by Tenant shall not waive any preceding breach by Tenant of any covenant in this Lease, nor cure any Event of Default, nor waive any forfeiture of this Lease or unlawful detainer action, other than the failure of Tenant to pay the particular Rent so accepted, regardless of Landlord's or Tenant's knowledge of such preceding breach at the time of acceptance or payment of such Rent.

18.6 No Merger of Title. There shall be no merger of the leasehold estate created by this Lease with fee title to the Premises or any portion thereof by reason of the fact that the same person may own or hold both such leasehold estate and fee title. No such merger of title shall occur unless and until all persons, including any Mortgagee, with an interest in either the leasehold estate created by this Lease and fee title to the Premises shall join in a written instrument effecting such merger and shall duly record the same in the Official Records of Santa Clara County, California. The voluntary surrender of this Lease by Tenant to Landlord, or a mutual cancellation thereof, or the termination thereof by Landlord pursuant to any provision contained herein, shall not work a merger, but, at the option of Landlord, and subject to the terms of any applicable nondisturbance and attornment agreement, shall either terminate any or all existing subleases or subtenancies hereunder, or operate as an assignment to Landlord of any or all of such subleases or subtenancies.

18.7 No Third Party Beneficiary. Except for a Mortgagee (whose rights and obligations are specifically set forth in ARTICLE 12), this Lease shall not, nor be deemed nor construed to, confer upon any person or entity, other than the Parties hereto, any right or interest, including, without limiting the generality of the foregoing, any third party beneficiary status or any right to enforce any provision of this Lease.

18.8 Representations and Warranties of Tenant. Tenant hereby represents and warrants to Landlord as follows:

(a) Tenant is a limited liability company, duly formed and validly existing under the laws of the State of Delaware, and qualified to do business in the State of California.

(b) Tenant has the right, power, legal capacity and authority to enter into and perform its obligations under this Lease, and no approval or consent of any person is required in connection with Tenant's execution and performance of this Lease. The execution and performance of this Lease will not result in or constitute any default or event that would, with notice or lapse of time or both, be a default, breach or violation of the organizational instruments governing Tenant or any agreement or any order or decree of any court or other governmental authority to which Tenant is a party or to which it is subject.

(c) Tenant has taken all necessary action to authorize the execution, delivery and performance of this Lease and this Lease constitutes the legal, valid and binding obligation of Tenant.

(d) All individuals executing this Lease on behalf of Tenant represent that they are authorized to execute and deliver this Lease on behalf of that entity.

18.9 Exhibits. The exhibits and any other attachments specified in the **Basic Lease Information** are attached to and made a part of this Lease.

18.10 Broker(s). Each Party shall be responsible for the fees and commissions due to any broker or finder engaged by such Party, if any, in the consummation of the transaction contemplated by this Lease.

18.11 Waivers of Jury Trial and Certain Damages. Landlord and Tenant each hereby expressly, irrevocably, fully and forever releases, waives and relinquishes any and all right to trial by jury and any and all right to receive punitive, exemplary and consequential damages from the other (or any past, present or future member, trustee, director, officer, employee, agent, representative, or advisor of the other) with respect to any Claim as to which Landlord and Tenant are parties that in any way (directly or indirectly) arises out of, results from or relates to any of the following, in each case whether now existing or hereafter arising and whether based on contract or tort or any other legal basis: This Lease; any past, present or future act, omission, conduct or activity with respect to this Lease; any transaction, event or occurrence contemplated by this Lease; the performance of any obligation or the exercise of any right under this Lease; or the enforcement of this Lease. Landlord and Tenant reserve the right to recover actual or compensatory damages, with interest, attorneys' fees, costs and expenses as provided in this Lease, for any breach of this Lease.

18.12 Entire Agreement. There are no oral agreements between Landlord and Tenant affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, brochures, offers, agreements and understandings, oral or written, if any, between Landlord and Tenant, or displayed by Landlord to Tenant with respect to the subject matter of this Lease, the Premises or the Property; provided, however, this Lease does not supersede the



Umbrella Space Act Agreement or the Planning Space Act Agreement, which remain in force in accordance with their respective terms. There are no commitments, representations or assurances between Landlord and Tenant or between any real estate broker and Tenant other than those expressly set forth in this Lease and all reliance with respect to any commitments, representations or assurances is solely upon commitments, representations and assurances expressly set forth in this Lease. This Lease may not be amended or modified in any respect whatsoever except by an agreement in writing signed by Landlord and Tenant.

18.13 Governing Law. Except to the extent the same may be in conflict with the laws of the United States, the laws of the State of California shall govern the validity, construction and effect of this Lease. In instances where the laws of the United States refer to the laws of the state applicable to a transaction, such reference shall be made to the laws of the State of California, including California Civil Code §§1542, 1951.2 (as limited by the last sentence of section 13.2) and 1951.4.

18.14 Anti – Deficiency Act. Landlord's ability to perform its obligations under this Lease is subject to the availability of appropriated funds. Nothing in this Lease commits the United States Congress to appropriate funds for the purposes stated herein (pursuant to the Anti – Deficiency Act, 31 U.S.C. §1341).

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the date specified in the **Basic Lease Information**.

Tenant:

PLANETARY VENTURES, LLC, a Delaware  
limited liability company

By

\_\_\_\_\_  
David Radcliffe  
Manager

Landlord:

NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION, an Agency of  
the United States

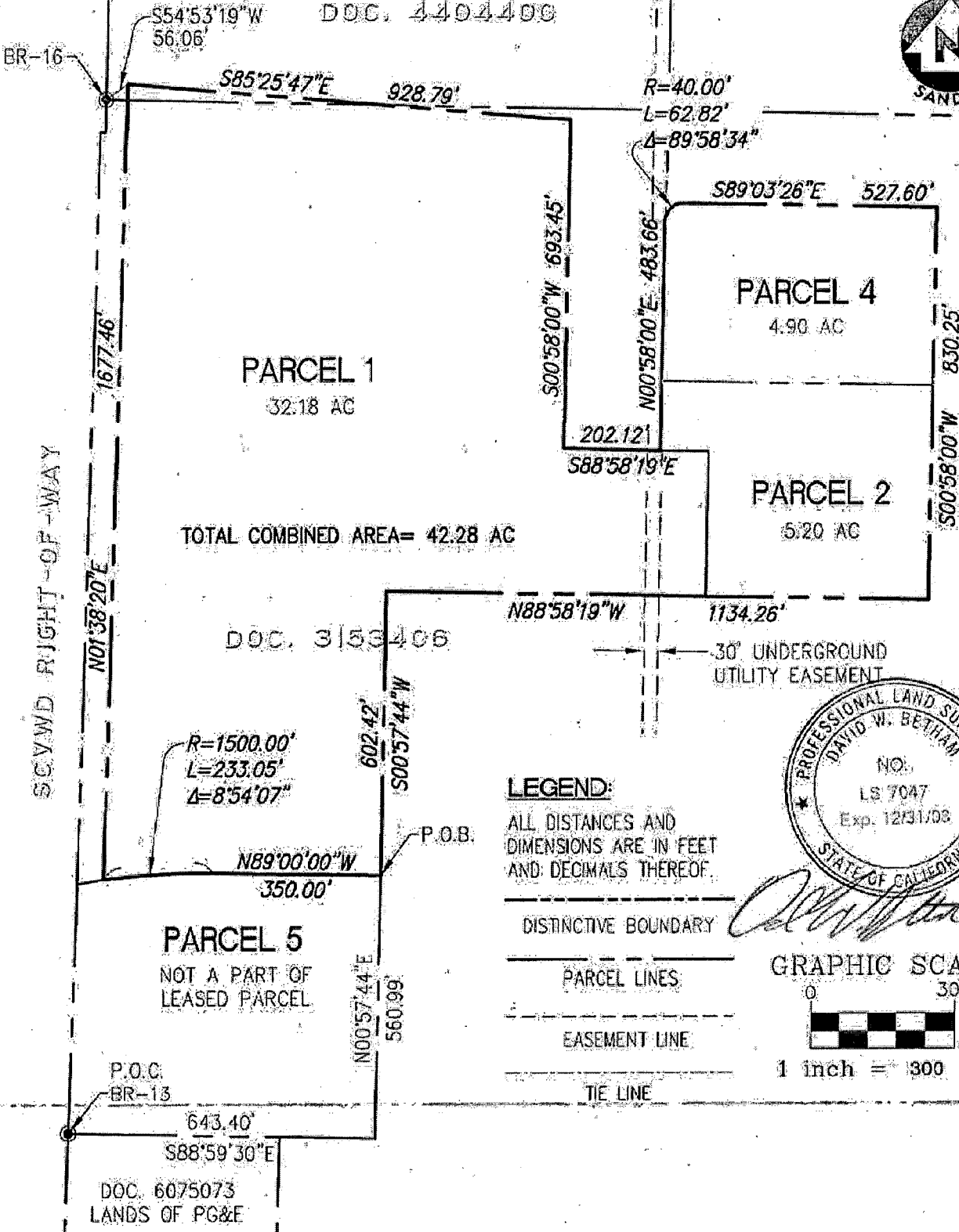
By

\_\_\_\_\_  
S. Pete Worden  
Director, Ames Research Center

## EXHIBIT A

### Diagrams

A diagram outlining the Premises and the legal description thereof is attached hereto as Exhibit A-1. A diagram outlining the Phase 1 Parcel and the Phase 2 Parcel is attached hereto as Exhibit A-2. Diagrams outlining the location of various portions of the Off – Site Improvements are collectively attached hereto as Exhibit A-3. These diagrams are used solely for the purpose of identifying the approximate location and size of the Premises and the other matters identified thereon. Building sizes, site dimensions, access, common areas and parking areas are subject to change.



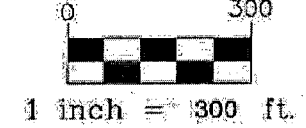
**LEGEND:**

ALL DISTANCES AND DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

- DISTINCTIVE BOUNDARY
- PARCEL LINES
- - - EASEMENT LINE
- TIE LINE



**GRAPHIC SCALE**



**BAY VIEW CAMPUS PROJECT NASA AMES CAMPUS**

PLAT TO ACCOMPANY LEGAL DESCRIPTION  
CONFIDENTIAL FOR INTERNAL USE ONLY, NOT FOR PUBLIC VIEWING

<p><b>SANDIS</b> CIVIL ENGINEERS SURVEYORS PLANNERS</p> <p>605 Castro Street   Mountain View, CA 94041   P: 650.969.6909   F: 650.969.6472   www.sandis.com</p> <p>MOUNTAIN VIEW    ROSEVILLE    OAKLAND</p>	DATE: 02/07/08 SCALE: 1"=300' DRAWN BY: SLK APPROVED BY: DW3 DRAWING NO.: 206122	LEASEHOLD SITE <b>MOFFET FIELD NASA</b> MOUNTAIN VIEW CALIFORNIA	EXHIBIT <b>A1</b>
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**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**BAY VIEW CAMPUS (WESTERN PORTION) – LEASEHOLD SITE  
MOFFETT FEDERAL AIRFIELD - MOUNTAIN VIEW, CALIFORNIA**

ALL THAT CERTAIN REAL PROPERTY LYING IN SECTION 10, TOWNSHIP 6 SOUTH, RANGE 2 WEST, MOUNT DIABLO BASE AND MERIDIAN, IN THE CITY OF MOUNTAIN VIEW, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING PORTIONS OF THE LANDS DESCRIBED IN DOCUMENT NUMBERS 3153406 AND 4404400, OFFICIAL RECORDS OF SANTA CLARA COUNTY, AND ALSO BEING A PORTION OF THE 1924.12 ACRE PARCEL SHOWN ON THE RECORD OF SURVEY FOR MOFFETT FIELD, AS FILED APRIL 20, 2000, IN BOOK 726 OF MAPS, AT PAGES 33-43, SANTA CLARA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT MONUMENT BR-13, AS SHOWN ON SAID RECORD OF SURVEY, SAID MONUMENT BEING THE NORTHWEST CORNER OF THE LANDS OF PACIFIC GAS AND ELECTRIC COMPANY, AS DESCRIBED IN DOCUMENT NO. 6075073, SANTA CLARA COUNTY RECORDS;

THENCE SOUTH 88°59'30" EAST ALONG THE NORTH OF SAID LANDS DESCRIBED IN DOCUMENT NO. 6075073 AND THE EASTERLY PROJECTION THEREOF, A DISTANCE OF 643.40 FEET;

THENCE NORTH 00°57'44" EAST A DISTANCE OF 560.99 FEET TO THE POINT OF BEGINNING;

THENCE FROM SAID POINT, NORTH 89°00'00" WEST A DISTANCE OF 350.00 FEET TO A POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE SOUTH;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE, TO THE LEFT, WITH RADIUS OF 1500.00 FEET AND CENTRAL ANGLE OF 08°54'07", FOR AN ARC DISTANCE OF 233.05 FEET;

THENCE NORTH 01°38'20" EAST A DISTANCE OF 1677.46 FEET TO A POINT, FROM WHICH MONUMENT BR-16, AS SHOWN ON SAID RECORD OF SURVEY FOR MOFFETT FIELD, BEARS SOUTH 54°53'19" WEST A DISTANCE OF 56.06 FEET;

THENCE CONTINUE SOUTH 85°25'47" EAST A DISTANCE OF 928.79 FEET;

THENCE SOUTH 00°58'00" WEST A DISTANCE OF 693.45 FEET;

THENCE SOUTH 88°58'19" EAST A DISTANCE OF 202.12 FEET;

THENCE NORTH 00°58'00" EAST A DISTANCE OF 483.66 FEET TO A POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE SOUTHEAST;

THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, WITH RADIUS OF 40.00 FEET AND CENTRAL ANGLE OF 89°58'34", FOR AN ARC DISTANCE OF 62.82 FEET TO A POINT OF TANGENCY;

THENCE SOUTH 89°03'26" EAST A DISTANCE OF 527.60 FEET;

THENCE SOUTH 00°58'00" WEST A DISTANCE OF 830.25 FEET;

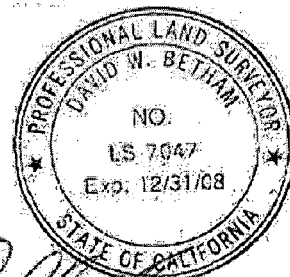
THENCE NORTH 88°58'19" WEST A DISTANCE OF 1134.26 FEET;

THENCE SOUTH 00°57'44" WEST A DISTANCE OF 602.42 FEET TO THE POINT OF BEGINNING.

CONTAINING A TOTAL AREA OF 42.28 ACRES, MORE OR LESS.

FILE: LEASED AREA 020608.doc

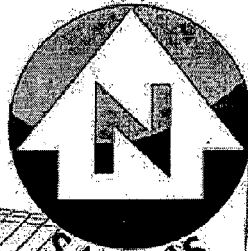
February 6, 2008



A handwritten signature in black ink, appearing to read "David W. Betham", written over the bottom portion of the professional seal.



1 inch = 300 feet



WEST PERIMETER ROAD

PARCEL B

PARCEL A

PARCEL	SQ. FT.	ACRES
A	835,010	19.17
B	1,006,702	23.11

BAY VIEW CAMPUS PROJECT NASA AMES CAMPUS

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**SANDIS**

CIVIL ENGINEERS  
SURVEYORS  
PLANNERS

665 Castro Street | Mountain View, CA 94031 | P. 650.960.6900 | F. 650.969.6472 | www.sandis.net

MOUNTAIN VIEW      ROSEVILLE      OAKLAND

DATE: 02-07-08  
SCALE: 1"=300'  
DRAWN BY: DM  
CHECKED BY: BC  
DRAWING NO.:  
206122

**BAY VIEW PARCEL  
MAP  
PARCELS A AND B**

EXHIBIT

**A2**

C:\p\206122\GAP\CONTRACT\NASA\EXHIBIT\PARCELS\PARCEL2A.dwg Date: Feb 06, 2008 - 3:52pm skubick

EXHIBIT "A"

LEGAL DESCRIPTION

**BAY VIEW CAMPUS (WESTERN PORTION) – PARCEL A  
MOFFETT FEDERAL AIRFIELD - MOUNTAIN VIEW, CALIFORNIA**

ALL THAT CERTAIN REAL PROPERTY LYING IN SECTION 10, TOWNSHIP 8 SOUTH, RANGE 2 WEST, MOUNT DIABLO BASE AND MERIDIAN, IN THE CITY OF MOUNTAIN VIEW, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING PORTIONS OF THE LANDS DESCRIBED IN DOCUMENT NUMBERS 3153406 AND 4404400, OFFICIAL RECORDS OF SANTA CLARA COUNTY, AND ALSO BEING A PORTION OF THE 1924.12 ACRE PARCEL SHOWN ON THE RECORD OF SURVEY FOR MOFFETT FIELD, AS FILED APRIL 20, 2000, IN BOOK 726 OF MAPS, AT PAGES 33-43, SANTA CLARA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT MONUMENT BR-13, AS SHOWN ON SAID RECORD OF SURVEY, SAID MONUMENT BEING THE NORTHWEST CORNER OF THE LANDS OF PACIFIC GAS AND ELECTRIC COMPANY, AS DESCRIBED IN DOCUMENT NO. 6075073, SANTA CLARA COUNTY RECORDS;

THENCE SOUTH 88°59'30" EAST ALONG THE NORTH OF SAID LANDS DESCRIBED IN DOCUMENT NO. 6075073 AND THE EASTERLY PROJECTION THEREOF, A DISTANCE OF 643.40 FEET;

THENCE NORTH 00°57'44" EAST A DISTANCE OF 560.99 FEET;

THENCE NORTH 89°00'00" WEST A DISTANCE OF 350.00 FEET TO A POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE SOUTH;

THENCE WESTERLY ALONG THE ARC OF SAID CURVE, TO THE LEFT, WITH RADIUS OF 1500.00 FEET AND CENTRAL ANGLE OF 08°54'07", FOR AN ARC DISTANCE OF 233.05 FEET;

THENCE NORTH 01°38'20" EAST A DISTANCE OF 1677.46 FEET TO A POINT, FROM WHICH MONUMENT BR-16, AS SHOWN ON SAID RECORD OF SURVEY FOR MOFFETT FIELD, BEARS SOUTH 54°53'19" WEST A DISTANCE OF 56.06 FEET;

THENCE FROM SAID POINT, SOUTH 85°25'47" EAST A DISTANCE OF 628.74 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE SOUTH 85°25'47" EAST A DISTANCE OF 300.05 FEET

THENCE SOUTH 00°58'00" WEST A DISTANCE OF 693.45 FEET;

THENCE SOUTH 88°58'19" EAST A DISTANCE OF 202.12 FEET;

THENCE NORTH 00°58'00" EAST A DISTANCE OF 483.66 FEET TO A POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE SOUTHEAST;

THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, TO THE RIGHT, WITH RADIUS OF 40.00 FEET AND CENTRAL ANGLE OF 89°58'34", FOR AN ARC DISTANCE OF 62.82 FEET TO A POINT OF TANGENCY;

THENCE SOUTH 89°03'26" EAST A DISTANCE OF 527.60 FEET;

THENCE SOUTH 00°58'00" WEST A DISTANCE OF 830.25 FEET;

THENCE NORTH 88°58'19" WEST A DISTANCE OF 1070.25 FEET;

THENCE NORTH 01°01'41" EAST A DISTANCE OF 1017.75 FEET TO THE POINT OF BEGINNING.

CONTAINING A TOTAL AREA OF 19.17 ACRES, MORE OR LESS.  
FILE: PARCEL A-020608.doc  
February 6, 2008



A handwritten signature in black ink, appearing to read "David W. Betham", written over the bottom portion of the professional seal.

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**BAY VIEW CAMPUS (WESTERN PORTION) - PARCEL B  
MOFFETT FEDERAL AIRFIELD - MOUNTAIN VIEW, CALIFORNIA**

ALL THAT CERTAIN REAL PROPERTY LYING IN SECTION 10, TOWNSHIP 6 SOUTH, RANGE 2 WEST, MOUNT DIABLO BASE AND MERIDIAN, IN THE CITY OF MOUNTAIN VIEW, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING PORTIONS OF THE LANDS DESCRIBED IN DOCUMENT NUMBERS 3153406 AND 4404400, OFFICIAL RECORDS OF SANTA CLARA COUNTY, AND ALSO BEING A PORTION OF THE 1924.12 ACRE PARCEL SHOWN ON THE RECORD OF SURVEY FOR MOFFETT FIELD, AS FILED APRIL 20, 2000, IN BOOK 726 OF MAPS, AT PAGES 33-43, SANTA CLARA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE SOUTH 88°59'30" EAST ALONG THE NORTH OF SAID LANDS DESCRIBED IN DOCUMENT NO. 6075073 AND THE EASTERLY PROJECTION THEREOF, A DISTANCE OF 643.40 FEET;

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THENCE WESTERLY ALONG THE ARC OF SAID CURVE, TO THE LEFT, WITH RADIUS OF 1500.00 FEET AND CENTRAL ANGLE OF 08°54'07", FOR AN ARC DISTANCE OF 233.05 FEET;

THENCE NORTH 01°38'20" EAST A DISTANCE OF 1677.46 FEET TO A POINT, FROM WHICH MONUMENT BR-16, AS SHOWN ON SAID RECORD OF SURVEY FOR MOFFETT FIELD, BEARS SOUTH 54°53'19" WEST A DISTANCE OF 56.06 FEET;

THENCE FROM SAID POINT, SOUTH 85°25'47" EAST A DISTANCE OF 628.74 FEET;

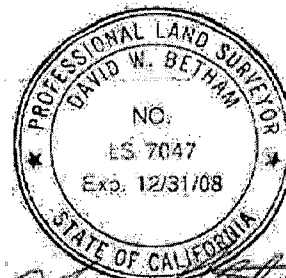
THENCE SOUTH 01°01'41" WEST A DISTANCE OF 1017.75 FEET;

THENCE NORTH 88°58'19" WEST A DISTANCE OF 64.01 FEET;

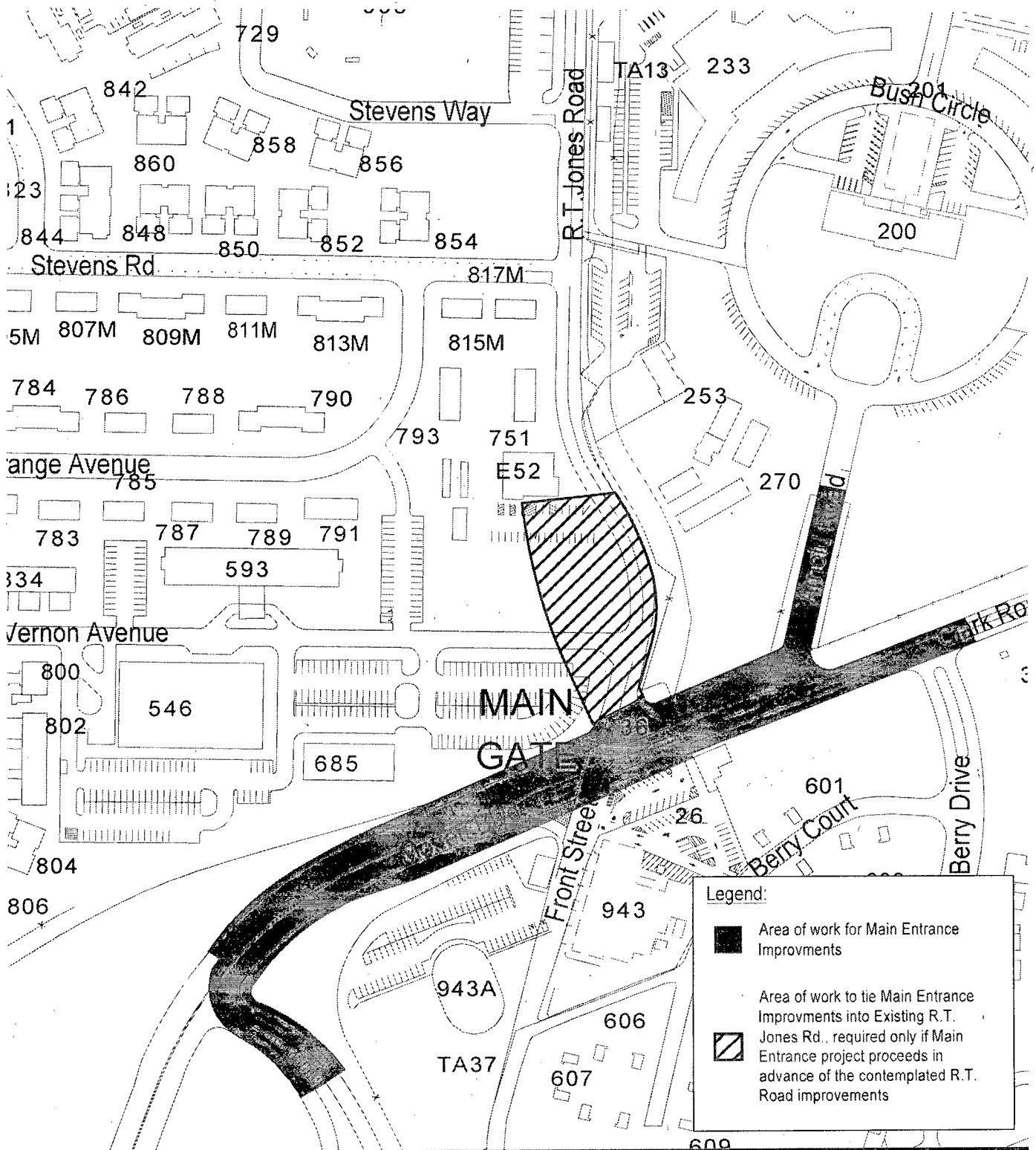
THENCE SOUTH 00°57'44" WEST A DISTANCE OF 602.42 FEET TO THE POINT OF BEGINNING;

CONTAINING A TOTAL AREA OF 23.11 ACRES, MORE OR LESS.

FILE: PARCEL B-020608.doc  
February 8, 2008



A handwritten signature in black ink, appearing to read "David W. Betham", written over the bottom portion of the professional seal.



**NASA AMES RESEARCH CENTER**

Moffett Federal Airfield, California

PROJECT:

**NASA Main Entrance  
(Area of Improvements)**

EXHIBIT:

**A-3.1**

DATE:

**12 MAY 08**

SCALE:

**NOT TO SCALE**

REFERENCE:

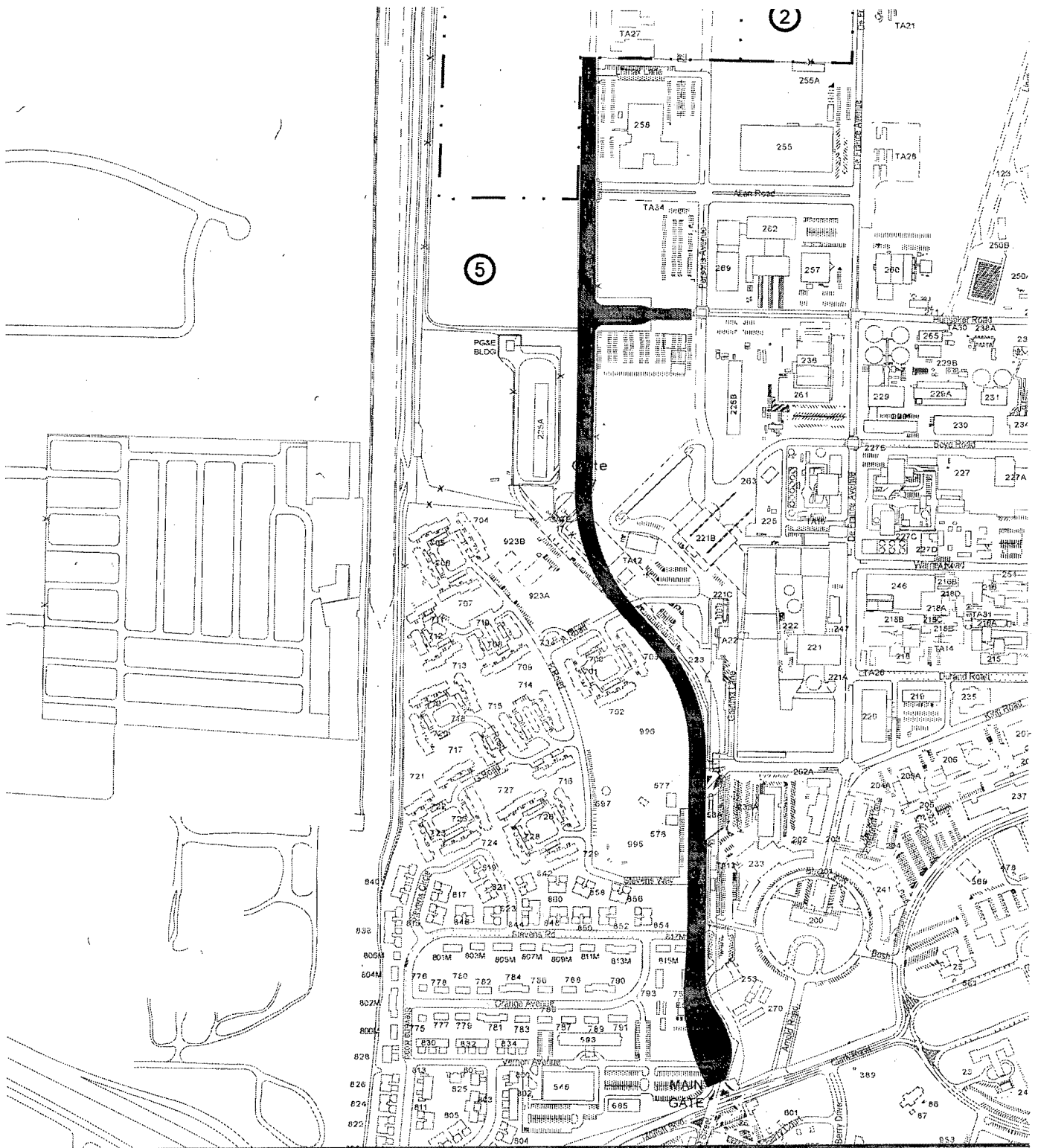
**CMP-Preferred-GGL3.dwg**

DMJM DESIGN | AECOM

405 WILSON AVENUE SUITE 400  
SAN FRANCISCO, CA 94107-4000  
TEL: 415.764.2200 FAX: 415.764.4937

SAN FRANCISCO OFFICE  
www.dmjmdesign.com





**NASA AMES RESEARCH CENTER**

Moffett Federal Airfield, California

PROJECT: **R.T. Jones Road  
(Area of Improvements)**

EXHIBIT: **A-3.2**

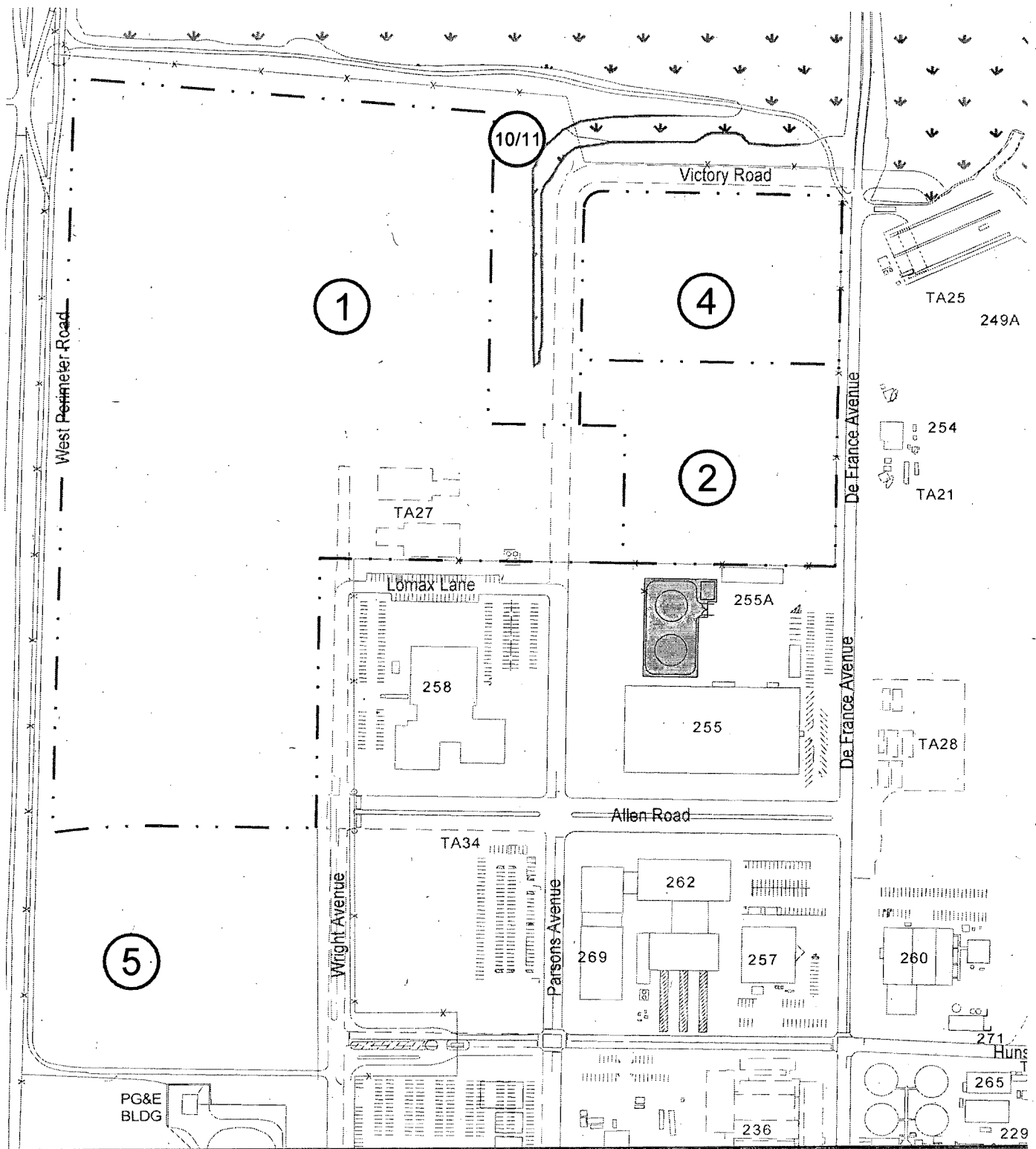
DATE:  
**12 MAY 08**

SCALE:  
NOT TO SCALE

REFERENCE:  
**CMP-Preferred-GGL3.dwg**

DMJM DESIGN | AECOM

400 SEPULCRAL AVENUE, SUITE 400, SAN FRANCISCO, CALIFORNIA 94134  
Tel: 415.764.2200 | Fax: 415.764.2857 | www.dmjmdesign.com | www.aecom.com



**NASA AMES RESEARCH CENTER**

Moffett Federal Airfield, California

PROJECT:  
Water Storage - Bay View and Ames  
(Area of Improvements)

EXHIBIT:  
**A-3.3**

DATE:  
12 MAY 08

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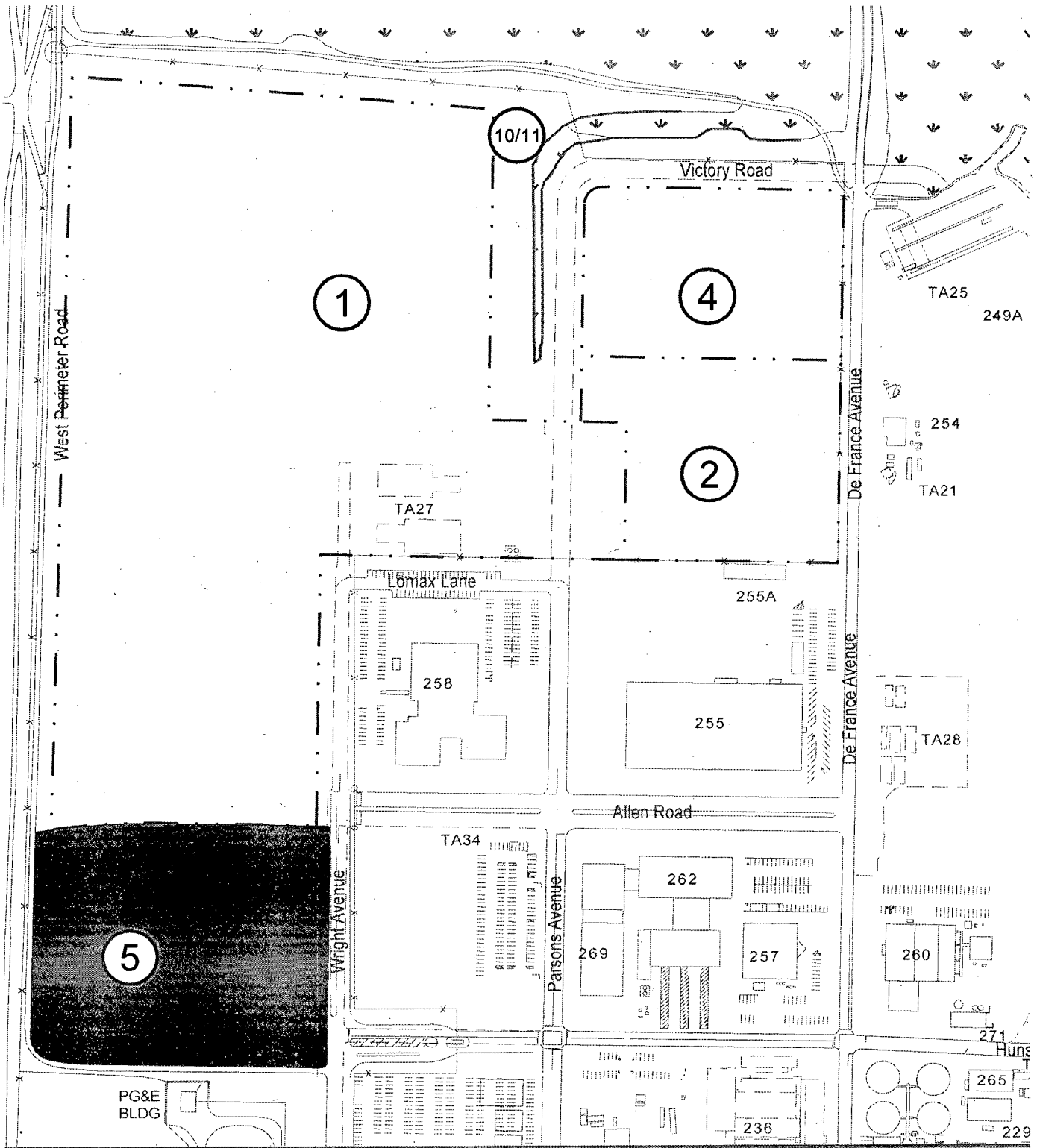
400 TECHNOLOGY CENTER SUITE 400  
DUBLIN, CA 94568  
WWW.DMJMDESIGN.COM

600 FRANCISCO CALIFORNIA 94556  
WWW.AECOM.COM

B-2 (H)  
B-7 (F)

B-2 (H)

B-7 (F)



**NASA AMES RESEARCH CENTER**

Moffett Federal Airfield, California

PROJECT:  
Park and Recreation Improvements  
(Area of Improvements)

EXHIBIT:  
**A-3.6**

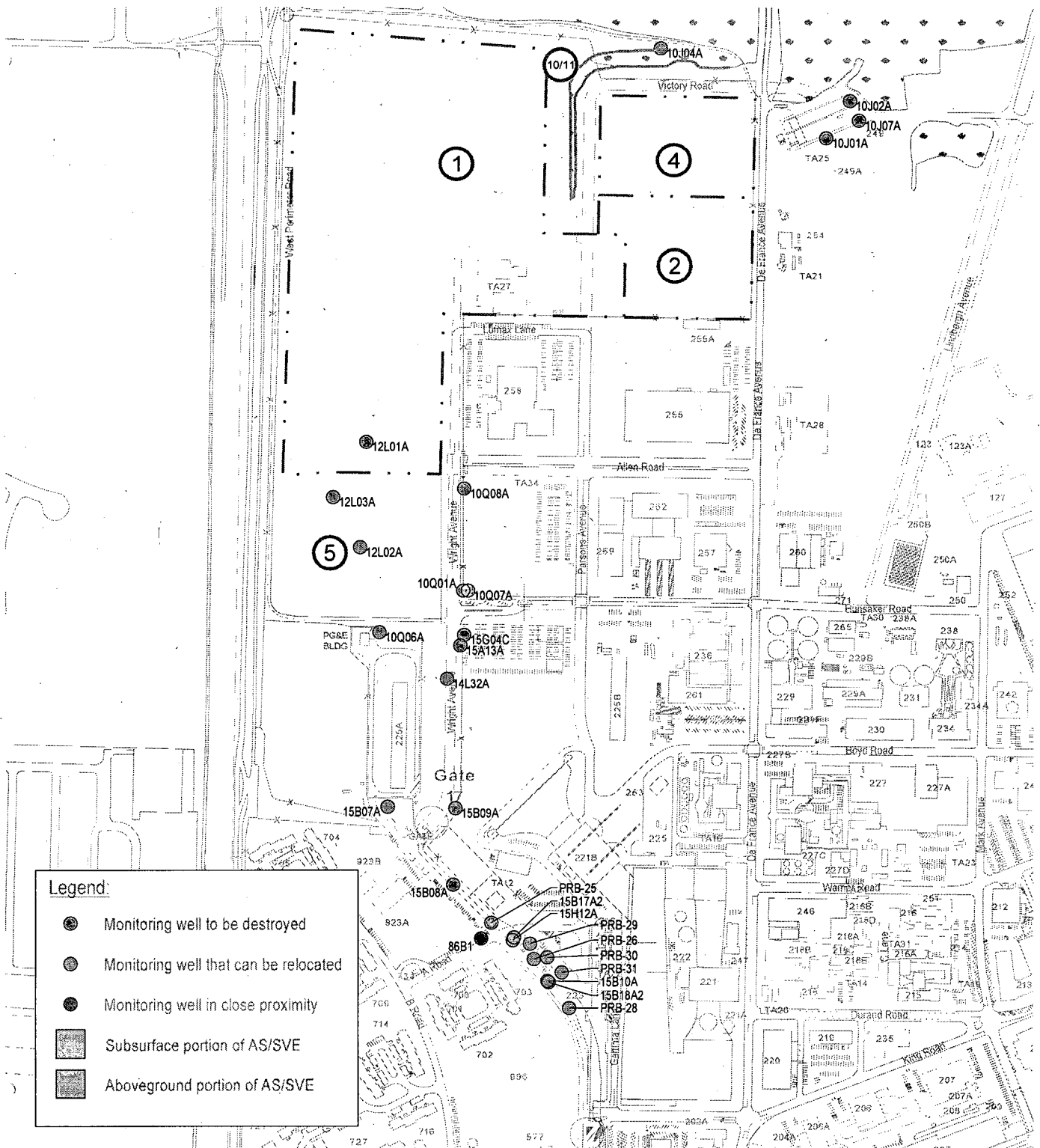
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REFERENCE:  
CMP-Preferred-GGL3.dwg

DMJM DESIGN | AECOM

SCALE:  
NOT TO SCALE

405 SERRANO AVENUE, SUITE 400, SAN FRANCISCO, CALIFORNIA 94115  
Tel: 415 358 2200 Fax: 415 358 2400  
www.dmjmdesign.com www.aecom.com



**Legend:**

- Monitoring well to be destroyed
- Monitoring well that can be relocated
- Monitoring well in close proximity
- ▨ Subsurface portion of AS/SVE
- ▨ Aboveground portion of AS/SVE

- PRB-25
- PRB-29
- PRB-26
- PRB-30
- PRB-31
- 15B10A
- 15B18A2
- PRB-28

**NASA AMES RESEARCH CENTER**

Moffett Federal Airfield, California

PROJECT:  
Monitoring Wells in PV Development Area  
(Area of Improvements)

EXHIBIT:  
**A-3.7**

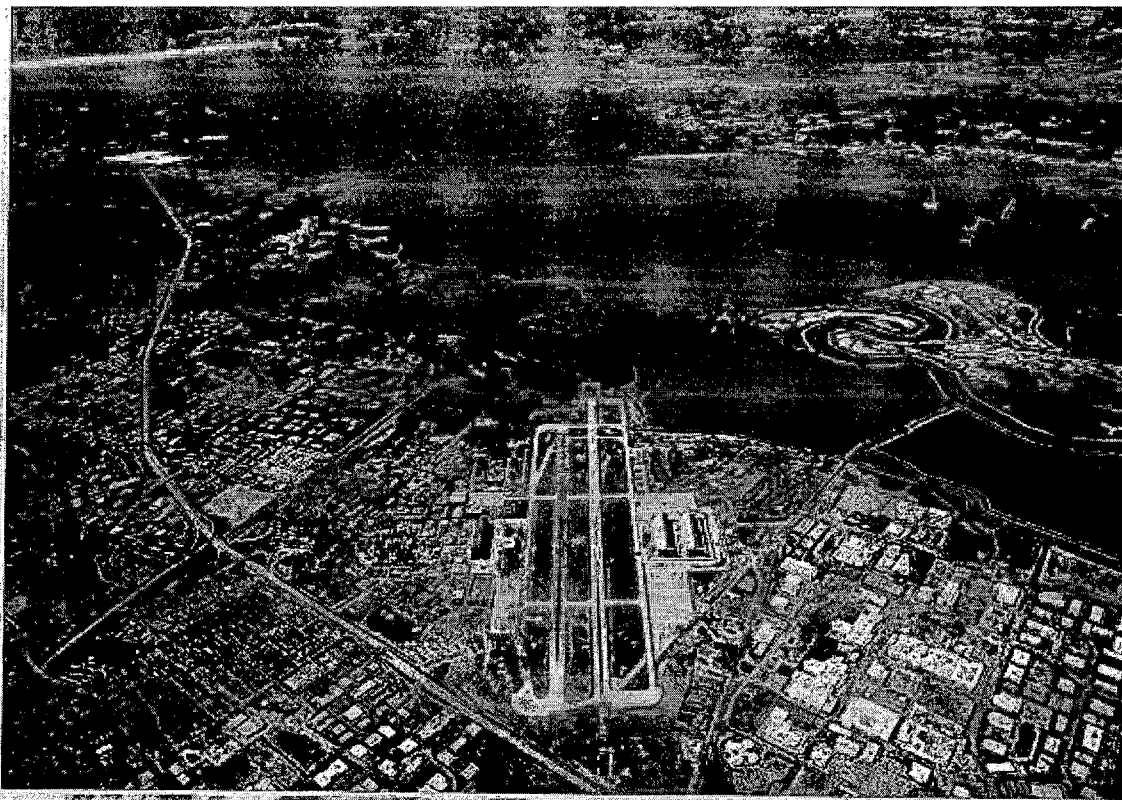
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# BAY VIEW CONCEPT DEVELOPMENT PLAN

May 12, 2008



Aerial view of NASA Ames Research Center

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  - e. Site Improvement and Landscape
  - f. Constraints and Opportunities
  - g. Site Development Strategies



## 1. EXECUTIVE SUMMARY

The following planning guidelines will outline the planned development of the Bay View Campus on the NASA Ames Research Center (the "Project"). This document reflects the corporate goals and objectives of the Project as well as the commitment to develop a campus that is a model of sustainable design. The development plan is based on the parameters established in the NASA Ames Development Plan Final Programmatic Environmental Impact Statement (July 2002) (the "EIS") including the mitigation measures adopted by NASA in connection with the EIS that are applicable to the Bay View District (the "Bay View Mitigation Implementation and Monitoring Plan" or "Bay View MIMP") and the NASA Ames Research Center Master Plan (July 28, 2006).

## 2. PROJECT OBJECTIVES

The Project will feature an environmentally responsible design and operations that provide a very high quality of life for the employees. The following objectives have been established for the new campus development at NASA Ames:

- Create an integrated campus plan to incorporate projected growth.
- Create a campus that will facilitate a dynamic and creative work culture.
- Provide convenient on-campus support services for employees.
- Foster sustainability.
- Create a landscape plan complementary to resources in the area to integrate the campus with Bay View's native vegetation and hydrology.
- Satisfy parking requirement entirely on the site predominantly with structured parking, to minimize visual impact.
- Utilize a landscape plant palette drawn from the regional landscape and compliant with the Bay View Mitigation Implementation and Monitoring Plan ("Bay View MIMP").
- Incorporate sustainable storm water management strategies within the open space plan

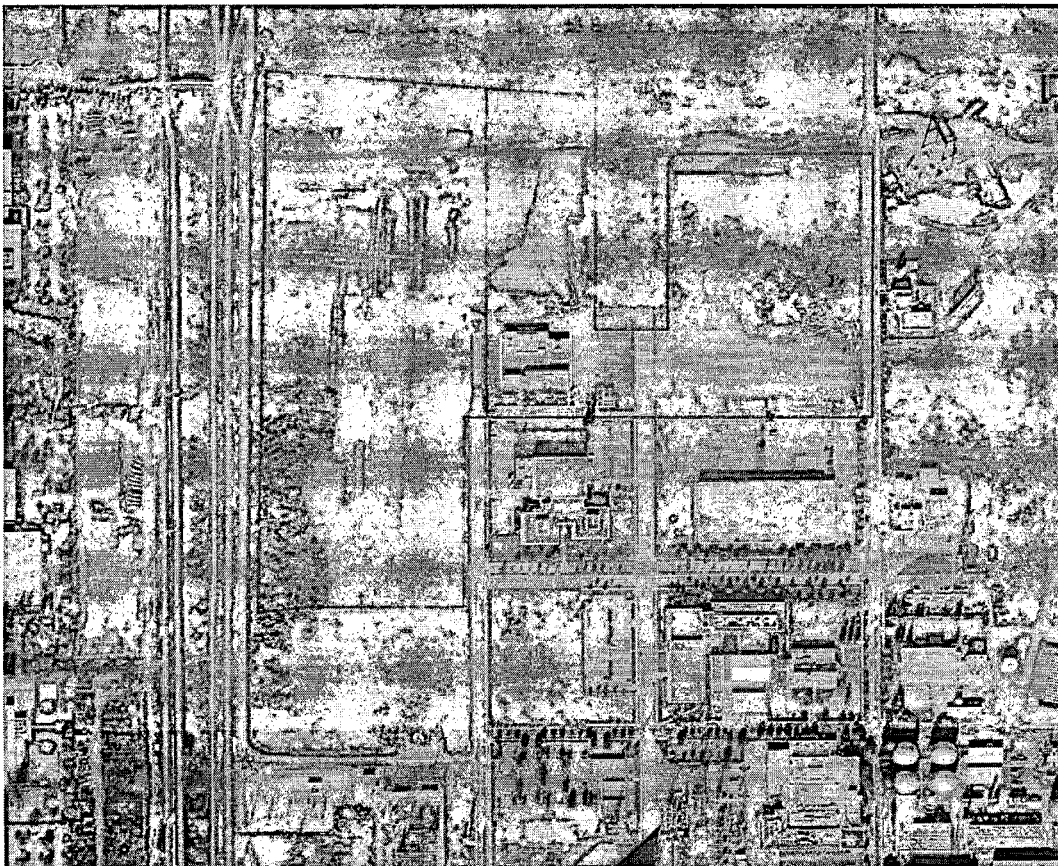


Figure 1: Bay View Concept Development Plan – Site Aerial Photograph

### 3. PROJECT SCOPE

#### a. Project Narrative

The Bay View Conceptual Development Plan will incorporate the features and constraints identified for the NASA ARC Bay View District as described in the EIS and the NASA Ames Development Plan ("NADP"). The planning concept is to organize the Project's office uses as a campus at the terminus of a "green belt" corridor that runs east-west across through the center of the Bay View District. The corridor will serve as a visual and functional extension of the greenbelt corridor and provide vistas and access to the Stevens Creek trail. The corridor establishes a framework and order for a cohesive plan for both the office campus and the adjacent residential neighborhood. It also provides an important open space and storm water management area. The office buildings will range from three to five stories above finish grade and will create an urban and pedestrian-friendly environment.

The Project's Conceptual Development Plan creates a campus framework that connects a series of quad-like building clusters with an open space and pedestrian network. Features of the building quads include:

- The office buildings within each quad will range in height from 3 to 5 stories.
- The maximum building height at top of parapet is 95 feet above grade. The maximum height of roof mechanical equipment is 105 feet above finish grade.
- Each campus quad will have a mixed range of dining and other employee amenities and services.

The following is a summary of the project land use specified by the Bay View Parcel Map, NASA Ames Research Center (DMJM DESIGN/AECOM, 18 JAN 2008) See figures 2 & 3.

#### PREMISES PHASE ONE

PARCEL	PARCEL AREA (SF)	ACRES
<b>A</b>	835,010	19.17
Office/R&D		
Open Space		
<b>Sub Total</b>		<b>19.17</b>

#### PREMISES PHASE TWO

PARCEL	PARCEL AREA (SF)	ACRES
<b>B</b>	1,006,702	23.11
Office/R&D		
<b>Sub Total</b>		<b>23.11</b>

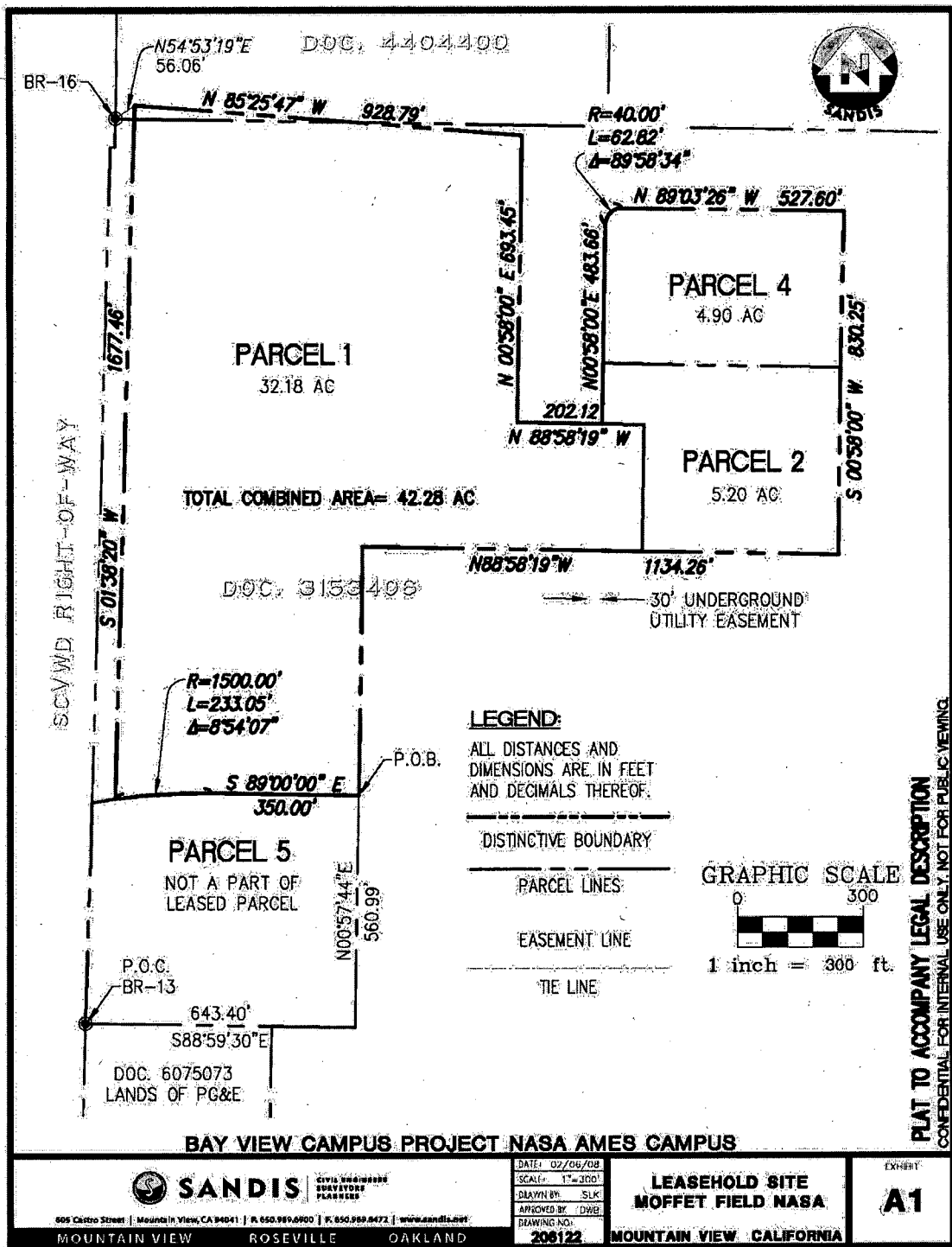


Figure 2: Lease Hold Site – Moffet Field NASA – Exhibit A1 (Sandis, 6 FEB 2008)

**b. Projected Population – Personnel**

The projected population of the Bay View Campus is approximately [REDACTED] time employees. The company culturally allows flexible working hours, and the Campus will operate 24 hours a day and seven days a week.

BY

**4. SITE DESCRIPTION**

**a. Introduction**

The Bay View Campus site is located in the northwest section of NASA Ames Research Center in the area identified as the Bay View District in the NASA Ames Research Center Master Plan. The Bay View Development Plan affects approximately 56.8 acres (See Figure 4) and includes the land in parcels 1, 2, 4, 5, 10 and 11 (the Bay View District). It should be noted that 42.28 of the total 56.8 acres will comprise the Bay View Campus. (See figures 2 & 3)

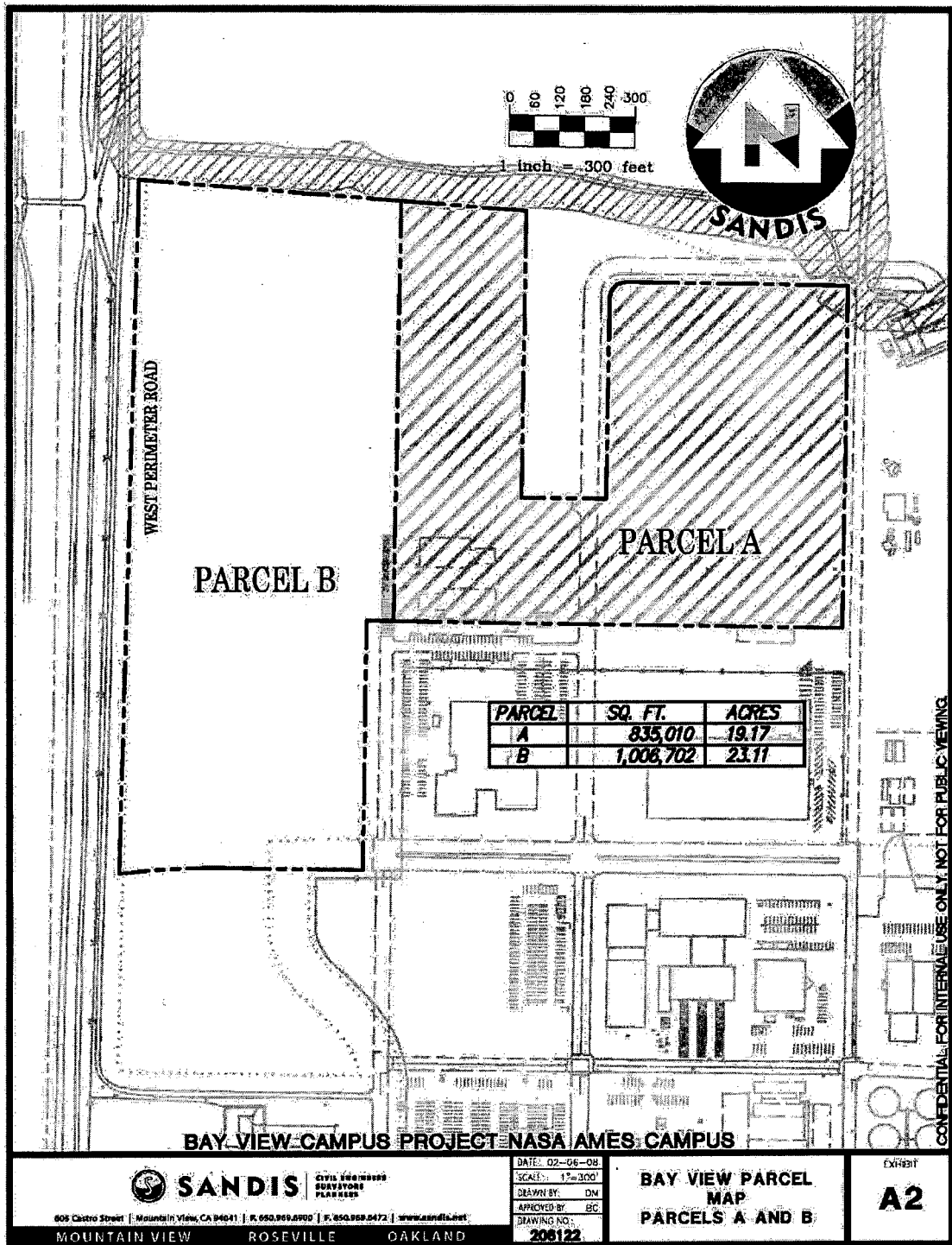


Figure 3: BAY VIEW PARCEL MAP, PARCELS A AND B, Sandis –Exhibit A2 (6 FEB 2008)

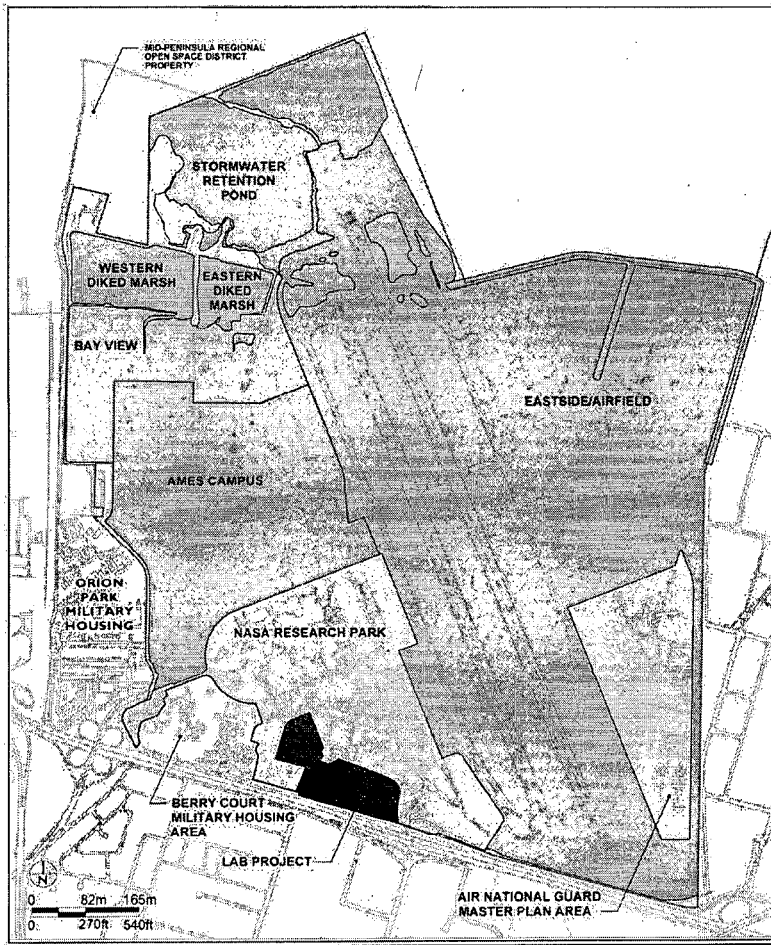
BAY VIEW  
 CONCEPT DEVELOPMENT PLAN

5/12/2008

**b. Planning Context**

The planning of the Bay View Campus is governed by this plan in the context of the parameters established in the NASA Ames Development Plan (July 2002) and the NASA Ames Research Center Master Plan (July 28, 2006) as revised in June 2007, the EIS and the Bay View MIMP. Design review of the Project will be conducted in accordance with Ames Policy Directive 8822:1 NASA Research Park Design Review Program (April 2004).

**c. Existing Site Conditions**



**DEVELOPMENT AREAS**  
NASA AMES RESEARCH CENTER  
NASA AMES DEVELOPMENT PLAN, FINAL EIS

Figure 4: DEVELOPMENT AREAS, NASA AMES DEVELOPMENT PLAN

**i. Environmentally Sensitive Features**

**Wetlands** The Project is obligated to comply with the Bay View MIMP which incorporates mitigation measures adopted by NASA relating to the Bay View District. The Bay View MIMP includes a large number of mitigation measures. Some of these relate to the protection of the wetlands from any impacts that would be caused by the development of the Bay View Campus, the protocols for development in a floodplain and a management plan for the burrowing owls. Wetlands are located north of the proposed development area. A 200 foot buffer zone has been established between the wetlands and the boundary of the development area. Storm water management concepts developed for the Bay View site will comply with the regulatory restrictions of the Bay View MIMP. The South Bay Salt Pond Restoration project is along the northern perimeter of NASA ARC. The goals of this restoration project include: restoration and enhancement of the former salt ponds, to provide wetland habitat, flood management, and public access and recreation.

**Floodplain** The majority of the site is designated as Flood Zone AE which means that the land falls within the 100 year floodplain and requires a base flood elevation. The base flood elevation for the site is set at 8.0 feet above mean sea level. In accordance with the EIS, the ground floor level for all new structures has been raised to an elevation of 9 feet with external grade at 7.5 feet. Some redistribution of fill is permitted in the Bay View district, but no new import of fill is permitted. Some roadway ponding and retention is allowed on the site to avoid redistribution of water levels at other locations.

**Burrowing Owl** The Bay View Campus will be developed in accordance with the Bay View MIMP. The EIS provided specific guidelines for mitigation of impacts to the burrowing owls during construction which have been incorporated into the Bay View MIMP. Additional measures for the preservation of the endangered Burrowing Owl sites are contained in the Burrowing Owl Habitat Management Plan (BOHMP).

**ii. Human-Made Conditions**

**Noise** The site may be exposed to high levels of noise - from the wind tunnels, arc jets, airfield operations, aerodynamic research, and traffic. Most of the site is located within an area of less than 65 db annual noise exposure that is acceptable for commercial uses. The easternmost portion of the site is above 65 db annual noise exposure that is also acceptable for commercial uses. (See figure 5) Mitigation measures incorporated into the design of the site and buildings is required to achieve appropriate Noise Level (DNL1) Ratios.



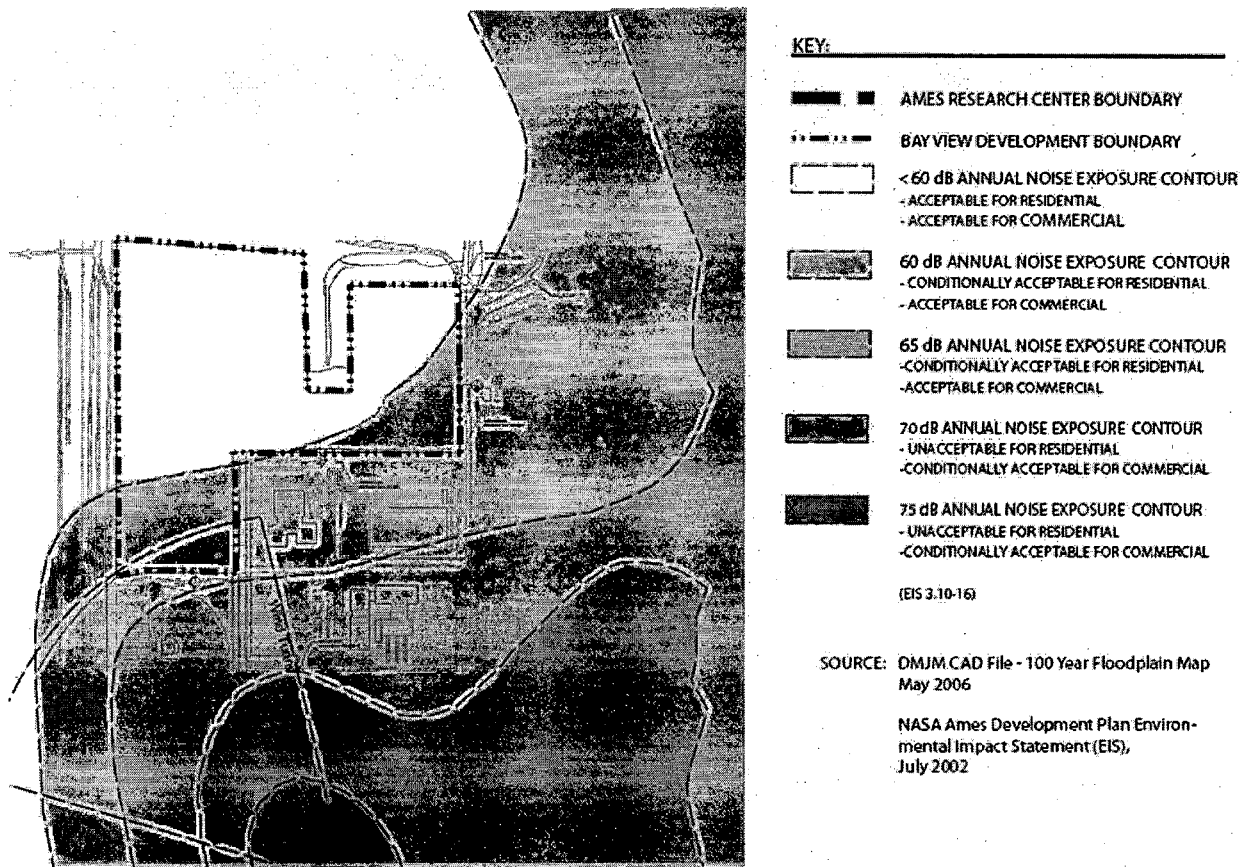


Figure 5: BAY VIEW Noise Analysis based on NASA Ames Development Plan Environmental Impact Statement (EIS), (EIS 3.10-16)

### iii. Circulation

**Transportation/Vehicular Access** - The NASA ARC Master Plan includes a single roadway connection – R.T. Road/Wright Avenue – to the northern portion of NASA ARC. The proposed development in the northern portion of the site will increase vehicle traffic on this connection. Therefore, it may be desirable to increase the number of vehicle connections serving the area to add capacity, distribute trips and improve emergency access.

**Transportation Demand Management (TDM)** – The NASA Research Park ("NRP") project description in the EIS (July 2000) included a forward thinking TDM Program that would be implemented in as part of the NASA Ames Development Plan. The TDM program's objective is to reduce single occupant vehicles trips by 22 percent. A Bay View TDM Plan will be developed as part of the Bay View Development Plan, a more comprehensive planning document than this Concept Plan, which will be prepared prior to the issuance of the first building permit for the first building in Phase I.

**Parking Supply** - The TDM Plan called for reduced levels of parking to be provided in the NASA ARC Master Plan. NASA ARC has allocated the following parking ratio to the Bay View site: 2.9 spaces per 1,000 gsf of occupied building.

d. New Plan

iv. Facilities

The Project's housing component will be comprised of approximately [REDACTED] gsf in a mix of studio, one and two bedroom units. The housing units are proposed as 4 levels with 11'-0" floor to floor height on one level of podium parking with additional surface parking.

B-4

The housing units will be clustered in several buildings located directly along Main Street, the major east/west corridor. The housing units will have pedestrian access to the commercial campus as well as links to the adjacent parking structure and will be a unique living experience in the Bay View district. Through inspiration from 'loft' living, the apartments along this pedestrian street retain compact density paired with privacy. Private terraces will be required to give privacy 'buffer zones' from the offices across the street. These terraces are either double-height or stepped back to allow the sunlight to penetrate down into the housing units. It is likely that these units would be highly desirable units of a type not commonly seen in the Silicon Valley market, and would provide access to additional site amenities including the Steven's Creek Trail.

The ground floors of the Phase I office building N1C is proposed as a mixed use combination of Daycare and a Fitness Center to include indoor basketball/ squash and fitness club as well as showers and lockers. The Daycare and Fitness Centers will have direct access to on grade sports and recreational grounds including soccer and softball fields located in Parcel 4.

v. Existing Utility Infrastructure

Numerous improvements to the existing site and utilities infrastructure will be required in connection with the development of the proposed Bay View Campus.

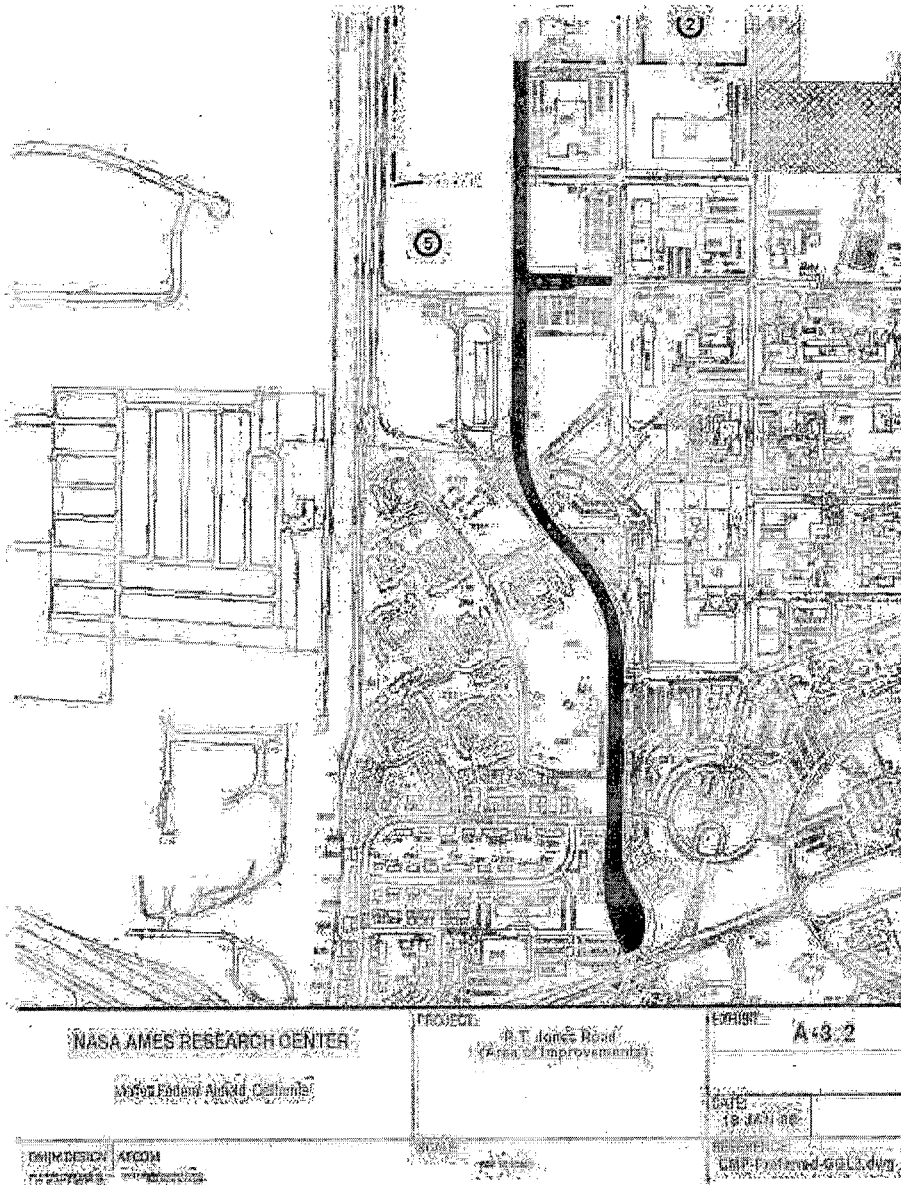



Figure 6: R.T. JONES ROAD (Area of Improvements), NASA Ames Research Center – Exhibit A-3.2 (DMJM DESIGN/AECOM, 18 JAN 2008)

## Road Improvements

To satisfy the primary ingress/egress needs of the site, the Project will feature the reconstruction and partial reconfiguration of Wright Avenue and R.T. Jones Road (see figure 6) which currently serve as the primary connection between the Interstate Highway 101 freeway and the Bay View Campus site. In its existing two-lane (one northbound and one southbound) configuration R.T. Jones Road is insufficient to handle the increased traffic generation resulting from the future campus. Therefore, both Wright Avenue and R.T. Jones Road will be widened from two lanes to 4 lanes, separated by a median and 6' wide bike lanes in both directions. In addition to the road widening effort, the R.T. Jones Road/Moffett Boulevard intersection will be signalized.

Depending on the soil conditions and condition of the existing asphaltic concrete paving and subbase, the road widening project would involve full demolition of the existing road. In addition, certain existing utilities and utility structures would need to be removed and reconstructed to accommodate the new design. To properly conform to the new road design, existing road connections to R.T. Jones and Wright Avenue would need to be reconstructed.

The new road will become a public road owned and maintained by NASA. 

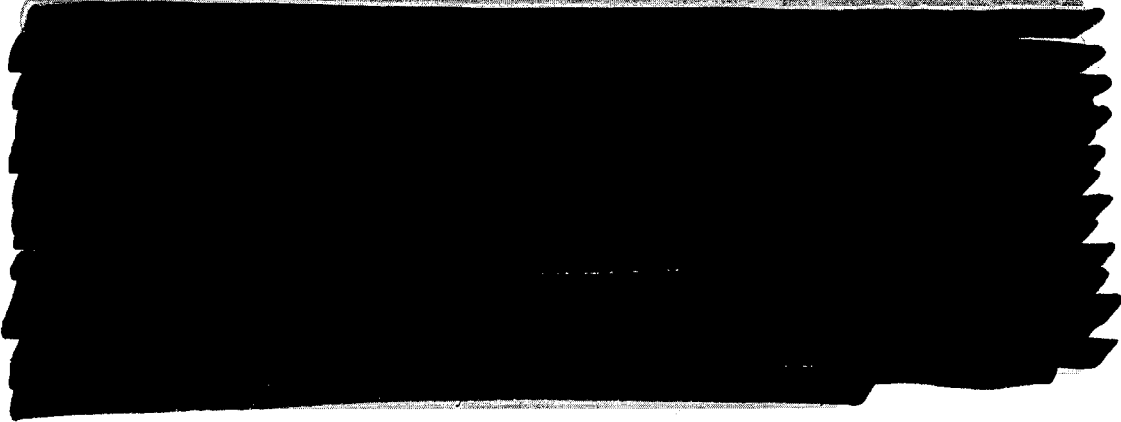
 Stormwater filtration in the form of street-side bio-retention planters will be provided to treat stormwater prior to discharge into the storm drainage system.

B-2(H)  
B-7(F)

## Utility Infrastructure Improvements

To satisfy the needs of the proposed Bay View Campus, improvements to the existing site and utilities infrastructure will be required. The analysis and recommendations enclosed herein are derived from a compilation of data gathered with the aid of the National Aeronautics and Space Administration (NASA), various State and Local agencies, utility service providers and involved stake-holders.

### Domestic/Fire Water Service:



B-2(H)  
B-7(F)

Storm Drainage:

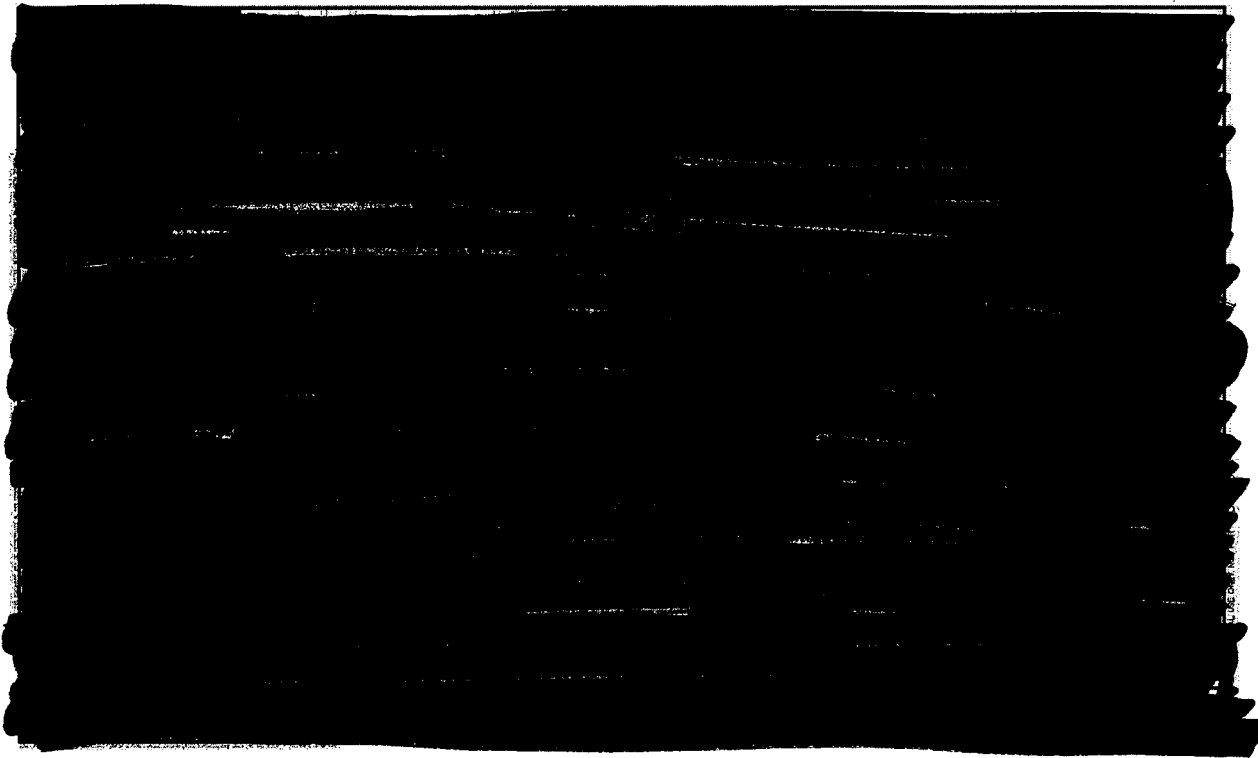
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B-2(C#)  
B-7(F)

• [REDACTED]

• [REDACTED]

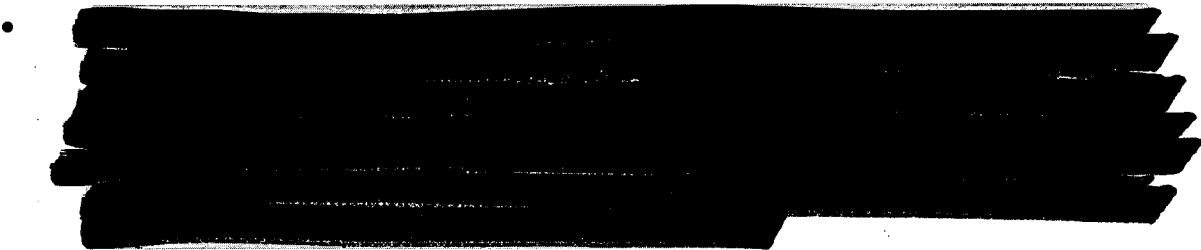
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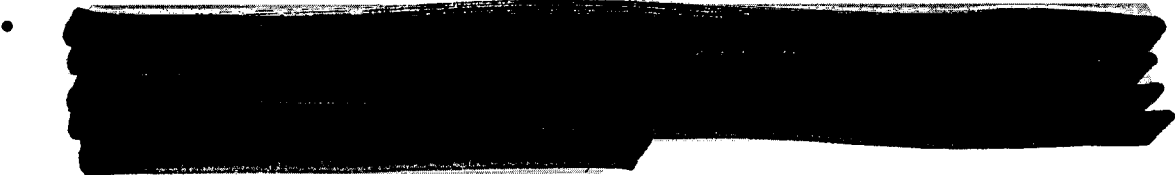
B-2(C)(H)  
B-7(F)



**Sanitary Sewer:**



**Recycled Water:**



**Electrical Service:**

- [REDACTED]

B-2CH)  
B-7(P)

**Natural Gas Service:**

- [REDACTED]

**Telecommunications/Data:**

- [REDACTED]

#### e. Site Improvements and Landscape

The dramatic siting of the project informs the landscape concept for the campus. The windy flatness of the South Bay landscape is part of its distinctive identity. As such, the design revolves around ideas of prospect/refuge and close and far views. All siting and the landscape palette will be prepared in accordance with the Bay View MIMP.

The entry landscape will lead into the lush garden plantings of the courtyards created by the buildings. Native, deciduous trees, protected from the strong winds, will be planted in groves, giving the building occupants, even those on the higher floors, views of nature out of their windows. The groves will open up on to central lawns, reminiscent of meadows or glades. These lawns will provide sunny gathering and seating. More intimate seating areas will be provided within the garden plantings.

As the courtyards open up to the native landscape, viewing plazas will invite people to linger and observe the South Bay flora and fauna. These will function as thresholds between wild nature and the garden and also as overlooks, with seating and perhaps with arbors overhead. The view corridor between Buildings and views to the northeast will be preserved by appropriate building siting and layout of outdoor gathering spaces. The view of the existing wetland area and the mountains on the other side of the bay will be emphasized reinforced with an overlook extended out into the natural landscape.

The required storm water retention basins will be planted and maintained with native plants tolerant of wet conditions and attractive to native birds. Two will be located on the west edge of the site and one will be located within a building courtyard area, bringing plant materials that comply with the Bay View MIMP into the center of the campus, and echoing in form and orientation both the existing marshland north/south finger and the two more naturally configured retention basins previously mentioned.

The plant palette will be in compliance with the Bay View MIMP and will be made up of native California plants. Where the buildings provide opportunities for green roofs the habitat will be extended to the roof plan as well, utilizing native species adapted to the shallow soil depth. Lawn will be used judiciously to provide space for athletic fields and select opportunities for flexible gathering spaces such as the small courtyard meadows, with larger outdoor gathering spaces and the park space.

The Bay View Campus will be developed with significant outdoor plazas and walkways to enhance pedestrian movement throughout the complex. Pedestrians will also be able to move through the complex in enclosed pedestrian bridges connecting upper floors and across pedestrian bridges that span the Main Street Corridor. The streetscapes will be improved with planting and amenities to enhance the pedestrian experience.

Visitor parking will be provided at perimeter and adjacent surface lots. Parking structures will be limited in accordance with the Bay View MIMP and the Bay View TDM Plan. Service areas and fire access will be incorporated with surface access roads.

The parking structure strategy will be designed to provide flexibility in building massing. The design concept will be developed to modulate building mass and composition in order to mitigate visual impacts.



Building floor plates are informed by needs, work environment and culture. There will be an appropriate balance between planning flexibility, economy and sustainability in establishing floor plate parameters. The Concept Development Plan currently depicts floor plate widths ranging from 79' to 124' in a variety of configurations. These building footprints will be subject to further analysis, but a variety of types is expected.

**f. Constraints and Opportunities**

**vi. Constraints Summary**

The Bay View MIMP sets out mitigation measures which must be incorporated into the Project including but not limited to:

- Construction buffer zone and scheduling of construction to protect Burrowing Owl habitat
- Construction buffer zones to protect adjacent wetlands
- Site planning and construction techniques to protect noise sensitive spaces in certain areas
- Construction dust generation control measures, including use of reclaimed water
- Construction phasing
- Required fencing in certain areas
- TDM goals
- Aesthetics, including preservation of certain view corridors
- Native plants used in landscaping
- Mitigation of nighttime lighting impacts on nocturnal species

Master planning and site and building design will be further constrained by the requirements to preserve view corridors from the Stevens Creek pedestrian path to the bay and to historic buildings on campus as established in the EIS. Figure 8 illustrates the analysis of the view corridors that must be preserved during development.

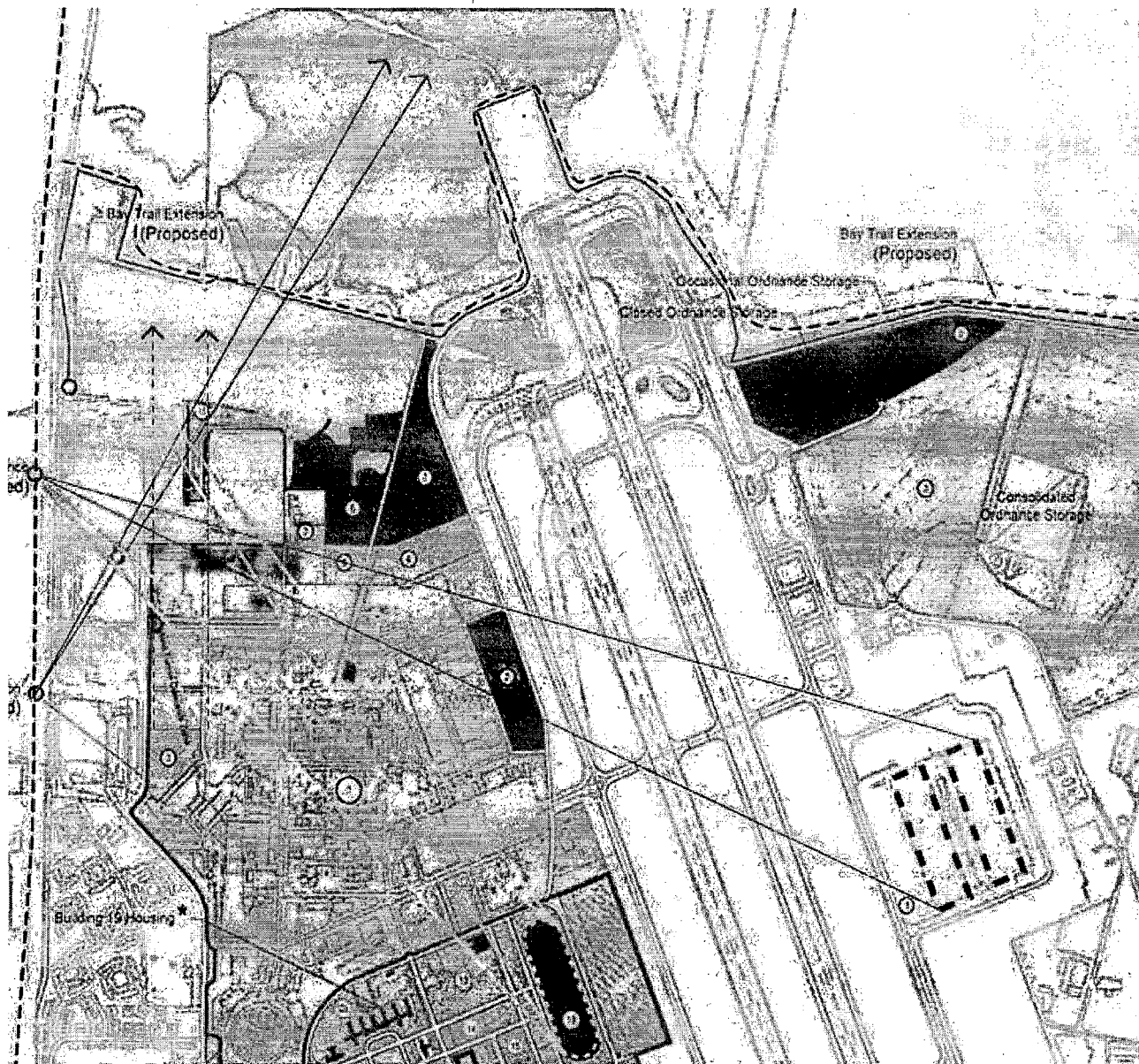


Figure 8: Bay View Concept Development Plan – View Corridor Analysis.

B-2(A)  
B-7(F)

B-2(A)  
B-7(F)

### vii. Development Opportunities

The Bay View Project will incorporate a new R&D environment that includes:

- High quality of architectural and urban design
- Energized streets and urban spaces
- Enjoyable pedestrian experience
- A high level of visibility and access through out the site
- Visual connections to the historic NASA Ames Campus.
- Urban Public Spaces that will create attractive spaces for interaction

The view corridor-connections align in East-West and North-South directions. This maintains transparent visual access that offers vignettes to the mountains and bay-lands beyond from the historic NASA Ames Campus. Views back into the campus from the Stevens Creek Trail feature the hangars. It is important that, where possible, transparency through the site is maintained and that the design of

the through routes maintains this visual connectivity at ground level and with additional pedestrian bridges.

The innovative building massing is intended to create pedestrian-friendly quads. The building mass is minimized by creating buildings with atriums and tapered ends. By reducing the mass of the buildings on the site, the impression of the 'big block' buildings will be reduced. This will help pedestrian traffic flow through the site, and the building massing will also be visually broken down.

#### g. Site Development Strategies

##### viii. Circulation

**Pedestrian Circulation** Significant outdoor plazas and walkways will enhance pedestrian movement throughout the complex. Pedestrians will also be able to move through the complex in enclosed bridges connecting upper floors. Planting and other amenities will enhance the streetscapes and the pedestrian experience. Pedestrian bridge overpasses are proposed. The different phases will be connected by pedestrian bridges.

##### **Vehicular Circulation**

Vehicular circulation and access to the campus parking is provided via R.T. Jones Road. R.T. Jones Road and Wright Avenue will be widened to provide the main public entry. (See figure 9). The new Main Street will be realigned to optimize land area available for development of the building quads and a connection to the existing NASA roadways. The realignment creates a new public open space and urban center. Main Street will also provide public trail head access to the Stevens Creek trail. An additional on grade loop road will provide on-grade parking for visitors in a more urban setting.

##### **Parking**

Parking for the proposed project will be predominantly located within structured parking located adjacent to the buildings at plaza level. The site parking includes a combination of multi-level parking structures, and visitor parking provided at the perimeter and adjacent surface lots. The parking garages will be required to meet ultimate parking requirements. Service areas and fire access will be incorporated within the quads and access roads.

The number of parking spaces provided in the master plan has been based on an average ratio of parking space to office area of 2.89 spaces per 1000<sup>2</sup>gsf. At full build-out, the total number of parking spaces is approximately 3,480. The location and number of disabled-accessible and bicycles spaces will at a minimum, meet NASA Ames code requirements and TDM plan.

## ix. Site Engineering

The campus master plan includes a significant area of open space that will be available for an array of active and passive uses. The Bay View Development Plan covers the approximately 56.8 acres of the Bay View District (See Figure 4) and includes the land in parcels 1, 2, 4, 5, 10 and 11. It should be noted that 42.28 acres (Parcels 1, 2 and 4) will comprise the Bay View Campus.

- Open space will be developed in the areas located between the buildings and quads.
- Landscape plant palette will draw from the regional landscape of the Bay.
- Open space will incorporate sustainable storm water management strategies.
- Access to open space areas adjacent and within building quad areas will be restricted due to security issues.

A preliminary storm drain analysis was completed for the Bay View site. The purpose of this analysis was to determine the requirements for stormwater management. This report provides guidance for the design guidelines of the Bay View Development Plan.

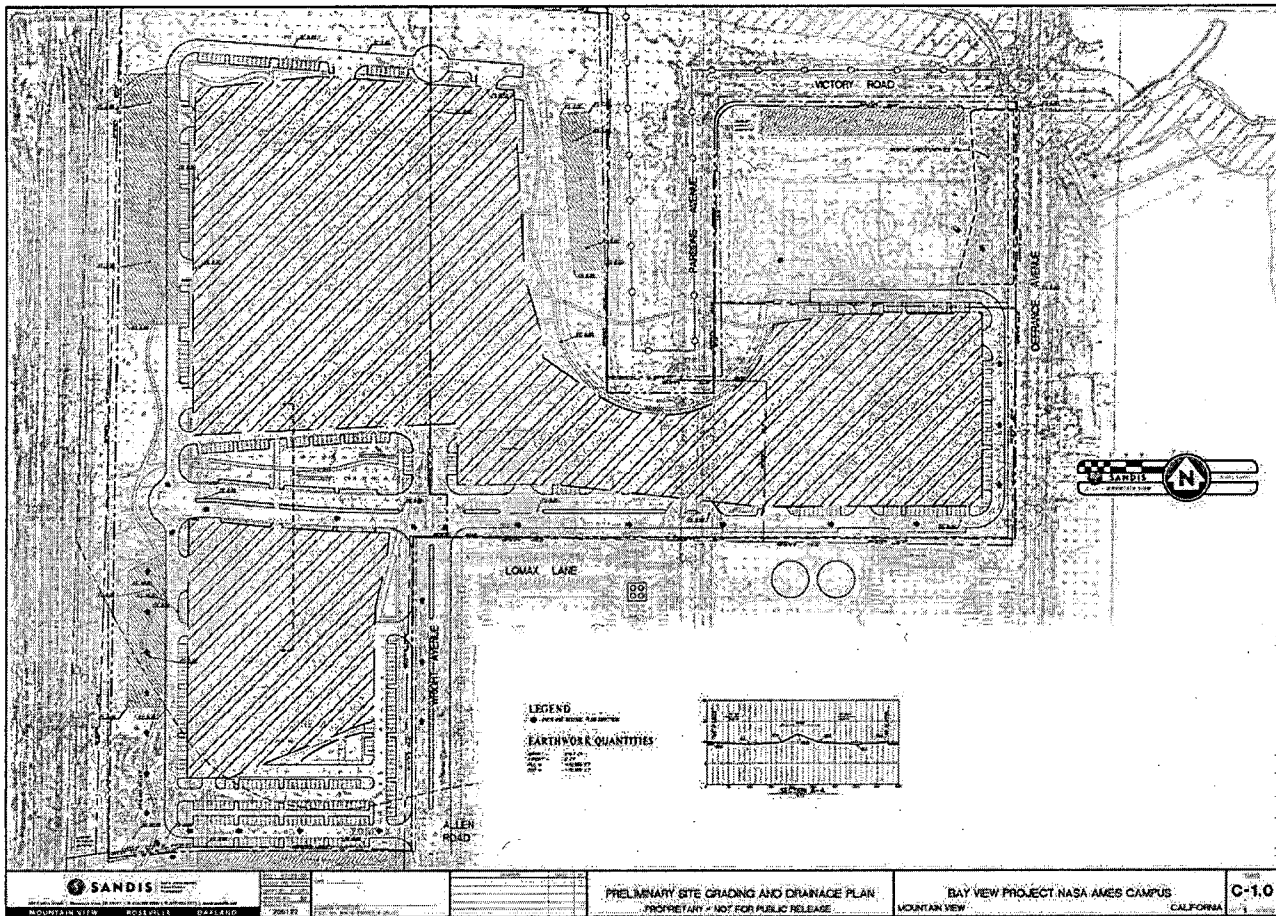


Figure 10: Sandis - Preliminary Site Grading and Drainage Plan, C-1.0.

The 42.28 acre site currently consists of documented fill and open meadow at the Northwest corner of Moffett Field. Exact locations of perimeter sidewalks have not yet been determined and are, therefore, estimated. The Concept Plan currently includes several parking structures. Water above the parking decks may enter the storm drain system via drains above the decks. (See figure 10)

The proposed development of this site will increase the impervious surface of the site and therefore will require additional features to ensure no increase the peak rate of runoff. Onsite retention is one method that will be used to limit the peak rate of post-development runoff to pre-development levels. In accordance with the Bay View MIMP, no net increase in peak runoff rates will occur.

During the design of the site, other options can be incorporated to reduce the peak runoff rate. Incorporating swales and infiltration trenches into the site will increase the time of concentration and the volume of runoff, therefore decreasing the peak runoff rate. Pervious paving and retention ponds are being incorporated into the design.

#### x. Landscape Concept

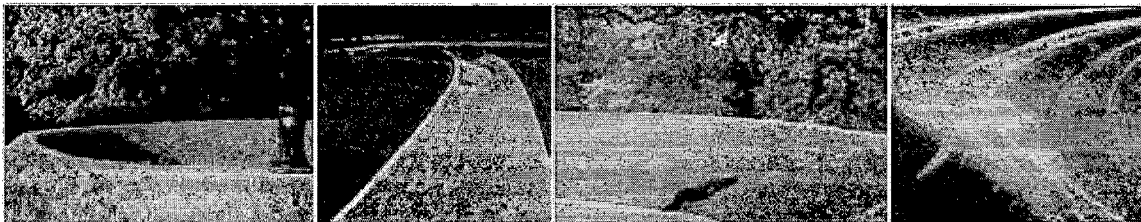
**Landscape** Street trees and ornamental planting will enhance the edges of development along R.T. Jones Road. Landscaping within the parking areas would provide tree canopy shading, which would help reduce heat island effect. Plant palette will be developed in accordance with the Bay View Design Guidelines.

The most important features of all new landscaping will be that it complies with the Bay View MIMP, which determines plant selection. To the extent possible, the new landscaping will follow the quality and character of the landscaping at the adjacent research and development campuses.

**Streetscape** The streetscape of the roads within and bordering the new campus will be developed to be compatible with the existing character and quality of the NASA Ames area.

- Species and spacing will meet, at a minimum, NRP Design Guide. Surface parking areas at the edges of the campus will be bermed and/or planted with trees, shrubs and ground cover to mitigate visual impact on the public right of way.

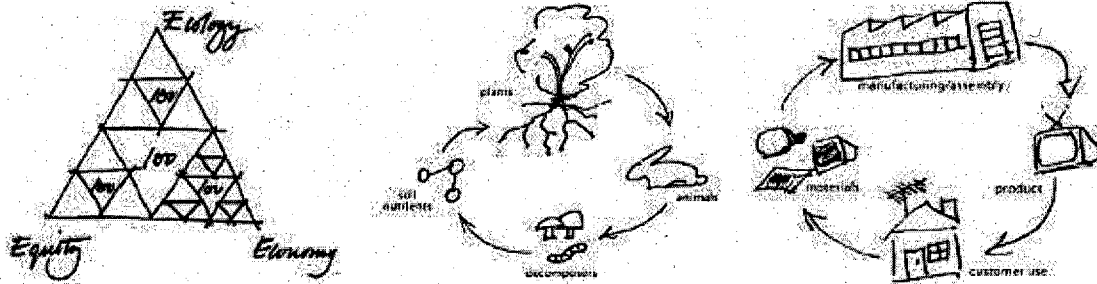
**Habitat Continuity** The landscape plan will emphasize continuity of habitat throughout the Bay View Campus. In accordance with the Bay View MIMP, tree cover will be maximized to allow for an almost continuous tree canopy through the main corridors of the campus. Trees adjacent to the wetlands will be from the approved list developed as part of the NEPA compliance process. Where appropriate, denser tree and shrub plantings stabilize and enhance the health of the wetlands areas.



**Lighting** A lighting plan will be developed for the campus as the project is detailed at the site planning level. Lighting plans will meet or exceed all EIS requirements, be compatible with the character of the NASA Ames Campus, and be sensitive to environmental issues such as “dark sky” objectives, and adjacent wildlife habitat.

**xi. LEED Concept**

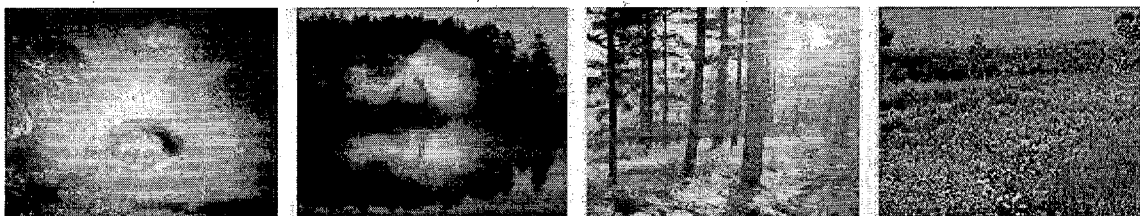
Sustainable design systems and technologies shall be considered as part of the development of the Bay View Campus. While a particular technology may be more appropriate for a particular use, such as residential, rather than office, no attempt has been made at this time to assign technologies by use.



The Bay View Concept Development Plan is guided by principles of eco-effective design:

- Emulate natural systems. Wherever possible, design materials or use local materials and systems that will be cycled repeatedly in biological or technical metabolisms.
- Envision a solar-powered world. The quality of energy matters; use renewable energy sources which protect human and environmental health.
- Make design decisions to support a strategic balance of ecology, equity and economy.
- Anticipate design evolution. Design to accommodate changing uses over time, adaptation to improved technologies, and safe disassembly and reuse of components.

It is anticipated that sustainable design strategies will be implemented throughout the Bay View Campus. The Project's new buildings will be designed and constructed with the ideals of LEED (and often beyond) in mind. These buildings will be designed to achieve a minimum of a LEED Silver rating.



## I. Bay View Campus strategies

The proposed Project will incorporate numerous environmentally intelligent strategies.

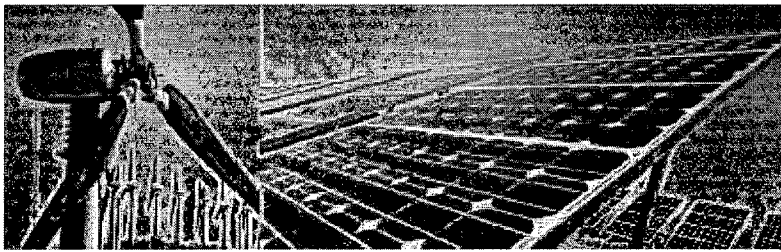
### Solar Orientation and Control:

Buildings are predominately oriented along an east-west axis so windows face either north or south. In hot or warmer months of the year, large north windows are designed to take in cool air, and diffuse north light. The design would strive to minimize window height on the south side (strip windows work well) and shade the window from direct sunlight. The Project developers will grapple with the most effective ways to minimize the impacts of night lighting from the northern exposure. In a typical office building, solar access is provided to the interior of the block above the quad level. In addition, the breakdown of the massing into smaller building elements provides opportunities for solar and daylight exposure to many surfaces and spaces.

Likewise, the staggered plan of the public plaza will provide daylight at street level to multiple building corners, increasing the feeling of openness and optimizing the daylight penetration into the spaces. By aligning the taller building elements in an east-west direction, exposure to glare and heat gain from low-angle western sunlight is reduced. Thus potential heat gain and glare problems are minimized. As a result of stepping the buildings and creating roof terraces, many building elements will be protected from adjacent building "shadowing" and can accommodate active solar systems (building integrated and rooftop photovoltaics, solar thermal systems) without penalty of shadow. The Bay View Campus may incorporate:

- Solar photovoltaic and solar thermal panels
- Exterior sunscreen devices
- Umbrellas and other technologies for temporary shading

Further development of building typologies may include strategies to shade or diffuse sunlight. These strategies may include street and/or building plantings, overhangs, exterior screen devices, vertical/horizontal sunshades and the like.



### Wind Orientation and Control:

The buildings will be designed to reduce the wind tunnel effect and provide adequate shelter in the interior of the quads. Street plantings can also help to reduce the wind impact at these locations. The breakdown of building massing into smaller elements is conducive to natural ventilation. Further development of the building massing and fenestration can optimize these opportunities.



Office layout and building facades will be studied to optimize cross-ventilation. Design elements such as trees, street furniture, and sculptural elements may also be incorporated into the Project to serve as wind breaks. Vertical axis wind turbines at parapet edges may also be incorporated into the Project for energy generation.

**Vegetation:**

The proposed park at the southwest corner of the site will provide an amenity and act as a retention area providing opportunities for replenishing groundwater and sequestering carbon.

Proposed street trees within the park and along the streets will help to provide shade, reduce noise levels and reduce particulates in the air.

Native plantings in compliance with the Bay View MIMP will be used (where appropriate for street conditions) to eliminate the need for irrigation and restore native habitat.

Innovative uses of vegetation may include:

- Use of native vegetation to avoid irrigation and create habitat
- Rain Gardens for road runoff's including Bioswales
- Educational Landscapes
- Water Landscapes
- Gathering Landscapes
- Habitat Continuity

**Pedestrian/Vehicular Patterns:**

Dense, pedestrian-scaled quads will minimize travel-related emissions and support reduced car use. Strategic location of electric charging stations and hybrid re-fueling stations within the parking structures will be considered. Provisions will be made for public bicycle storage facilities.

**II. Bay View Campus – Additional Proposed Strategies**

Given the long term build-out timetable for the project, “anticipatory design” strategies which accommodate future innovations in systems design will be considered.

**LANDSCAPE AND HABITAT PROTECTION**

**Promote Biological Diversity:**

Glazing choices will be sensitive to issues of bird impact caused by reflectivity.

Exterior light fixtures will be shielded to avoid lighting of the sky and disruption of migratory bird paths and shall minimize light to the north.

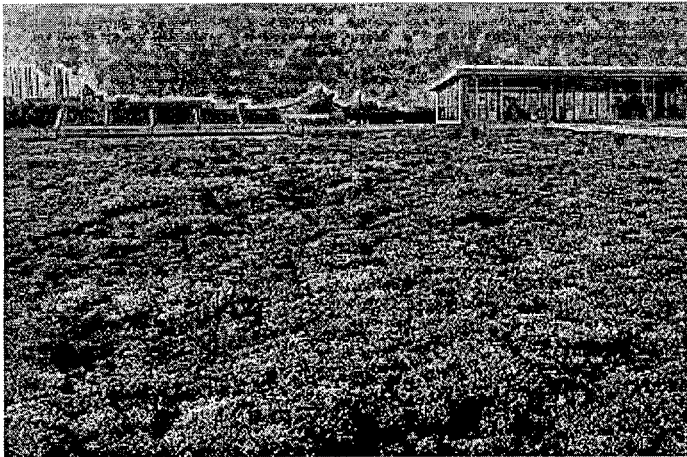


Figure 11: Image of green roof

### **Install Green Roofs:**

Lightweight, extensive green roofs may be explored for specific buildings, providing the following benefits:

- Potential cooling impact to the building and the surroundings;
- Absorb particulates from the air;
- Stormwater retention;
- Roof membrane protection;
- Habitat creation;
- Noise reduction;

Occupiable roof gardens may be explored in a limited manner to activate the urban environment and increase the amenity value of the open space.

### **Optimize Tree Health and Vitality:**

The Project developer may consult an arborist to establish guidelines for urban street tree planting.

In order to optimize tree canopies and create long-term urban tree health, strategies for incorporating new street and plaza tree planting will consider the following:

- Soil improvement measures;
- Reuse of existing soils where appropriate;
- Optimal drainage approaches
- Optimization of root health, including design approaches such as root paths, soil trenches, structural soils, and soil cells.
- Proper tree specimen selection, in conjunction with soil and drainage strategies;
- A long-term, comprehensive tree maintenance and succession plan

**Integrated Pest Management:**

Integrated Pest Management ("IPM") strategies will strive for organic controls to the greatest extent possible.

**ENERGY STRATEGY**

**Comments:**

An energy reduction target may be considered for the entire project. Further study is required to determine a level of reduction with which the development team is comfortable.

**HVAC Considerations:**

Given the Mountain View climate, air conditioning will be a requirement. Operable windows will be considered in new buildings to reduce energy use and to allow a measure of control over the interior environment for building occupants. In order to enhance natural ventilation, ceiling heights of 10 ft. or greater to allow for stratification of air and separate upper and lower windows to facilitate better ventilation flows will be considered.

Due to urban air quality concerns and noise, mechanical delivery of ventilation air is also required. Air filtration systems for ventilation air will likely incorporate a heat recovery mechanism. The use of raised floor air delivery may be considered for offices, and potential night time cooling.

Absorption chillers may be considered when they can be optimized through access to hot water from solar thermal panels or on-site power generation. An analysis may be performed to determine if solar thermal heating will be an effective hot water source given the building configuration, orientation, and the latitude and available sunlight in Mountain View.

Technologies to be explored for parking garage ventilation include heat recovery and potential capture of exhaust gases.

There may also be opportunities to preheat water on the sunny sides of a building and deliver it for heating to a shaded side.

Project design solutions will also consider the following energy strategies:

- Natural ventilation
- Heat recovery
- Raised floor air delivery
- Combined heat and power
- District heating and cooling
- Absorption chiller technology
- Technologies for hot water transfer

**Optimize Energy Use:**

Additional measures to optimize energy use may include tapping into current solar income using passive solar processes, such as daylighting, which makes effective use of natural light, and passive heating, where heat from direct sunlight can be stored and released slowly into spaces after sundown.

**Carbon-Neutrality:**

The most progressive 21<sup>st</sup> century developments strive to be carbon neutral, operating net-energy neutral (or optimally, as net-energy exporters). During design an assessment of all wind, solar, biomass and energy transfer opportunities for power generation will be performed to determine an optimal renewable energy production scenario. The energy generating potential of optimally oriented building walls and of all building/canopy roofs may be included in this assessment (use of building integrated photovoltaics and roof-mounted solar panels and/or wind turbines). The potential for incremental improvements beyond current photovoltaic and wind power efficiencies may be factored into the long-term optimization.

**WATER CONSERVATION AND HYDROLOGY**

**Optimize Water Use:**

Explore use of “waterless” fixtures such as state of the art shelf urinals for public facilities and state of the art low-flow toilets for all facilities.

**Maximize On-site Water Capture**– Develop strategies to capture and filter rainwater for uses beyond irrigation (toilets, laundries, outdoor fountains).

**Stormwater Harvesting:**

Evaluate possibilities for:

- Collection and storage of stormwater runoff from impervious surfaces for future use
- Typically collected from roof tops and stored in cisterns, stored rainwater can be used for irrigation and toilet flushing
- Rainwater harvesting reduces volume of stormwater runoff – reducing dependency on municipal water supplies

**Biomimicry:**

By studying design systems found in nature, biomimicry applies and adapts those systems to the built environment, thus rethinking the traditional “interference” approach to development.

**Ecohydrology:**

Maintain evolutionary established processes of water and nutrient circulation at the basin scale  
Encourage the restoration and maintenance of natural water balance

**Release clean water:**

Increase storm water flow control and filtration.

### **Water Flows:**

The use of open block pavers and pervious asphalt paving over gravel beds may be explored to alleviate the burden on stormwater infrastructure and assist with groundwater recharge.

Additional water conservation and hydrology measures that may be considered are:

- Filter strips and bioswales at road edge and parking lots
- Pervious asphalt paving over gravel beds for road and alley surfaces
- Green roofs
- Rain gardens
- Integrating stormwater management with landscape design
- Use solar pumping to recirculate runoff and irrigate wetlands plantings
- Provide water quality polishing through biofiltration

## **SOLID WASTE MANAGEMENT**

**Optimize Waste Flows:** The Project developer may consider designing infrastructure, buildings and systems to support end to end flows of building materials during the construction phase as well as over the lifecycle of materials. Measures to optimize integration with construction waste management practices may also be explored, and the Project developer may consider the incorporation of a site-wide vacuum tube system for collection of recyclable materials.

## **ENVIRONMENTALLY SENSITIVE MATERIALS**

### **Development of an Eco-effective Materials Specification Protocol:**

The Project developer will consider the following criteria which may be utilized to assist in determining building/materials strategies:

- Comparison of the embodied energy and carbon footprint of potential materials weighed against longevity of construction to determine the best long-term solutions.
- Location of extraction/harvesting/manufacture and energy required to transport materials to site.
- Ability to support the local economy and/or support development of new local economic enterprises through procurement of materials.
- Ability to work within effective and contained flows of biological and technical nutrients
- Design of components and systems for flexibility, disassembly and subsequent relocation or re-use
- Recognition of indoor air quality concerns and the need to use low-emitting carpets, paints, adhesives, sealants and composite wood among other materials.

The following additional concepts will be considered by the Project developer:

### **Accommodation of Long-term Flexibility and Adaptability in Building Design:**

Building design (plan configuration, floor to floor heights, core locations, and building systems) to allow for future modifications in building use.

### Optimization of Technological Infrastructure:

Accommodate future innovations in communications technology via design of and access to infrastructure.

Include monitoring systems in building design to actively and continuously optimize performance over the life of the building (integrated controls for lighting, daylighting, humidity control and energy use)

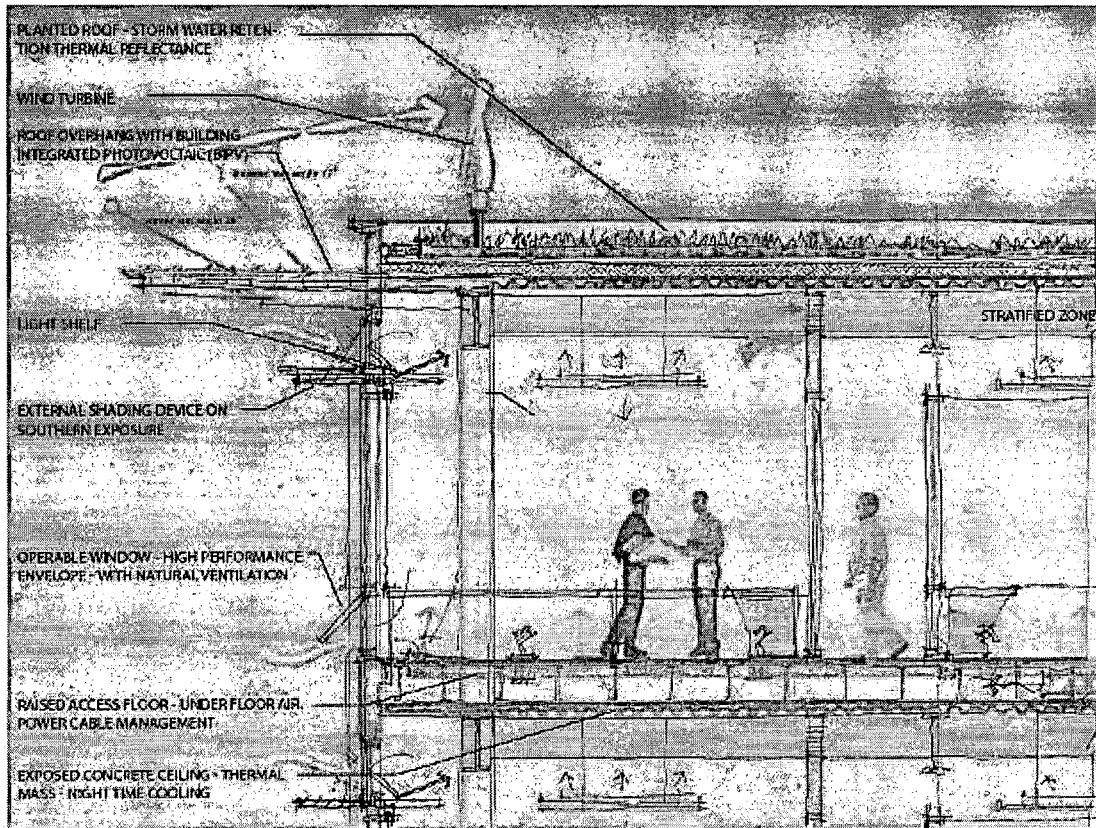


Figure 12: Illustrative Detailed Building Section with integrated building systems.

### **BUILDING MASSING**

Solar studies show how the sun penetrates the site to hit the main public spaces. The Main Street is designed to get sun during mid-day at all times of the year. The building massing guidelines ensure this. This will be important as the Central Plaza will be a destination for people to take a break and enjoy cafés that surround the plaza. People will be able to move around the plaza to find the most comfortable locations. Solar studies also show that the Central Plaza gets good afternoon sunshine through most of the year. In this way there would most likely be some space on the campus that is suited to outdoor dining at different times of day. The Concept Plan will ensure that the proposed building massing along Main Street will create an urban street edge from the surrounding blocks in order to tie the development into the surrounding existing

NASA Campus. Sunshine on these streets will be similar to streets throughout the NASA Ames Campus.

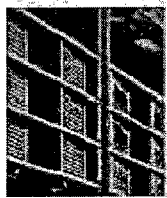
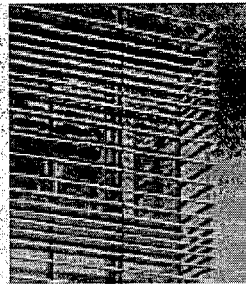
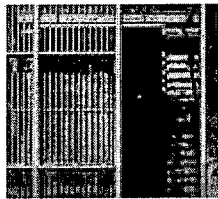
Initial climate studies show that the site provides excellent conditions for the Spring and Fall months for outside activities. They also suggest that some amount of shelter from the hot sun will be necessary in the public spaces during the summer months. This will be done through landscape, tree planting and retractable awnings.

### **Environmental Context:**

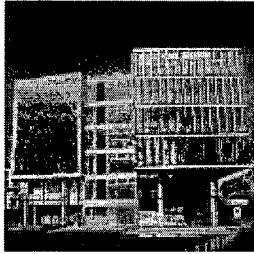
Solar shading can help to limit solar gain. In a similar way, the amount of solid panels versus glazed panels can reflect the solar orientation. A possible example would be expressed in the following way: a south facing facade could have horizontal overhanging solar shading to protect from the sun high in the sky; the east and west facades would have vertical shading and more solid panels to protect from the sun that is low in the sky; and the north facing facade would have more clear glazing and more potential views if it does not receive direct sunlight. Again, nocturnal impact of surrounding environment will be further studied.

The buildings will incorporate numerous environmentally intelligent strategies, such as:

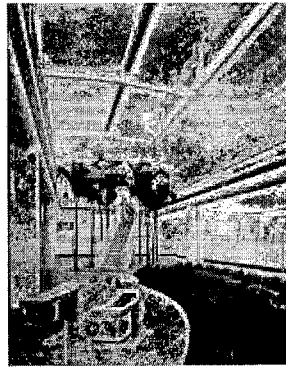
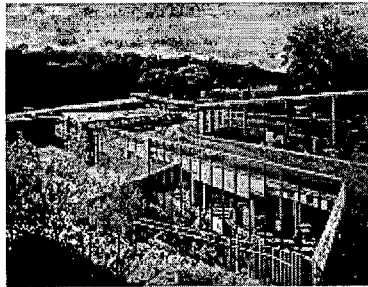
- Buildings are predominately oriented along an east-west axis so windows face either north or south. The large north windows will take in cool, diffuse north light while the south side windows are shaded from direct sunlight.



- Solar access is provided to the interior of the block above the internal quad level. In addition, the breakdown of the massing into smaller building elements provides opportunities for solar and daylight exposure to many surfaces and spaces.



- Many building elements are protected from adjacent building “shadowing” and can accommodate active solar systems (building integrated and rooftop photovoltaic, solar thermal systems) without penalty of shadow.
- The breakdown of building massing into smaller elements is conducive to natural ventilation. Further development of the building massing and fenestration can optimize these opportunities.
- Green roofs will minimize heat gain, store storm water and sequester carbon.



- Atriums will be studied for daylighting and natural ventilation



**xii. Project Phasing**

The Bay View Campus at the NASA Ames Research Center will be constructed in several phases (currently anticipated to be 3). Each phase will vary in size and will take approximately 36 to 48 months to construct.

During the construction process, the delivery and staging of all materials will be coordinated as will work flows regarding parking. Haul routes and other off-site construction considerations will be determined after design and final phasing plans are developed.

[REDACTED]

Provisions will be made to allow for safe pedestrian flow around the specific phased construction area or through surrounding areas as needed.

B-2(H)  
B-7(F)

## Exhibit C Bay View Maintenance Costs

Item	Description	Unit	Cost pe Unit	Number of Units	Total Cost	Google Share	Google Cost
<b>R.T. Jones Road</b>							
Street repairs - To Last Army Entrance						(2,000 LF to Army: 70% )	
Street lights	Annual maintenance	Fixture	\$ 185.00	40	\$ 7,400	(2,000 LF past Army: 90% )	\$ 5,180
Street lights	Power	Fixture	\$ 120.00	40	\$ 4,800		\$ 3,360
Tree Trimming	Five-year trim cycle	1 tree	\$ 50.00	133	\$ 6,667		\$ 4,667
Landscaped Medians	Routine maintenance	Sq.ft.	\$ 0.30	16,500	\$ 4,950		\$ 3,465
Landscaped Parkways	Routine maintenance	Sq.ft.	\$ 0.30	20,000	\$ 6,000		\$ 4,200
Street	Patch 5% every five years	Sq.ft.	\$ 5.50	120,000	\$ 6,600		\$ 4,620
Street	Seal 5% annually	Sq.ft.	\$ 0.60	60,000	\$ 1,800		\$ 1,260
Street	Re-asphalt every 20	Sq.ft.	\$ 3.00	60,000	\$ 9,000		\$ 6,300
Sidewalk	Annual maintenance	Sq.ft.	\$ 0.20	20,000	\$ 267		\$ 187
Sidewalk	Replacement every 30 years	Sq.ft.	\$ 5.00	20,000	\$ 3,333		\$ 2,333
Sidewalk crack sealing	Seal 5% annually	Sq.ft.	\$ 0.50	20,000	\$ 500		\$ 350
Street sweeping	Monthly	Sq.ft.	\$ 0.05	120,000	\$ 6,000		\$ 4,200
Street painting/stripping	Every 10 years	Lump Sum	\$ 7,500.00	1	\$ 750		\$ 525
Subtotal RT Jones Road To Last Army Entrance					\$ 58,067		\$ 40,647
<b>Street repairs - Beyond Last Army Entrance</b>							
Street lights	Annual maintenance	Fixture	\$ 185.00	40	\$ 7,400		\$ 6,660
Street lights	Power	Fixture	\$ 120.00	40	\$ 4,800		\$ 4,320
Tree Trimming	Five-year trim cycle	1 tree	\$ 50.00	133	\$ 6,667		\$ 6,000
Landscaped Medians	Routine maintenance	Sq.ft.	\$ 0.30	16,500	\$ 4,950		\$ 4,455
Landscaped Parkways	Routine maintenance	Sq.ft.	\$ 0.30	20,000	\$ 6,000		\$ 5,400
Street	Patch 5% every five years	Sq.ft.	\$ 5.50	120,000	\$ 6,600		\$ 5,940
Street	Seal 5% annually	Sq.ft.	\$ 0.60	60,000	\$ 1,800		\$ 1,620
Street	Re-asphalt every 20	Sq.ft.	\$ 3.00	60,000	\$ 9,000		\$ 8,100
Sidewalk	Annual maintenance	Sq.ft.	\$ 0.20	20,000	\$ 267		\$ 240
Sidewalk	Replacement every 30 years	Sq.ft.	\$ 5.00	20,000	\$ 3,333		\$ 3,000
Sidewalk crack sealing	Seal 5% annually	Sq.ft.	\$ 0.50	20,000	\$ 500		\$ 450
Street sweeping	Monthly	Sq.ft.	\$ 0.05	120,000	\$ 6,000		\$ 5,400
Street painting/stripping	Every 10 years	Lump Sum	\$ 7,500.00	1	\$ 750		\$ 675
Subtotal RT Jones Road Beyond Last Army Entrance					\$ 58,067		\$ 52,260
<b>Subtotal RT Jones Road</b>					<b>\$ 116,133</b>		<b>\$ 92,907</b>

## Exhibit C Bay View Maintenance Costs

<b>Moffett Boulevard</b>										
Street repairs								(intersection: 40% )		
Street lights	Annual maintenance	\$	185.00	10	\$	1,850		40%	\$	740
Street lights	Power	\$	120.00	10	\$	1,200		40%	\$	480
Traffic signals	Annual maintenance	\$	3,100.00	4	\$	12,400		40%	\$	4,960
Traffic signals	Power	\$	491.00	16	\$	7,856		40%	\$	3,142
Tree Trimming	Five-year trim cycle	\$	50.00	20	\$	1,000		40%	\$	400
Landscaped Medians	Routine maintenance	\$	0.30	2,000	\$	600		40%	\$	240
Landscaped Parkways	Routine maintenance	\$	0.30	25,000	\$	7,500		40%	\$	3,000
Street	Patch 5% every five years	\$	5.50	130,000	\$	7,150		40%	\$	2,860
Street	Seal 5% annually	\$	0.60	130,000	\$	3,900		40%	\$	1,560
Street	Re-asphalt every 20	\$	3.00	130,000	\$	19,500		40%	\$	7,800
Sidewalk	Annual maintenance	\$	0.20	10,000	\$	133		40%	\$	53
Sidewalk	Replacement every 30 years	\$	5.00	10,000	\$	1,667		40%	\$	667
Sidewalk crack sealing	Seal 5% annually	\$	0.50	10,000	\$	250		40%	\$	100
Street sweeping	Monthly	\$	0.05	130,000	\$	6,500		40%	\$	2,600
Street painting/stripping	Every 10 years	\$	10,000.00	1	\$	1,000		40%	\$	400
<b>Subtotal Moffett Boulevard</b>						<b>\$</b>	<b>72,506</b>		<b>\$</b>	<b>29,002</b>
<b>Bay View Backbone Infrastructure and Shared Improvements</b>										
Storm System	Reserve fund for replacement; 2% of initial value		1,223,000	1	\$	24,460		100%	\$	24,460
Sanitary Sewer (excludes Off-Site MV Main)	Reserve fund for repairs & replacement;2% of initial value		220,000	1	\$	4,400		50%	\$	2,200
Water	Reserve fund for repairs & replacement;2% of initial value		4,749,000	1	\$	94,980		50%	\$	47,490
Reclaimed Water (excludes Off-Site MV Main)	Reserve fund for repairs & replacement;2% of initial value		1,200,000	1	\$	24,000		50%	\$	12,000
Parcel 5 Park	Annual maintenance	\$	0.30	172,800	\$	51,840		25%	\$	12,960
Parcel 5 Park	Replacement (inc. turf) every 20 yr	\$	5.75	172,800	\$	49,680		25%	\$	12,420
Parcel 5 Park	Irrigation replacement every 20 yr	\$	5.50	172,800	\$	47,520		25%	\$	11,880
<b>Subtotal Parcel 5 Park</b>						<b>\$</b>	<b>149,040</b>		<b>\$</b>	<b>37,260</b>
<b>Code Q Safety/Environment</b>										
Waste Water Discharge	Management services	\$	0.025	1,205,000	\$	30,125		100%	\$	30,125
Storm Water Discharge	Management services	\$	0.034	1,205,000	\$	40,970		100%	\$	40,970
NEPA NHPA Oversight	Management services	\$	0.021	1,205,000	\$	25,305		50%	\$	12,653
Natural and Cultural Resources	Management/oversight	\$	0.037	1,205,000	\$	44,585		50%	\$	22,293
<b>Subtotal Code Q</b>						<b>\$</b>	<b>140,985</b>		<b>\$</b>	<b>106,040</b>
<b>Subtotal Moffett Boulevard Bay View Backbone Infrastructure and Shared Improvements</b>										
<b>Administrative Overhead</b>	Personnel/procurement/contract support		20.0%	\$	626,504		<b>\$</b>	<b>125,301</b>	<b>\$</b>	<b>70,272</b>
<b>GRAND TOTAL</b>						<b>\$</b>	<b>751,805</b>		<b>\$</b>	<b>421,631</b>
Cost Per Square Foot to Google									Entitled Use	1,205,000 SF
									<b>\$</b>	<b>0.35</b>

**EXHIBIT D**

**BAY VIEW MITIGATION IMPLEMENTATION AND MONITORING PLAN<sup>1</sup>**

#	Mitigation Description	Responsibility
<b>CIR – 1</b>	As part of the NADP, NASA and its partners shall implement an aggressive Transportation Demand Management (TDM) program designed to reduce trip generation by a total of at least 22 percent. TDM measures are phased as described in Appendix B of the FPEIS. Each phase specifies an Average Vehicle Ridership (AVR) goal. NASA will not proceed to the next phase of development until the AVR goal of the previous phase is achieved. In addition, on-site housing will be constructed to reduce vehicle trip generation to external streets and freeways by internalizing trips to onsite employment centers and amenities.	Tenant responsible to meet TDM goals for Bay View area of NADP.
<b>CIR – 3</b>	<p><i>Intersection of Moffett Boulevard/Clark Memorial Drive/R. T. Jones Road.</i> Development under the NADP would include the following improvements to achieve acceptable operations and minimize queuing at this intersection:</p> <ul style="list-style-type: none"> <li>- Installation of a traffic signal.</li> <li>- Provision of the following lane configurations: <ul style="list-style-type: none"> <li>• <i>Northbound (from Space Camp/base housing):</i> one left - turn lane, one shared lane through/right turn lane.</li> <li>• <i>Southbound (from Bay View):</i> one left-turn lane, one through lane, and one "free" right-turn lane (i.e., the right-turn movement would not be controlled by the signal and would require a third westbound receiving lane on Moffett Boulevard).</li> <li>• <i>Westbound (from Clark Memorial Drive):</i> one left-turn lane, two through lanes, and one right-turn lane.</li> <li>• <i>Eastbound (from Highway 101):</i> two left-turn lanes, one through lane, and one shared through/right turn lane.</li> </ul> </li> </ul> <p>This measure would provide LOS C or D operations or better during all periods under all alternatives.</p>	Tenant to plan, design, and construct improvements outlined in Exhibit A-3 prior to time when intersection gets to Level of Service (LOS) D as defined in the EIS.
<b>CIR – 6</b>	Development under the NADP would modify the Ellis Street underpass to better accommodate bicyclists. Two options are proposed. One is to modify the overpass so that the lanes can be widened. This proposal is subject to CalTrans review. If determined to be infeasible, the other option is use a reversible lane depending on the commute direction. Therefore, two lanes of traffic and a bicycle lane can be accommodated in the main direction of travel and a single lane of traffic and a bicycle lane will accommodate the "reverse commute."	Tenant shall contribute their pro rata share for CIR-7 improvements. Tenant's pro rata share is equal to the percentage of parking assigned to the Premises within the NADP and reduced by 50% (due to distance from Ellis St. gate). Improvement shall be performed

#	Mitigation Description	Responsibility
<b>CIR – 7</b>	Improvements to facilities within Caltrans right-of-way associated with the development proposed under the NADP shall adhere to the conditions and requirements of Caltrans statewide NPDES Permit CAS #000003, Order #99-06-DWQ and NPDES General Permit CAS #000002, Order #99-08-DWQ, and shall incorporate Treatment Best Management Practices described in Section 4.4 of the Storm Water Management Plan which implements the statewide NPDES permit, as such requirements specifically apply to the proposed improvements. In general, this would include the preparation and implementation of a Storm Water Pollution Prevention Plan and Best Management Practices for construction and post-construction conditions for each such project.	Tenant shall contribute their pro rata share for CIR-7 improvements. Tenant's pro rata share is equal to the percentage of parking assigned to the Premises within the NADP and reduced by 50% (due to distance from Ellis St. gate). Improvement shall be performed during TDM Phase 2.
<b>AQ – 2</b>	NASA and its partners would schedule construction to ensure that annual emissions of ozone precursors associated with project construction and operation do not exceed a cumulative total of 100 tons per year. This would apply over all years of project construction and operation or until an applicable State Implementation Plan that includes the project emissions is approved by EPA. Implementation of this mitigation is mandatory to comply with the Federal Clean Air Act.  Develop Master Construction Schedule, updated annually.	Tenant to provide data on emissions and CEMP will be reviewed by Landlord for Property. Landlord may restrict construction start dates to comply with AQ-2.  Landlord to update with input from Tenant.
<b>AQ – 3</b>	Prior to the issue of occupancy permits, operators of laboratories and disaster training facilities would be required to consult with the BAAQMD regarding possible permit requirements and emissions reduction equipment and to comply with BAAQMD's requirements.	Tenant
<b>AQ – 6a</b>	Measures to control dust generation would reduce this impact associated with PM10 to a level of less-than-significant. The following measures, including all control measures recommended by the BAAQMD, would be incorporated into construction contract specifications and enforced by NASA. These measures include the following provisions:  - Use reclaimed water on all active construction areas at least twice daily and more often during windy periods. Watering is the single-most effective measure to control dust emissions from construction sites. Proper watering could reduce dust emissions by over 75 percent.  - Cover all hauling trucks or maintain at least 0.6 meters (2 feet) of freeboard. Dust-proof chutes would be used as appropriate to load debris onto trucks during any demolition.  - Pave, apply reclaimed water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.  - Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas and sweep streets daily (with water sweepers) if visible soil material is deposited onto the adjacent roads.	Tenant  Tenant  Tenant  Tenant  Tenant  Tenant

#	Mitigation Description	Responsibility
	<ul style="list-style-type: none"> <li>- Hydro seed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas that are inactive for 10 days or more).</li> <li>- Enclose, cover, water twice daily, or apply (non-toxic) soil binders to exposed stockpiles.</li> <li>- Limit traffic speeds on any unpaved roads to 25 kilometers per hour (15 mph).</li> <li>- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.</li> <li>- Replant vegetation in disturbed areas as quickly as possible.</li> <li>- Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site.</li> <li>- If necessary, install windbreaks, or plant trees/vegetative windbreaks at the windward side(s) of construction areas.</li> <li>- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 40 kilometers per hour (25 mph) and visible dust emissions cannot be prevented from leaving the construction site(s).</li> <li>- Limit areas subject to disturbance during excavation, grading and other construction activity at any one time.</li> <li>- Prior to disturbance (or removal) of materials suspected to contain asbestos, lead or other toxic air contaminants, contact the BAAQMD.</li> <li>- NASA would designate an <i>Environmental Coordinator</i> responsible for ensuring that mitigation measures to reduce air quality impacts from construction are properly implemented. This person would also be responsible for notifying adjacent land uses of construction activities and schedule.</li> </ul>	<p>Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Landlord/Tenant</p> <p>Landlord</p>
<b>AQ – 6b</b>	<p>Measures to reduce emissions of nitrogen oxides and particulate matter from diesel fuel combustion during construction should be evaluated and implemented where reasonable and feasible. The following measures would reduce the impacts from construction fuel combustion:</p> <ul style="list-style-type: none"> <li>- Properly maintain construction equipment. This measure would reduce emissions of ROG, NOX and PM10 by about 5 percent.</li> <li>- Evaluate the use of available alternative diesel fuels and where reasonable and feasible, use alternative diesel fuels. <i>The CARB has verified reductions of NOX by almost 15 percent, and particulate matter by almost 63 percent, from use of alternative diesel fuels. However, the use of these fuels may not be appropriate for all diesel equipment.</i></li> </ul>	<p>Tenant</p> <p>Tenant</p>

#	Mitigation Description	Responsibility
	<ul style="list-style-type: none"> <li>- Reduce construction traffic trips through TDM policies and implementation measures.</li> <li>- Reduce unnecessary idling of construction equipment and avoid staging equipment near or upwind from sensitive receptors such as onsite residences or daycare uses.</li> <li>- Where possible, use newer, cleaner burning diesel-fueled construction equipment. The <i>Environmental Coordinator</i> would prohibit the use of equipment that visibly produces substantially higher emissions than other typical equipment of similar size.</li> </ul>	<p>Tenant</p> <p>Tenant</p> <p>Tenant</p>
<b>AQ – 7a</b>	<p>NASA would install air pollution devices, for example, particulate traps and oxidation catalysts, on construction equipment to the greatest extent that is technically feasible.</p>	<p>Tenant</p>
<b>AQ – 7b</b>	<p>NASA and its partners would develop and implement a Construction Emissions Mitigation Plan (CEMP) to ensure that the project would comply with the Federal Clean Air Act and further reduce emissions. The plan would include measures and procedures, sufficiently defined to ensure a reduction of nitrogen oxides, PM<sub>10</sub>, and diesel particulate matter.</p> <p>The CEMP would be developed in consultation with EPA and BAAQMD. The CEMP would be evaluated by NASA and its partners on an annual basis to schedule construction ensuring that emissions of ozone precursors associated with project construction and operation would not exceed 91 tonnes (100 tons) per year and update measures to include new rules or regulations. NASA and its partners would consult with the BAAQMD on an annual basis during project construction to determine if additional air quality mitigations to reduce the project's air quality impact are warranted, and to take such additional air quality mitigation as is appropriate and reasonable, and in an expeditious manner.</p> <p>A CEMP coordinator, who would also act as a "Disturbance Coordinator" would be responsible for ensuring that measures included in the CEMP are implemented. This would be done through field inspections, records review, and investigations of complaints.</p> <p>At a minimum, the CEMP would include the following measures to reduce emissions from construction activities:</p> <ul style="list-style-type: none"> <li>- Require that all equipment is properly maintained at all times. All construction equipment working on site would be required to include maintenance records indicating that all equipment is tuned to engine manufacturer's specifications in accordance with the time frame recommended by the manufacturer.</li> <li>- All construction equipment would be prohibited from idling more than 5 minutes.</li> <li>- Tampering with equipment to increase horsepower would be strictly prohibited.</li> </ul>	<p>Landlord/Tenant</p> <p>Landlord will consult with BAAQMD and amend CEMP, which will be implemented by Tenant and its construction contractors.</p> <p>Landlord</p>

#	Mitigation Description	Responsibility
	<ul style="list-style-type: none"> <li>- Include particulate traps, oxidation catalysts and other suitable control devices on all construction equipment used at the site.</li> <li>- Diesel fuel having a sulfur content of 15 ppm or less, or other suitable alternative diesel fuel, would be used unless such fuel cannot be reasonably procured in the market area.</li> <li>- The CEMP would also ensure that construction-related trips are minimized through appropriate policies and implementation measures.</li> <li>- The CEMP would address the feasibility on a biannual basis of requiring the use of reformulated or alternative diesel fuels.</li> <li>- The CEMP Coordinator (or Environmental Coordinator) would prohibit the use of equipment that visibly produces substantially higher emissions than other typical equipment of similar size.</li> <li>- The staging of three or more pieces of construction equipment near or just upwind from sensitive receptors such as residences or daycare uses would be prohibited.</li> </ul>	Landlord/Tenant
<b>AQ – 7c</b>	<p>The CEMP would address the feasibility of requiring or encouraging the use of “Cleaner” (Lower Emissions) construction equipment on an annual basis. For larger construction projects (i.e., projects greater than 9,290 square meters (100,000 square feet)), a percentage of the equipment would be required to be 1996 or newer. This would be determined as follows:</p> <ul style="list-style-type: none"> <li>- If equipment is leased by the contractor, then the percentage of 1996 or newer equipment would be maximized so that the total cost of leasing equipment would not exceed 10 percent of the average available cost for leased equipment.</li> <li>- If equipment is owned by the Contractor, then the CEMP shall identify the minimum percentage of total horsepower for 1996 or newer equipment that should be used in construction. For the first year of construction, it shall be considered possible that 1996 or newer equipment shall make up a minimum of 75 percent of the total horsepower, unless NASA and its partners can show the BAAQMD that it is not reasonable.</li> </ul>	The Premises’ fair share contribution to improvements to the City of Mountain View’s sewer system shall be based on the Tenant’s pro rata share of the total flow of all proposed development contributing to a new sewer conveyance system between the
<b>INFRA – 2</b>	<p>NASA will cooperate with the City of Mountain View in determining the cumulative impact of existing and proposed development on the sanitary sewer conveyance system between Ames Research Center and the PARWQCP. New conveyance piping would be installed between the area served by the existing lift station at the Mountain View Golf Course and the Palo Alto Regional Water Quality Control Plant (PARWQCP), with sufficient capacity to accommodate the total expected flow. This would require the installation of roughly 5486 meters (18000 lineal feet) of pipe. NASA will contribute its fair share toward construction of the conveyance pipes and supporting infrastructure that are determined to be regional to mitigate the cumulative impact of existing and proposed development. NASA’s fair share will be based on its pro rata share of the total flow of</p>	



#	Mitigation Description	Responsibility
	all existing and proposed development contributing to the new sewer conveyance system between ARC and PARWQCP.	Premises and the treatment plant, should the City of Mountain View require and install such a system.
<b>SERV – 1</b>	The housing developers would pay standard Developer Impact Fees for the costs of constructing additional classrooms.	Tenant
<b>HAZ – 1</b>	<p>NASA's development partners would work with the Remediation Project Manager within the Office of Environmental Services during site planning and would implement the guidelines and recommendations in the Environmental Issues Management Plan (EIMP) to ensure that none of the proposed construction, demolition, and infrastructure improvement projects would expose personnel to unacceptable levels of contaminated soil or groundwater. Where the Remediation Project Manager determined that there would be a possible risk of exposure to people or clean soil or groundwater, the proposed design would be altered to prevent such exposure if feasible. If it were not feasible to avoid exposure, protective measures would be undertaken to minimize the risk of exposure as described in the EIMP.</p> <ul style="list-style-type: none"> <li>- Relocate treatment system components that would be affected by development</li> <li>- Excavate contaminated soil that is in the development location</li> <li>- Ensure that construction contractors have 40 hours of HAZWOPER training if excavating contaminated soil or groundwater, or have 24 hours of HAZWOPER for other site work</li> <li>- Prepare Health and Safety Plan to prevent undue exposure to site contaminants</li> <li>- Conduct industrial hygiene monitoring, and provide personal protective equipment, and other measures as required by the Health and Safety Plan</li> <li>- Allow time in schedule for sampling, staging, and stockpiling contaminated soil, and transporting to onsite treatment location</li> <li>- Install lined underground utility pipes and/or collars around underground utilities to prevent migration of contaminated groundwater</li> <li>- Construct vapor barriers or subslab ventilation under new buildings to prevent vapor intrusion from contaminated groundwater</li> <li>- Retrofit existing buildings to prevent vapor intrusion from contaminated groundwater</li> <li>- Allow time in schedule for sampling groundwater, and containing and transporting contaminated groundwater to onsite treatment system</li> </ul>	Tenant, per Bay View EIMP.

#	Mitigation Description	Responsibility
<b>HAZ – 2</b>	NASA would locate childcare facilities at least 402 meters (1,320 feet) from the industrial area of Mountain View, which would limit the area in which industries handling hazardous materials would be prohibited.	Tenant if Mountain View prohibition is still in effect.
<b>GEO – 2</b>	All new buildings at Ames Research Center would be designed to meet the current Uniform Building Code regulations for seismic safety.	Tenant
<b>GEO – 3</b>	All new construction would be designed based on geotechnical analyses of proposed sites to determine the structural measures necessary to counter the shrink-swell potential of the soil and the risk of structural damage from ground subsidence.	Tenant
<b>GEO – 4</b>	Prior to construction of individual facilities, NASA or its partners would conduct detailed geotechnical investigations of all proposed building sites, and would incorporate the engineering recommendations of these studies into building designs and construction.	Tenant
<b>BIO – 1</b>	To minimize the potential for injury or death caused by construction vehicles to western burrowing owls or migratory birds in all four planning areas and to salt marsh harvest mice in the Bay View area, the following components would be implemented:	Tenant
	- As much as possible, construction traffic would not be routed on roads adjacent to habitats where these special-status species occur and would be prohibited from using roads when habitat considerations require it.	Landlord will establish these off-limits areas prior to construction.
	- Occupied or potential habitat for these species near established routes would be marked as off-limits to construction vehicles.	Tenant
	- In the Bay View area, if construction vehicles must travel on roads within approximately 30 meters (100 feet) of occupied or potential habitat, drift fencing would be erected to prevent salt marsh harvest mice from crossing these roads. The drift fencing would be placed so that harvest mice retain access to adjacent upland habitats for use as refuge during high water events.	Tenant
	- All drivers of construction vehicles would be informed of the established vehicle routes and made aware of the importance of avoiding occupied and potential habitat for western burrowing owls and salt marsh harvest mice.	Tenant
	- Construction activities would not be allowed to disturb nesting migratory birds.	Tenant
<b>BIO – 3</b>	Landscaping would be designed with native species (with the possible exception of lawn areas). Invasive plants would not be used in any landscaping. Any imported soil used for landscaping must be certified as weed-free. Similarly, any erosion-control structures that contain hay or other dried plant material (e.g., hay bales) must be certified as weed-free. Any construction equipment operating within 76 meters (250 feet) of jurisdictional wetlands or other sensitive habitats in the Bay View area would be washed with reclaimed water prior to use in this area to remove potential weed seeds. The construction zone would be surveyed	Tenant

#	Mitigation Description	Responsibility
	periodically by a qualified botanist, so that any infestations of invasive species that establish within the construction zone of the Bay View area can be eradicated before the plants can flower and set seed.	
<b>BIO – 4a</b>	<p>NASA and its partners would institute the following programs and policies to limit increases in predator populations:</p> <ul style="list-style-type: none"> <li>- Prohibit employees from feeding wildlife, including cats.</li> <li>- Institute and enforce a no pets policy in Bay View.</li> <li>- Install trash containers that cannot be opened by predator species.</li> <li>- Augment the existing non-native predator control program, which includes humane trapping and removal of feral cats and other non-native predators.</li> <li>- Conduct a public education program about the impacts caused by non-native predators and the need to refrain from feeding feral cats and other wildlife.</li> <li>- A regular construction cleanup crew would be designated to ensure that construction debris and trash do not attract predators or scavengers.</li> <li>- Humanely trap and remove predators, including, but not limited to, red fox, skunk, raccoons, rats, feral cats and dogs.</li> </ul>	<p>Landlord/Tenant Tenant Tenant</p> <p>Landlord will continue its program to remove predators with the cooperation of the Tenant.</p> <p>Landlord/Tenant</p> <p>Tenant</p> <p>Landlord</p>
<b>BIO – 4b</b>	<p>Design north and east fences bordering Bay View housing to eliminate movement of potential predators from the housing area to sensitive wildlife areas. The design would include:</p> <ul style="list-style-type: none"> <li>- Burying the bottom portion of the fence at least 18 inches below ground level.</li> <li>- Making the fencing grid size small enough to prevent rats from passing through.</li> <li>- Placing roll wire along the top of the fencing to eliminate predators climbing over the fence and to deter avian predators from perching.</li> </ul>	<p>Tenant</p>
<b>BIO – 6</b>	<p>NASA and its partners would use trash receptors that are animal resistant, and will maintain a regular garbage disposal schedule.</p>	<p>Landlord/Tenant</p>
<b>BIO – 7</b>	<p>When feasible, nighttime lighting would be excluded in new development adjacent to high-quality wildlife habitat in the North of the Bay View area. No net increase in lighting in north and east of Bay View housing would occur. The impacts of necessary lighting would be minimized by using low-glare light sources (e.g., low pressure sodium lighting) mounted on short poles and directed away from native habitats. In addition, light</p>	<p>Tenant</p>

#	Mitigation Description	Responsibility
	amplification to nearby sensitive areas would be eliminated through directional lighting with baffles, non-reflective tinting on windows, and other mechanisms.	
<b>BIO – 9</b>	<ul style="list-style-type: none"> <li>- Protect owl burrows wherever possible through careful site planning and inspection during construction.</li> <li>- Where burrows must be removed, evict owls outside the breeding season via passive relocation based on a plan developed by a qualified owl biologist.</li> <li>- Replace lost burrows outside of the nesting season, before construction begins. Burrows would be replaced at a 3:1 ratio either within the owl preserves or in other suitable on-site habitat areas.</li> <li>- Place a Habitat Conservation Easement over burrowing owl preserves</li> </ul>	<p>Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Landlord</p>
<b>BIO – 11a</b>	<p>In order to minimize short-term disturbances from construction, NASA and its partners would adopt the Burrowing Owl Habitat Management Plan (BOHMP), which recommends the following:</p> <ul style="list-style-type: none"> <li>- Construction near owl habitat would be scheduled outside of breeding season, which typically runs from February 1 to August 31, as much as possible.</li> <li>- Construction would be kept as far from nesting areas as possible. If possible, NASA would maintain a minimum 49-meter (160-foot) buffer around occupied burrows during the non-nesting season, and a minimum 76 meter (250-foot) buffer during the nesting season.</li> <li>- If it is not possible to maintain these distances, NASA would work with a qualified owl biologist to determine appropriate distances from active burrows, fence burrows off from construction activities, and provide owls the opportunity to move by installing artificial burrows further from construction areas before construction begins.</li> <li>- NASA would work with a qualified owl biologist to find circulation routes, staging areas, and areas for other construction activities that will minimize impacts to owls or their burrows.</li> </ul> <p>Briefings on burrowing owl conservation will be provided to construction managers, workers, and occupants.</p>	<p>Landlord/Tenant</p> <p>Landlord/Tenant</p> <p>Landlord/Tenant</p> <p>Landlord</p> <p>Landlord</p>
<b>BIO – 13</b>	<p>Tenant would:</p> <ul style="list-style-type: none"> <li>- Allow squirrels to inhabit areas around new development that will not be used by people.</li> <li>- Work with a qualified owl biologist to develop an eradication plan that minimizes effects on burrowing owls if squirrels must be controlled.</li> </ul>	<p>Tenant</p> <p>Tenant</p>
<b>BIO – 14</b>	<p>To protect the owls' prey base, Tenant would adopt the BOHMP, which recommends the following:</p> <ul style="list-style-type: none"> <li>- Allow small rodent and insect control only directly around buildings.</li> </ul>	<p>Tenant</p>

#	Mitigation Description	Responsibility
	<ul style="list-style-type: none"> <li>- Forbid the use of biocides adjacent to or within owl habitat.</li> <li>- Limit, or if possible, prohibit the killing of small rodents or insects in the owl preserves, enhanced owl habitat, and any other areas where owls nest or forage.</li> </ul>	<p>Tenant</p> <p>Tenant</p>
<p><b>BIO – 15</b></p>	<p>In order to prevent increased predation, NASA would enforce Mitigation Measure BIO-4, above. In addition, NASA and its partners would:</p> <ul style="list-style-type: none"> <li>- Continue on-going efforts to control non-native predators in conjunction with US Fish and Wildlife.</li> <li>- Limit tree planting along roads or buildings adjacent to owl and other wildlife habitat areas to minimize the increase in available perches for avian predators, and modify other potential perches structurally to discourage predators.</li> <li>- Minimize outdoor lighting posts near burrowing owl and other wildlife habitat to reduce new perches for avian predators. Where lighting is needed for safety reasons, install devices to discourage birds from perching.</li> <li>- Remove predator perches (light posts primarily) from Bay View burrowing owl preserves.</li> <li>- Trees in Bay View adjacent to the Western Dikes Marsh would be from the USFWS approved list.</li> <li>- Compensate for increases in predation by eliminating predator perches along the boundaries of the Western Diked Marsh, Eastern Diked Marsh and Storm Water Retention Pond. <ul style="list-style-type: none"> <li>• Place roll wire atop all fencing surrounding the eastern and western diked marshes and the storm water retention pond.</li> <li>• If feasible, remove all landscape features within these areas that provide perches for avian predators.</li> </ul> </li> <li>- If possible, avoid the use of rip rap on slopes resulting from fill of the Bay View housing area. If rip rap must be used, it must be small diameter materials that would not create habitat for rodents.</li> <li>- Avoid placing rip rap on existing marsh vegetation.</li> </ul>	<p>Landlord/Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Tenant</p> <p>Landlord/Tenant</p> <p>Tenant</p> <p>Tenant</p>
<p><b>BIO – 18</b></p>	<p>Potentially contaminated runoff would be managed using stormwater BMPs. Swales would be constructed adjacent to wetlands in upland areas to intercept and filter any runoff before it reaches the wetland. Construction of swales would be permitted within the 61-meter (200-foot) buffer zone around wetlands, but not within the wetlands themselves.</p>	<p>Tenant</p>
<p><b>BIO – 19</b></p>	<p>To minimize impacts on wetlands, construction would be avoided in the jurisdictional wetlands along the</p>	<p>Tenant</p>

#	Mitigation Description	Responsibility
	northern boundary of the Bay View area and within 61 meters (200 feet) of these wetlands. Fill activities and other disturbances would be minimized in jurisdictional wetlands elsewhere.	
<b>NOISE – 2a</b>	For development on parcels in the Bay View area near the OARF and the airfield, noise mitigation measures including site planning to protect noise sensitive outdoor activity areas and building sound insulation treatments to protect noise sensitive outdoor activity areas and building sound insulation treatments to protect noise sensitive indoor spaces would be included in project design and development. Buildings would be designed to provide an appropriate Noise Level Reduction (NLR) depending upon the designated uses of the sensitive spaces.	Tenant
<b>AES – 1</b>	NASA and its partners would develop design guidelines for the Bay View, Ames Campus and Eastside/Airfield areas in order to ensure that new buildings would stylistically complement the existing buildings in the Ames Campus and Eastside/Airfield. Design guidelines for the Bay View area would include setback requirements for Stevens Creek and Western Diked Marsh, and would ensure harmonious design.	Tenant
<b>AES – 4</b>	As the site plan for new development in the Bay View area was developed, NASA and its partners would design the new street layout to preserve view corridors through the new development to the North of Bay View area and the salt ponds.	Tenant
<b>AES – 5</b>	NASA and its partners would use site layout to preserve view corridors from the Stevens Creek Trail through new development in Bay View to the historic hangars and to the San Francisco Bay.	Tenant
<b>CUL – 1</b>	<p>In the event that human remains and/or cultural materials are found in the process of implementing the NADP, all project-related construction would cease within a 15 meter (50-foot) radius in order to proceed with the testing and mitigation measures required pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California. The State Historic Preservation Officer and the NASA Federal Preservation Officer would be contacted as soon as possible. Construction in the affected area would not resume until the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800) have been satisfied.</p> <p>In the event of the discovery of human remains, the Santa Clara County Coroner would be notified by the project manager. The Coroner would make the determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his or her authority, s/he would notify the Native American Heritage Commission, who would attempt to identify the descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to State law, then the remains would be reinterred with items associated with the Native American burial on the property in a location not subject to further disturbance.</p>	Landlord/Tenant
<b>SOCIO – 3</b>	NASA's partners would pay the amount that exceeds 0.5 percent of the revenue limit to the Mountain View-Los Altos School District in the years that it is exceeded.	Tenant
	<b>The following mitigation measures are not numbered in the FPEIS, but are built into the project</b>	

#	Mitigation Description	Responsibility
	<b>assumptions:</b>	
X – 1	Common area bike racks	Tenant
X – 3	Reduce solid waste - Recycle glass, paper, metal, cardboard, plastic, etc.	Tenant
X – 4	Reduce solid waste - Recycle demolition debris	Tenant
X – 5	Reduce solid waste - Compost and reuse landscaping debris	Tenant
X – 8	Install new perimeter fence and 2 new security gates in Bay View area	Tenant
X – 9	Pay Mountain View-Los Altos High School District a mitigation fee whenever students from Bay View Housing cause the School District's expenses to exceed its annual revenue limit by more than 0.5%. The fee shall be the difference between the % greater than the revenue limit, and 0.5% of the annual revenue limit.	Tenant shall pay these fees any year when School District's expenses exceed revenue limit by more than 5%.
X – 12	Create recreational space on Parcels 4 and 5 of Bay View	Tenant
X – 13	Pay developer impact fee to Mountain View-Whisman School District	Tenant
X – 14	Pay developer impact fee to Mountain View-Los Altos High School District	Tenant
X – 15	Pay construction tax to Mountain View for Bay View development.	Tenant
X – 17	Construct onsite childcare in Bay View	Tenant to construct their proportional amount of childcare required for the NADP.
X – 19	Enhance burrowing owl preserve in Bay View, if needed. This could consist of constructing artificial burrows if any owls must be displaced to allow construction in the Bay View area.	Tenant will prepare Bay View owl preserve. Landlord will pay for and perform maintenance thereafter.
X – 21	Coordinate with VTA regarding bicycle facilities	Tenant
X – 22	Ensure infrastructure of roads, bike lanes, shuttle/bus stops and pedestrian routes proceeds systematically	Tenant
X – 24	Construct stormwater infiltration measures, e.g., swales, permeable pavement, rooftop gardens, etc. to ensure that rate and quantity of stormwater runoff after construction does not exceed the rate and quantity before construction.	Tenant
X – 25	Add bike paths to R. T. Jones Road	Tenant

#	Mitigation Description	Responsibility
X – 26	Obtain LEED certification for new buildings	Tenant
X – 36	Establish detailed construction traffic plans, including truck trips and haul routes	Tenant

<sup>1</sup>The mitigation measures contained in this Bay View Mitigation Implementation and Monitoring Plan are taken from the Mitigation Implementation and Monitoring Plan prepared for the entire NASA Ames site, pursuant to the NASA Ames Development Plan Final Programmatic Environmental Impact Statement ("NADP EIS"), for which a Record of Decision was signed in November 2002. The mitigation measures that directly apply to Tenant are contained herein. In addition, Tenant's projects are subject to, and may be impacted by, Landlord's obligation to comply with mitigation measure SOCIO-1b in the Mitigation Implementation and Monitoring Plan for the NADP EIS. Pursuant to SOCIO-1b, Landlord will enforce the NASA Ames site-wide construction of the housing and overall TDM goals. Each TDM phase is linked to on-site population, and Tenant shall be subject to the limitation of construction if the housing component of each TDM Phase does not meet its goals.



## EXHIBIT E

### Construction Provisions

Each capitalized term used in these Construction Provisions, but which is not defined herein, shall have the meaning ascribed to it in the Lease. Unless specifically stated otherwise, all references in these Construction Provisions to articles or sections are to articles or sections of these Construction Provisions. The Parties agree that these Construction Provisions shall apply to the submittal and approval of the documents comprising the Bay View Development Plan, the construction of all Improvements and Off – Site Improvements, and all Redevelopment of the Premises. These Construction Provisions may also apply to other matters or work as specifically set forth in the Lease.

### ARTICLE 1

#### Submittal of BVDP Elements

##### 1.1 General.

(a) The substance of each BVDP Element is summarized in this ARTICLE 1. Tenant shall submit to Landlord's NRP Design Review Board each BVDP Element for review and approval in accordance with APD 8822.1 (NASA Research Park Design Review Program). Landlord's NRP Design Review Board shall review the same, and consult with or include in such review such other personnel of Landlord with relevant expertise as may be reasonably necessary. Landlord shall deliver a response or approval in accordance with this ARTICLE 1. Each BVDP Element shall be submitted to the NRP Design Review Board, which shall then have a period of twenty (20) business days (unless a longer review period is specified in this ARTICLE 1) to review that BVDP Element and provide comments. Tenant shall thereafter submit the revised BVDP Element incorporating the comments of the NRP Design Review Board for final approval in accordance with APD 8822.1. The NRP Design Review Board shall then have a period of ten (10) business days (unless a longer review period is specified in this ARTICLE 1) to grant or withhold such final approval, which final approval shall not be unreasonably withheld, conditioned or delayed.

(b) The Parties estimate that the development, submission, revision and approval of all of the BVDP Elements will require an aggregate of twelve (12) months as shown on the Project Schedule. The Project Schedule also sets forth the Parties' estimate of the time period it will take to develop, submit, revise and approve each BVDP Element, and the commencement and completion of each such time period. The Parties acknowledge that the Project Schedule lists the BVDP Elements in the order in which they intend to develop, submit, revise and approve them, but the Parties may mutually agree to revise such order. Tenant agrees that Landlord shall not be obligated to review more than three (3) of the BVDP Elements at any one (1) time. If Tenant submits BVDP Elements to Landlord for review such that Landlord must review more than three (3) BVDP Elements at any one (1) time, then any delay in Landlord's response or approval of any of those BVDP Elements shall not constitute Force Majeure Delay or Landlord Delay so long as Landlord uses reasonable efforts to review the same.

(c) Once each BVDP Element is approved by the NRP Design Review Board, the Parties shall execute a certificate (in duplicate) confirming that the BVDP Element attached thereto has been approved by Landlord and that the same constitutes a portion of the Bay View Development Plan. Tenant shall not amend, modify or alter the Bay View Development Plan (or any BVDP Element approved by Landlord) without Landlord's prior written consent as provided in section 1.15 of these Construction Provisions; provided, however, Landlord agrees that Tenant may submit design development documents, Off - Site Improvements Construction Documents or Design and Construction Documents which would deviate from the approved Bay View Development Plan (or any approved BVDP Element). In such event, Tenant shall concurrently provide Landlord with a reasonably detailed description of how such submittal deviates from the Bay View Development Plan (or any approved BVDP Element). If Landlord approves such submittal, then such approval shall constitute approval of an amendment to the Bay View Development Plan (or such BVDP Element) but only with respect to the particular portion of the Off - Site Improvements or the Improvements covered by Tenant's submittal.

(d) Construction of the Improvements and the Off - Site Improvements shall be consistent with the Bay View Development Plan as approved by Landlord.

(e) Tenant shall not cause the Commencement of Construction of the Water Tank Improvements to occur unless the following BVDP Elements have been approved by Landlord: the Bay View EIMP; the Bay View Stormwater Management Plan; and the Habitat Study.

(f) Tenant shall not cause the Commencement of Construction of either the Park and Recreation Improvements [REDACTED] occur unless the following BVDP Elements have been approved by Landlord: the items set forth in section 1.1(e); the Bay View Design Guide; [REDACTED]

B2(H)  
B7(F)

(g) Tenant shall not cause the Commencement of Construction of any other portion of the Off - Site Improvements, or of any portion of the Improvements, to occur unless all elements of the Bay View Development Plan have been approved by Landlord.

Sections 1.2 through 1.13 of this ARTICLE 1 summarize the substance of each BVDP Element, which shall be prepared, submitted, revised and approved in accordance with the Project Schedule.

1.2 Bay View CEMP. The Bay View CEMP shall set forth Tenant's contribution to the Construction Emissions Mitigation Plan as referenced in the Bay View MIMP. The Bay View CEMP shall be a numeric description of the anticipated emissions over any expected construction period to be prepared in accordance with Landlord's instructions to ensure that annual emissions of ozone precursors associated with the Improvements or Off-Site Improvements and their related operations do not exceed a cumulative total of one hundred (100) tons per year. Landlord shall incorporate the Bay View CEMP into the Construction Emissions Mitigation Plan in order to insure the total of all such emissions on the Property does not exceed one hundred (100) tons per year.

1.3 Bay View Design Guide. The Bay View Design Guide shall outline a set of standards for achieving an attractive, safe, sustainable and compatible development on the

Premises. The Bay View Design Guide shall comply with the Bay View MIMP and shall include, at a minimum, the following:

With Respect to Site Design:

- (i) Open space concept;
- (ii) Traffic and pedestrian circulation concept;
- (iii) Streetscapes;
- (iv) Landscape and hardscape;
- (v) Lighting and site furnishings; and
- (vi) Signage.

With Respect to the Design of Improvements:

- (i) Overall design intent;
- (ii) Building heights and setbacks;
- (iii) Building massing;
- (iv) Materials and colors;
- (v) Systems and equipment; and
- (vi) Sustainable design.

1.4 Bay View EIMP. The Bay View EIMP shall provide a decision framework for the management of Hazardous Material in soil and groundwater at the Premises (and those portions of the Property on which the Off – Site Improvements will be constructed) during the Term (including specifically with respect to development and construction). The Bay View EIMP will describe procedures to address Existing Environmental Conditions and shall set forth contingency actions to be taken in the event that previously unknown contamination or other environmental conditions are encountered. The Bay View EIMP shall include design considerations for new construction and may adopt procedures and construction standards identified in the EIMP.

The Bay View EIMP shall also specify risk management measures to be implemented during construction on any applicable portion of the Property, post – construction risk management procedures for future subsurface activities and procedures for long – term compliance with the Bay View EIMP.

As part of the preparation of the Bay View EIMP, Tenant shall:

- (i) Review available information concerning relevant environmental conditions;
- (ii) Consider existing site conditions;
- (iii) Establish management procedures to ensure that risk management measures are properly implemented and maintained; and
- (iv) Evaluate the effects of identified chemicals of potential concern.



B-2(H)  
B-7(F)

1.6 Bay View Stormwater Management Plan. The Bay View Stormwater Management Plan shall identify the runoff expected as a result of the Improvements and the Off – Site Improvements. The plan shall demonstrate how the runoff, together with the overland flow from other applicable portions of the Property, shall be accommodated without increasing the peak flow rate from the Premises taking into account the Improvements, the Off – Site Improvements, topography, vegetation, groundwater flow and recharge, and floodplain locale. Tenant’s Stormwater Management Plan also shall identify the key features of Tenant’s stormwater system. Tenant agrees that the time period for Landlord to review Tenant’s initial submittal of this Bay View Stormwater Management Plan shall be thirty (30) business days (rather than twenty (20) business days), and that the time period for Landlord’s final review and approval of the revised Bay View Stormwater Management Plan shall be twenty (20) business days (rather than ten (10) business days).

1.7 Bay View TDM Plan.

(a) The Bay View TDM Plan shall outline the elements of Tenant’s plan in as detailed a fashion as appropriate for the level of knowledge of planned or actual operations on the Premises to meet the overall goals of the NADP TDM Plan. The Bay View TDM Plan shall include:

- (i) Goals and objectives (including Tenant’s urban planning concept, compliance with the Bay View MIMP, and Tenant’s transportation goals);

(ii) Implementation and operation (including governance (roles and responsibilities), requirements, performance, evaluation methods, enforcement and remedies to meet goals and objectives, reporting, and triggers for phases) ;

(iii) Program elements and functions (including existing conditions and existing managed transit programs, proposed transportation demand management programs, and conceptual utilization);

(iv) Parking supply (including an overview of the parking allocated within the Landlord's existing entitlements, supply analysis and phasing, controls and monitoring); and

(v) Coordination with the NADP TDM Plan (the Bay View TDM Plan shall be analyzed in the context of the NADP TDM Plan, including how the Bay View TDM Plan may be required to share costs and functions with the NADP TDM Plan, provided, however, that the Bay View TDM Plan shall not be required to be amended once approved in the event of changes to the NADP TDM Plan).

(b) Landlord agrees that if Tenant successfully implements the Bay View TDM Plan as approved by Landlord, Tenant shall not thereafter be obligated to comply with subsequent changes to the NADP TDM Plan which would require greater reduction of vehicle trips than the goals and objectives of the Bay View TDM Plan.

1.8 Bay View Telecom Interface. If Tenant intends to connect to Landlord's Telegateway Facility (commonly known as Building N254), which is in the vicinity of the Phase 1 Parcel, Tenant shall submit to Landlord a description of the types of connectivity or space required in such facility. Such description must satisfy all requirements established by Landlord's Applied Information Technology Division (Code JT) (or its successor organization), and shall be reviewed, refined and approved by such personnel. Tenant agrees that the time period for Landlord to review Tenant's initial submittal of this Bay View Telecom Interface shall be thirty (30) business days (rather than twenty (20) business days), and that the time period for Landlord's final review and approval of the revised Bay View Telecom Interface shall be twenty (20) business days (rather than ten (10) business days).

1.9 Geotechnical Recommendations. Geotechnical recommendations are the results from all geotechnical evaluations, including soil borings, of the Premises (and those portions of the Property on which the Off - Site Improvements will be constructed), and from evaluations of the structural capacity of the in situ soils prepared by engineers engaged by Tenant.

1.10 Habitat Study. Tenant shall retain a qualified owl biologist to perform the Habitat Study required by the Bay View MIMP and the EIS Burrowing Owl Management Plan.

1.11 Hazardous Material Storage Requirements. Tenant's Hazardous Material Storage Requirements shall identify any Hazardous Material expected to be stored in the Improvements or on the Premises, and how they will be stored; provided, however, Tenant need not provide Hazardous Material Storage Requirements for Permitted Materials.

1.12 LEED Checklist. Tenant shall conduct and submit to Landlord a preliminary review of the Leadership for Energy and Environmental Design's Checklist to assure Tenant's

its option, to have the right to reappraise the Premises (or the applicable portion of the Premises affected by Tenant's proposed amendment) pursuant to section 5.1(d) of the Lease.

(b) Landlord may also grant or withhold its approval in its sole and absolute discretion to any proposed amendment to the Bay View Development Plan (or any BVDP Element) which:

(i) does not conform to any requirement of the EIS applicable to the Premises or the construction of the Off – Site Improvements;

(ii) would have a material adverse impact on Landlord's infrastructure (including Utilities) serving any portion of the Property other than the Premises;

(iii) would have a material adverse impact on portions of the Property other than the Premises or the users or occupants of such portions of the Property;

(iv) would have a material adverse impact on owners, users or occupants of property in the vicinity of the Property;

(v) impacts the telecom/IT interface described in section 1.8; or

[REDACTED]


(c) With respect to any other proposed amendment to the Bay View Development Plan (or BVDP Element), Landlord's approval shall not be unreasonably withheld, conditioned or delayed.

B-2(C,H)  
B-7(F)

ARTICLE 2  
Off – Site Improvements

2.1 General. Tenant shall obtain all necessary permits and approvals, bid, construct, install and pay for all of the Off – Site Improvements. The scope of the Off – Site Improvements is summarized on Exhibit J attached to the Lease. The Parties expect that the Water Tank Improvements, and the Park and Recreation Improvements shall be constructed and installed first [REDACTED]. All other portions of the Off – Site Improvements shall be constructed and installed by Tenant in connection with the Phase 1 Improvements; provided, however, Tenant may cause the Commencement of Construction of any discreet portion of the Off – Site Improvements to occur before the Commencement of Construction of the Phase 1 Improvements. Tenant shall deliver to Landlord at least thirty (30) days prior notice before the Commencement of Construction of each discreet portion of the Off – Site Improvements. Promptly following receipt of each such notice, Landlord and Tenant shall execute and deliver to each other a Temporary Construction License permitting Tenant to enter such other portions of the Property as is reasonably necessary for such work. Tenant shall not enter the applicable portion of the Property or commence any work thereon until the applicable Temporary Construction License has been executed and delivered. Following the Commencement of Construction of each discreet portion of the Off – Site Improvements, Tenant shall diligently pursue the applicable construction until completion. [REDACTED]

B-2(C,H)  
B-7(F)



B-2(A)  
B-7(F)

2.2 Design and Permits. Tenant shall design each discreet portion of the Off – Site Improvements and prepare the Off – Site Improvements Construction Documents therefor in accordance with Applicable Laws (including APD 8822.1 (NASA Research Park Design Review Program) and APD 8829.1 (Construction Permits)), Applicable Policy and Guidance Documents and such other specifications or requirements as Landlord may provide to Tenant (including specifically with respect to the Water Tank Improvements, the New Cooling Tower Improvements, the Security Improvements and the telecom/IT interface described in section 1.8 (if any)). All of the Off – Site Improvements Construction Documents and all changes thereto (other than minor field changes) shall be submitted to, and approved by, Landlord’s Authorized Representatives. Nothing contained in this section 2.2 shall be deemed to relieve Tenant of its obligations to comply with Applicable Laws and Applicable Policy and Guidance Documents with respect to the design of the Off – Site Improvements, or to obtain further approvals from Landlord in the event of any such change in the design of the Off – Site Improvements; provided, however, Tenant shall not be obligated to comply with changes in Applicable Laws with respect to Plans in Progress. The review, comments, recommendations or approvals by Landlord’s Authorized Representatives on the Off – Site Improvements Construction Documents shall be limited to the particular submittal and shall not be applicable any other requirements of these Construction Provisions.

2.3 Other Permits. In addition to obtaining the permits described in section 2.2, Tenant shall obtain from the Ames Construction Permit Office (a) hot – work permits at least twenty – four (24) hours prior to performing any welding, cutting, torching or similar open flame work, and (b) permits for excavation/drilling, confined space entry, facility closure/obstruction and high voltage electrical work, in each case before any such work commences. Water discharge permits shall be handled through the Ames Construction Permit Office, but shall be issued by the applicable governmental agencies. All other required permits, if any, shall be obtained by Tenant directly from the applicable governmental agencies, and Tenant shall promptly provide copies thereof to the Ames Construction Permit Office.

2.4 Construction Contracts. The Construction Contracts to construct and install each discreet portion of the Off – Site Improvements shall be a separate set of agreements from each other and from the Construction Contracts to construct and install the Improvements. Tenant agrees that the general contractor or construction manager and prime contractors for each discreet portion of the Off – Site Improvements requires Landlord’s prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. In addition, Tenant shall submit the request for proposals for each discreet portion of the Off – Site Improvements to Landlord for its prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. To the extent that the Construction Contract that Tenant proposes to enter into for any discreet portion of the Offsite Improvements varies in any material respect from the terms set forth in the request for proposal therefor, such proposed terms shall be

submitted by Tenant to Landlord with an explanation thereof, and such terms shall be subject to Landlord's review and approval, which approval shall not be unreasonably withheld, conditioned, or delayed. The Parties agree that all Construction Contracts for any portion of the Off - Site Improvements shall:

(a) Acknowledge that Tenant will be conveying all of its right, title and interest in and to the Off - Site Improvements to Landlord and, therefore, Landlord (as the prospective owner thereof) shall be inspecting all work, testing such Off - Site Improvements and approving the work during construction;

(b) Provide that all warranties and guarantees to be provided by manufacturers, contractors or others parties shall be assigned to Landlord upon completion of the applicable Off - Site Improvements without prior consent by such manufacturers, contractors or others parties;

(c) State that contractors, suppliers and laborers may not have enforceable lien rights under California law against Landlord as owner of the real property on which the Off - Site Improvements are being constructed;

(d) Provide for a collateral assignment thereof to Landlord, and the Parties shall execute a collateral assignment of all such Construction Contracts before the Commencement of Construction of such Off - Site Improvements in a form reasonably acceptable to the Parties (and which shall provide for subordination of Landlord's rights under such Collateral Assignment to the rights of a Mortgagee (if any)); and

(e) Provide that, if Landlord exercises its rights under the collateral assignment described in section 2.4(d) and becomes a party to such Construction Contracts, then Landlord's liability (other than obligations to make payments in accordance with such Construction Contracts) under such Construction Contracts shall be limited as set forth in the Lease, and no contrary or conflicting provision in such Construction Contracts shall be binding upon Landlord; provided, however, Landlord agrees that it may not require any contractor to provide any payment or performance bond.

## 2.5 Construction and Completion.

(a) During the construction of each discreet portion of the Off - Site Improvements, the Ames Construction Permit Office shall conduct the hold - point and final inspections as set forth in the permits applicable to such Off - Site Improvements.

(b) The Parties shall, from time to time, conduct periodic progress reviews of the construction of the Off - Site Improvements. Tenant will submit each request for information or other submissions regarding the Off - Site Improvements Construction Documents to Landlord's construction administrator via email (to [constructionadmin@mail.arc.nasa.gov](mailto:constructionadmin@mail.arc.nasa.gov)), with a copy to Landlord at its address for notices set forth in the **Basic Lease Information** of the Lease.

(c) In the event that Tenant at any time proposes a change to any of the Off - Site Improvements Construction Documents, Tenant will submit any such proposed change to Landlord's construction administrator via email (to [constructionadmin@mail.arc.nasa.gov](mailto:constructionadmin@mail.arc.nasa.gov)), with



a copy to Landlord at its address for notices set forth in the **Basic Lease Information** of the Lease. Each such proposal shall specify the portion of the Off – Site Improvements affected, shall be numbered sequentially and shall include the following information:

- (i) A reasonably detailed description of the scope of such proposed change;
- (ii) The reasons for the proposed change; and
- (iii) Such other information as Tenant believes is relevant.

Promptly following receipt of Tenant's proposed change, Landlord's Authorized Representative shall notify Tenant of the Additional Information, if any, required in connection with reviewing the proposed change. As promptly as possible following such receipt of Additional Information, if any, Landlord's Authorized Representative will approve or disapprove the proposed change, which approval will not be unreasonably withheld, conditioned or delayed. Tenant shall reimburse Landlord for Landlord's reasonable costs to review each proposed change, which reimbursement shall be made as part of the quarterly payments for Demand Services.

With respect to Technical Submittals, at the time of each permit approval for any discreet portion of the Off-Site Improvements, Landlord's Authorized Representative will identify key Technical Submittals required to be approved by Landlord for any such work. Landlord's approval of Technical Submittals shall follow the procedure in the immediately preceding paragraph.

(d) Tenant shall deliver to Landlord notice when Tenant reasonably believes that the construction and installation of any discreet portion of the Off – Site Improvements is complete to permit Landlord to conduct an inspection of the work with Tenant and its contractors (and develop a punch – list of items to be corrected), to conduct such tests or other inspections of the applicable portion of the Off – Site Improvements as Landlord may reasonably require, and to approve the work. Tenant shall notify Landlord prior to commissioning any Off – Site Improvements and schedule such commissioning activities so as to include Landlord and Landlord's contractors. Without limiting the immediately preceding sentence, Tenant acknowledges that the commissioning of the New Cooling Tower Improvements and the Water Tank Improvements, and the final connection of each such portion of the Off – Site Improvements to Landlord's infrastructure, impacts Landlord's mission – critical facilities and, therefore, Tenant agrees that the same shall be coordinated by Landlord and shall not occur without Landlord's prior approval, which may be given or withheld in Landlord's subjective discretion. Tenant shall execute, acknowledge and deliver to Landlord, within sixty (60) days after Landlord's written request, such documents as Landlord may reasonably require to transfer title and ownership of the applicable portion of the Off – Site Improvements to the Government free and clear of all liens and encumbrances, together with project contract close out documents (including Product Data, operations and maintenance manuals, as-built drawings, and all warranties and guarantees received by Tenant from manufacturers, contractors or other parties in connection with the construction and installation of such portion of the Off – Site Improvements). Following Landlord's acceptance of such applicable portion of the Off-Site Improvements and delivery of such documentation with respect thereto, Tenant shall have no further responsibility with respect thereto and Landlord shall be responsible for the maintenance and repair thereof pursuant to section 8.1 of the Lease. Tenant shall concurrently deliver to

Landlord a schedule of values regarding such Off – Site Improvements to permit Landlord to determine the capital costs of such Off – Site Improvements for entry into Landlord’s real property and financial records. If Landlord is thereafter audited, Tenant shall provide reasonable supporting documentation evidencing such schedule of values.

ARTICLE 3  
Improvements

3.1 Design and Permits. Tenant shall obtain all necessary permits and approvals (including any modifications thereto required by any proposed changes in previously permitted work), bid, construct, install and pay for all of the Improvements. Tenant shall design each discreet portion of the Improvements and prepare the Design and Construction Documents therefor in accordance with Applicable Laws (including APD 8822.1 (NASA Research Park Design Review Program) and APD 8829.1 (Construction Permits)), the Applicable Policy and Guidance Documents and such other specifications or requirements as Landlord may provide to Tenant (including specifically requirements set forth in the scope of Off – Site Improvements (attached to the Lease as Exhibit J) as may be applicable to such discreet portion of the Improvements). All of the Design and Construction Documents shall be submitted to, and approved by, the Ames Construction Permit Office. Nothing contained in this section 3.1 shall be deemed to relieve Tenant of its obligations to comply with Applicable Laws and Applicable Policy and Guidance Documents with respect to the design of the Improvements; provided, however, Tenant shall not be obligated to comply with changes in Applicable Laws with respect to Plans in Progress. The review, comments, recommendations or approvals by Landlord’s Authorized Representatives on the Off – Site Improvements Construction Documents shall be limited to the particular submittal and shall not be applicable any other requirements of these Construction Provisions.

3.2 Other Permits. In addition to obtaining the permits described in section 3.1, Tenant shall obtain from the Ames Construction Permit Office (a) hot – work permits at least twenty – four (24) hours prior to performing any welding, cutting, torching or similar open flame work, and (b) permits for excavation/drilling, confined space entry, facility closure/obstruction and high voltage electrical work, in each case before any such work commences. Water discharge permits shall be handled through the Ames Construction Permit Office, but shall be issued by the applicable governmental agencies. All other required permits, if any, shall be obtained by Tenant directly from the applicable governmental agencies, and Tenant shall promptly provide copies thereof to the Ames Construction Permit Office.

3.3 Construction Contracts. Tenant agrees that the general contractor and/or construction manager for each discreet portion of the Improvements requires Landlord’s prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. The Parties agree that all Construction Contracts for any portion of the Improvements shall:

(a) Advise contractors, suppliers and laborers that they may assert lien rights under California law against Tenant’s leasehold estate in the Premises, but not against fee title to the Premises;

(b) Provide for a collateral assignment thereof to Landlord, and the Parties shall execute a collateral assignment of all such Construction Contracts before the Commencement of Construction of such Improvements in a form reasonably acceptable to the Parties (and which shall provide for subordination of Landlord's rights under such Collateral Assignment to the rights of a Mortgagee (if any)); and

(c) Provide that, if Landlord exercises its rights under the collateral assignment described in section 3.3(b) and becomes a party to such Construction Contracts, then Landlord's liability (other than obligations to make payments in accordance with such Construction Contracts) under such Construction Contracts shall be limited as set forth in the Lease, and no contrary or conflicting provision in such Construction Contracts shall be binding upon Landlord; provided, however, Landlord agrees that it may not require any contractor to provide any payment or performance bond.

3.4 Inspections. During the construction of each discreet portion of the Improvements, the Ames Construction Permit Office shall conduct the hold – point and final inspections as set forth in the permits applicable to such Improvements.

#### ARTICLE 4 Construction Assurances; Bonds

4.1 Construction Assurances; Bonds. At least sixty (60) days before the Commencement of Construction with respect to each discreet building or other portion of the Improvements or each discreet portion of the Off – Site Improvements, Tenant shall propose to Landlord a means by which Landlord shall have adequate assurances regarding the availability of funds to complete construction of such work, which assurances may be Tenant's (or Guarantor's) then-current financial condition, a commitment for construction financing, establishment of an escrow account or letter of credit for construction funds, or other similar proposal. Landlord shall consider Tenant's proposal in Landlord's reasonable, good faith judgment. If Landlord, acting reasonably and in good faith, does not accept any such proposal for such adequate assurances by Tenant, then Landlord may require that Tenant obtain and keep in force, for the benefit of Tenant and Landlord, a bond naming Landlord as an additional obligee, so long as such bond is commonly available in the commercial market. Such bond shall provide security for Tenant's payment obligations under the applicable Construction Contract, and ensuring that the Property will remain free of all mechanics', laborers' or materialmen's liens or claimed liens on account of any services or materials furnished or labor or work performed in connection with the applicable construction work, including obligations arising under the applicable Construction Contract. Each bond shall be in form and substance reasonably satisfactory to Landlord, and shall be issued by a California admitted surety that is either listed in the Department of the Treasury's Listing of Approved Sureties (Department Circular 570) or that has an A.M. Best rating of A or better and has an underwriting limitation, pursuant to the California Insurance Code §12090, greater than the value of the relevant Construction Contract. Each bond shall be in an amount reasonably determined by Landlord (but not more than 125% of the construction contract value of the relevant Construction Contract and shall remain in effect until the entire work under such Construction Contracts shall have been completed. Tenant shall provide evidence to Landlord that Tenant has obtained and will keep in force each such bond prior to the relevant Commencement of Construction. The amount

of the premium of such bond (which amount shall not accrue interest) shall be accepted by Landlord as in – kind consideration in satisfaction of Base Rent beginning on the first day of first full calendar quarter after such bond has been issued and delivered to Landlord.

4.2 Maintenance Bonds. If requested by Landlord, prior to each Completion of Off – Site Improvements, Tenant shall obtain and deliver to Landlord a maintenance bond, in a form reasonably acceptable to Landlord so long as such bond is commonly available in the commercial market. Such maintenance bond shall assure Landlord that such Off – Site Improvements shall be free from defects in design, workmanship or materials, and shall be maintained, for the term of such maintenance bond. Such maintenance bond shall be in an amount and for a term reasonably selected by Landlord. The amount of the premium of such bond (which amount shall not accrue interest) shall be accepted by Landlord as in – kind consideration in satisfaction of Base Rent beginning on the first day of first full calendar quarter after such bond has been issued and delivered to Landlord.

#### ARTICLE 5 Fees and Reimbursement of Costs

5.1 General. Tenant agrees that it shall pay the fees and reimburse Landlord for the costs described in this ARTICLE 5 as Additional Rent in connection with the construction of all Improvements, Off – Site Improvements, Redevelopment and Alterations. The Parties acknowledge that the applicable Support Agreement shall set forth the estimated amounts of the fees and costs described in this ARTICLE 5. During the first five (5) business days of last month of each calendar quarter during any portion of the Term that Tenant anticipates to perform construction work (and therefore be required to pay fees or incur costs for services rendered pursuant to these Construction Provisions), Tenant shall outline the expected scope of work for the upcoming calendar quarter and submit the same to Landlord. Within ten (10) business days after receiving Tenant’s expected scope of work, Landlord shall update its estimate of the fees payable, and the costs to be reimbursed, by Tenant for the upcoming calendar quarter. Landlord shall concurrently provide Tenant with reasonably satisfactory evidence of actual expenditures of funds for the prior calendar quarter. The Parties shall then amend the applicable Support Agreement as is necessary. Tenant shall deposit the amount set forth on the revised Support Agreement prior to the first day of such subsequent calendar quarter. If the level of effort for providing services was not adequately addressed in any expected scope of work submitted by Tenant or in any estimate provided by Landlord, Landlord shall so notify Tenant and will provide a new estimate of fees and costs, and Tenant shall promptly deposit with Landlord such additional amount as may reasonably be necessary. No services will be provided to Tenant unless adequate funds are on account, and no delay resulting from a lack of funds on account shall constitute Force Majeure Delay or Landlord Delay.

5.2 Review and Approval of BVDP Elements. All reasonable costs incurred by Landlord to review and approve each BVDP Element, and all amendments, modifications and revisions of the Bay View Development Plan, shall be reimbursed by Tenant to Landlord. Such costs shall include Landlord’s out – of – pocket costs for contractor time and personnel, and such reasonable costs as may be charged by organizations within NASA Ames Research Center on a “chargeback” basis in order to provide such services.

### 5.3 Permit Fees.

(a) Prior to Commencement of Construction of each discreet portion of the Off – Site Improvements or the Improvements, Tenant shall make application to Landlord for all permits necessary to construct the same, and Tenant shall pay to Landlord the cost (as set forth in Landlord’s permitting fee rate schedule) of all permit and inspection fees assessed by Landlord for such Off – Site Improvements or Improvements. Such permit and inspection fees reimburse Landlord for its actual costs to provide (i) plan check, (ii) hold – point and final inspections and (iii) the final certificate of occupancy for the submittal package. Within five (5) business days after each Tenant application for a permit, Landlord will advise Tenant of the estimated amount of the permit fee based upon the submitted package. Landlord requires a single payment of each such fee in advance for each submittal package, and Landlord shall not begin the review of the plans until payment has been received.

As of the Effective Date, Landlord’s permitting fee rate schedule does not include development impact fees (current examples of such impact fees include traffic or transportation impact fees, housing impact fees, and school impact fees), and Landlord agrees that, regardless of whether Landlord hereafter imposes any such impact fees with respect to future development on the Property, Landlord shall not impose any such impact fees (as opposed to the permitting fees described hereinabove) in connection with the development of the Improvements described in the Bay View Conceptual Development Plan; provided, however, Tenant agrees that (i) the foregoing does not negate or limit Tenant’s obligations to pay all fees to third parties in accordance with the Bay View MIMP, and (ii) if Landlord hereafter imposes any such impact fees with respect to development on the Property, and if, pursuant to Landlord’s requirements for the imposition of any such impact fees, any proposed Redevelopment of the Premises would be subject to the imposition of such impact fees, the foregoing does not negate or limit Landlord’s ability to impose such impact fees in connection with any such proposed Redevelopment of the Premises.

(b) If a change in a previously issued permit is required, an additional fee shall be charged by Landlord in accordance with the permitting fee rate schedule.

(c) The permitting fee rate schedule may be revised from time to time by Landlord in compliance with Applicable Laws; provided that any such revisions shall not apply to Plans in Progress; and provided further that notwithstanding any such revision of Landlord’s permitting fee rate schedule, Landlord agrees that the fees payable by Tenant shall not exceed the fees then charged by the City of Mountain View with respect to a similar project then being undertaken by Tenant. Landlord shall provide Tenant with the current permitting fee rate schedule from time to time promptly following Tenant’s written request.

(d) Tenant shall pay all other permit fees due and owing to governmental agencies other than Landlord directly to such agencies. If requested by Landlord, Tenant shall provide Landlord with a copy of any permit issued by any such other agency.

5.4 Construction Liaison Costs. During the construction of each discreet portion of the Off – Site Improvements and the Improvements, Tenant shall reimburse Landlord’s reasonable costs to provide construction liaison support. The construction liaison support shall

consist of environmental oversight as described below, Landlord health and safety issues, review of Technical Submittals and change orders, coordination of Utility shut offs, traffic impacts or road closures, security issues, observation of critical inspections or tests, assistance in resolution of unforeseen site conditions, and monitoring of project progress. Landlord's level of effort for construction liaison support will vary depending on the scope and amount of work proceeding at any given time. It is estimated that the level of effort will vary from between one and one – half (1.5) full – time personnel during the construction of each discreet portion of the Off – Site Improvements to approximately four (4) full – time personnel during the construction of each discreet portion of the Improvements; and such personnel shall be subject to Tenant's approval, such approval not to be unreasonably withheld, conditioned or delayed. Landlord's environmental oversight shall include environmental site sampling as identified in the Bay View EIMP, monitoring and enforcement of the Applicable Policy and Guidance Documents and Bay View CEMP described in section 1.2, and response to questions on disposition of soil or groundwater from excavations from the installation of Improvements or Off – Site Improvements. Landlord's environmental personnel shall be knowledgeable about Existing Environmental Conditions, and shall use reasonable efforts to advise the Tenant with respect to Existing Environmental Conditions and the terms of applicable agreements pertaining to such Existing Environmental Conditions.

5.5 Demand Services. Tenant may request that Landlord provide Demand Services from time to time in connection with the construction of the Off – Site Improvements or the Improvements. Such Demand Services may include Utility shutdowns, engineering support (such as calculations on Landlord's systems) or other elective services (janitorial, composting, landscaping, hazardous waste disposal, or environmental sampling other than as part of construction liaison support).

5.6 Temporary or Partial Certificates of Occupancy. Tenant shall pay Landlord's standard fee to issue each temporary or partial certificate of occupancy in connection with Tenant's application to the CBO to issue the same.

## ARTICLE 6

### General Construction Requirements

6.1 General Demolition and Construction Requirements. Tenant shall perform all demolition, construction and work in accordance with all Applicable Laws, Applicable Policy and Guidance Documents, the recommendations of Tenant's geotechnical, environmental, engineering and other construction consultants, and in a good and workmanlike manner using materials of a quality consistent with the first class nature of the Premises. Tenant shall not construct any buildings or other structures outside the boundaries of the Premises or on, over or above any Utilities of Landlord within or crossing the Premises (subject to Tenant's right to relocate any such Utilities as set forth in section 2.3 of the Lease), nor shall Tenant use any portion of the Property other than the Premises in connection with the construction or installation of the Improvements; provided, however, the foregoing shall not prevent Tenant from (i) constructing and installing the Off – Site Improvements in accordance with ARTICLE 2, (ii) constructing and installing Utility lines within common areas of the Property between the boundary of the Premises and any point of connection to Landlord's infrastructure, or (iii) from

using the common areas of the Property for their intended purposes in accordance with section 2.2 of the Lease.

(a) Tenant shall prepare and maintain on the Premises (i) on a current basis during the construction of any Phase and/or Off – Site Improvements, annotated Design and Construction Documents and Off – Site Improvements Construction Documents (as the case may be) showing clearly all substantive changes, revisions and substitutions during such period of construction, and (ii) upon Completion of Construction of any Phase or Completion of Off – Site Improvements, as – built drawings showing clearly all changes, revisions and substitutions during the period of construction, including minor field changes and the final location of all mechanical equipment, Utility lines, ducts, outlets, structural members, walls, partitions and other significant features of the applicable work.

(b) The Parties agree that the Bay View EIMP, and other relevant Applicable Laws and Applicable Policy and Guidance Documents, shall be used to address environmental issues (and the payment or reimbursement of costs related thereto) in connection with the construction of all Improvements and Off – Site Improvements. If any soil or groundwater contamination encountered in the course of construction must be disposed of as hazardous waste, Landlord shall execute all manifests in connection therewith.

(c) Tenant and its contractors are encouraged to adopt a “Zero Incident Policy” in connection with all construction work on the Property. Landlord shall provide its Zero Incident Policy to Tenant promptly following Tenant’s written request.

#### 6.2 Construction Completion Procedures.

(a) Within forty – five (45) business days after the Completion of Off – Site Improvements or the Completion of Construction of any Phase, Tenant shall: (i) submit to Landlord a notice of such completion; (ii) deliver to Landlord evidence, reasonably satisfactory to Landlord, of payment of all costs, expenses, liabilities and liens arising out of or in any way connected with such construction (except for liens that are contested in the manner provided in section 6.4); (iii) provide to Landlord a complete set of as – built drawings in a computer based format approved by Landlord; and (iv) deliver to Landlord such other documents as Landlord may reasonably require for its real property records and reporting requirements.

(b) Upon approval by the Center Director (which approval shall not be unreasonably withheld or delayed) of the Completion of Construction of any Phase, the CBO will issue a certificate of occupancy or similar document for the applicable Improvements. The Center Director may withhold such approval (and, therefore, the CBO shall not issue a certificate of occupancy) only if the Center Director determines, in his or her reasonable discretion, that the Improvements have not been completed substantially in accordance with the relevant Design and Construction Documents or Applicable Laws and Applicable Policy and Guidance Documents. Tenant shall not occupy any Improvements constructed on the Premises until a certificate of occupancy and all other necessary approvals have been issued by Landlord and all other applicable governmental agencies; provided, however, Tenant may apply to the CBO for a partial or temporary certificate of occupancy and, if issued, occupy portions of the Improvements pursuant thereto.

6.3 Limitation on Effect of Approvals. All rights of Landlord to review, comment upon, approve, inspect or take any other action with respect to the Premises, the Improvements, the Off – Site Improvements or the design or construction thereof are specifically for the benefit of Landlord and no other party. No review, comment, approval or inspection, required or permitted by, of, or to Landlord hereunder shall give or be deemed to give Landlord any liability, responsibility or obligation for, in connection with, or with respect to, the design, demolition, construction, maintenance, repair, preservation, rehabilitation, reconstruction, restoration or operation of the Premises or the Improvements, or the removal and/or remediation of any Hazardous Materials on, in or from the Premises, nor shall any such approval or inspection be deemed to relieve Tenant of the sole obligation and responsibility for the design, construction, maintenance, repair, preservation, rehabilitation, reconstruction, restoration, and operation of the Premises (including the Improvements) and the removal and/or remediation of Hazardous Materials required under the Lease. Similarly, no inspection performed or not performed by Landlord under this Lease shall: (a) give or be deemed to give Landlord any responsibility or liability with respect to the thing inspected, the work or the prosecution thereof, or the design or construction of the work or any part thereof; (b) constitute or be deemed to constitute a waiver of any of Tenant's obligations or Tenant's rights hereunder; or (c) be construed as approval or acceptance of the thing inspected or the prosecution thereof, or the design or construction of the work or any part thereof. Provided, however, that the foregoing is not intended to limit the effect of any approval given by Landlord or permit issued by Landlord pursuant to APD 8822.1 or APD 8829.1 for purposes of the satisfaction of Tenant's obligations and requirements thereunder.

6.4 Protection from Mechanics Liens.

(a) Tenant shall have no power to do any act or to make any contract that may create or be the foundation for any lien, mortgage or other encumbrance upon the reversion, fee interest or other estate of Landlord or of any interest of Landlord in the Premises. Tenant shall notify all of its contractors that Tenant does not own fee title to the Premises (or any other portion of the Property), and such contractors shall be instructed to record any preliminary notice or other document related to any mechanic's or materialmen's liens against only Tenant's ground leasehold interest in the Premises and not against fee title to the Property. At least ten (10) days before the date of any Commencement of Construction or materials are delivered for Off – Site Improvements or any Phase, Tenant shall give written notice to Landlord of the date of such Commencement of Construction or of the delivery of materials, as the case may be. Landlord shall then have the right to post and maintain on the Premises (or with respect to the Off – Site Improvements and any Utility lines or improvements being installed by Tenant, on those portions of the Property where such Off – Site Improvements or Utility lines or improvements are being constructed and installed) any notices that are required to protect Landlord and Landlord's interest in the Property from any liens for work and labor performed or materials furnished in completing the Off – Site Improvements or any Phase. Nothing in this Lease shall be deemed to be, or be construed in any way as constituting, the consent of or request by Landlord, expressed or implied, by inference or otherwise, to any person, firm or corporation, for the performance of any labor or the furnishing of any materials for any construction, repairs, maintenance, replacement, Alterations or Redevelopment of or to the Premises or any part thereof, or as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the



furnishing of any materials that might in any way give rise to the right to file any lien against Landlord's interest in the Premises.

(b) Tenant shall not suffer or permit any liens to stand against the Premises (and with respect to the Off – Site Improvements and any Utility lines or improvements being installed by Tenant, on those portions of the Property where such Off – Site Improvements or Utility lines or improvements are being constructed and installed) or any part thereof by reason of any work, labor, services or materials done for, or supplied to, or claimed to have been done for or supplied to Tenant. Tenant shall keep the Premises (and with respect to the Off – Site Improvements and any Utility lines or improvements being installed by Tenant, on those portions of the Property where such Off – Site Improvements or Utility lines or improvements are being constructed and installed) free and clear of any and all mechanics', materialmen's and other liens for work done, services performed, materials supplied or appliances used or furnished in or about the Premises in connection with any activities of Tenant on or about the Premises. If any such lien shall at any time be filed, Tenant shall cause the same to be discharged of record within thirty (30) days prior to the date any such lien may be foreclosed upon. If Tenant fails to discharge or contest such lien within such period and such failure shall continue for a period of fifteen (15) days after notice by Landlord, then, in addition to any other right or remedy of Landlord, Landlord may, but shall not be obligated to, procure the discharge of the same either by paying the amount claimed to be due, by deposit in court, or by bonding. All amounts paid or deposited by Landlord for any of the aforesaid purposes, and all other expenses of Landlord and all necessary disbursements in connection therewith, in defending any such action or in procuring the discharge of such lien, shall become due and payable by Tenant to Landlord promptly upon written demand therefor.

[REDACTED]

B4

## EXHIBIT F

### List of Environmental Reports

Surface Soil Investigation Report of Findings, Bayview Redevelopment Area. July 2001. PAI.

Administrative Draft Human Health Risk Assessment Bayview Redevelopment Area. January 7, 2002. Harding ESE.

Recent groundwater monitoring well results, for wells within and immediately upgradient of the Bayview Area.

Draft Annual Groundwater Monitoring Report for 2005, NASA Ames Research Center.

Analytical results from screening of soil fill material placed in the Bayview Area.

Archaeological Investigation regarding CASCL23, Bentley Engineering, May 28, 1993.

#### AOI 5

A5-1. Draft, Report of Findings, Area of Investigation 5, March 2007 Soil Investigation, NASA Ames Research Center, Moffett Field, California

A5-2. Area of Investigation 5, Soil Investigation Report of Findings, Building N236, Substations N225 And N225B, NASA Ames Research Center, Moffett Field, California, April 2007

A5-3. Area of Investigation 5, Soil Investigation, Building N236, Substations N225 and N225A, Moffett Field, Ca, Final Sampling and Analysis Plan, January, 2007

A5-4. Removal Action Workplan for Area of Investigation 5, NASA Ames Research Center, Moffett Field, California

A5-5. Fact Sheet No. 5, NASA Ames Research Center, Moffett Federal Airfield, Ca, Area of Investigation 5, January 2002

A5-6. N225B Substation, Underground Pipe Removal and Soil Characterization, Area of Investigation 5, NASA Ames Research Center, Moffett Field, California, June 2001

A5-7. Soil and Groundwater Investigation Report of Findings, Phase II, Area of Investigation 5, NASA Ames Research Center, Moffett Field, California, January 2000

A5-8. Soil and Groundwater Investigation Report of Findings, Phase I, Area of Investigation 5, NASA Ames Research Center, Moffett Field, California, January 2000

A5-9. Soil and Groundwater Investigation Workplan, Area of Investigation 5, NASA Ames Research Center, Moffett Field, California, February 1999

AOI 4

- A4-1. Draft, Area of Investigation 4, 2007 Annual Operation and Maintenance Report, January, 2008
- A4-2. Draft Closure Report, Area of Investigation 4, Sites Associated with UST 1, UST 5, SB4-2, And SB4-6, NASA Ames Research Center
- A4-3. Final, Area of Investigation 4, 2006 Annual Operation and Maintenance Report, July, 2007
- A4-4. Area of Investigation 4, 2005 Operations & Maintenance Summary Report, January 2006
- A4-5. Soil Management Plan, Area of Investigation 4, NASA Ames Research Center, Moffett Field, California, September 2005
- A4-6. Area of Investigation 4, 2004 Operations & Maintenance Summary Report, July 2005
- A4-7. Draft, Sampling and Analysis Plan, National Full Scale Aerodynamics Complex, Hydraulic Oil Release, NASA Ames Research Center, Moffett Field, California, November 2004
- A4-8. Draft, Sampling and Analysis Plan, Tank 1, Tank 5, and Tank 7 Areas, November 2004
- A4-9. Draft, Annual Groundwater Sampling and Analysis, 2003 Summary Report, Area of Investigation 4, NASA Ames Research Center, Moffett Field, California, March 2004
- A4-10. Draft, Underground Storage Tank Removal Report, National Full Scale Aerodynamics Complex Outdoor Aerodynamics Research Facility, NASA Ames Research Center, Moffett Field, California, March 2004
- A4-11. Final Operations and Maintenance Plan, Tank 1, Tank 5, SB4-2, And SB4-6, Area of Investigation 4, NASA Ames Research Center, Moffett Field, California, February 2004
- A4-12. Draft, Annual Groundwater Sampling and Analysis 2000–2002 Summary Report,
- A4-13. Area of Investigation 4, NASA Ames Research Center, Moffett Field, California, April 2003
- A4-14. AOI 4 Hydraulic Oil Spill Investigation, Report of Findings, National Full-Scale Aeronautics Complex, NASA Ames Research Center, Moffett Field, California, December 2002
- A4-15. Surface Soil Investigation, NFAC Emergency Response, NASA Ames Research Center, NASA Ames Research Center, Moffett Field, California, May 2002

A4-16. Sampling and Analysis Plan, National Full-Scale Aeronautics Complex, Area of Investigation 4, NASA Ames Research Center, Moffett Field, California, April 2002

A4-17. Area of Investigation 4 Verification Sampling, January 28, 2000

Orion Park

- O1 Draft Final Design, Boundary Treatment Zone, Permeable Reactive Barrier Installation, Design Basis Report, April 19, 2004
- O2. Sampling and Analysis Plan, Area of Investigation 4 and Orion Park Boundary Area, NASA Ames Research Center, Moffett Field, California, October 2003
- O3. Soil and Groundwater Investigation Report of Findings, Area of Investigation 4/Orion Park, NASA Ames Research Center, Moffett Field, California, March 1999
- O4. Soil and Groundwater Investigation Workplan, Area of Investigation 4/Orion Park, NASA Ames Research Center, Moffett Field, California, February 1999

Bay View

- B1. Report of Findings, Bayview Redevelopment Area, VOC Investigation, NASA Ames Research Center, Moffett Field, California, September 2004
- B2. Draft Sampling and Analysis Plan, Bayview Redevelopment Area, NASA Ames Research Center, Moffett Field, California, February 2004

AOI 11/U14

- U14-1. Soil and Groundwater Investigation, Report of Findings, Groundwater Flow Definition and Potential Source Evaluation, Area of Investigation 11/U14, NASA Ames Research Center, Moffett Field, California, July 2001
- U14-2. Soil and Groundwater Investigation Workplan, Groundwater Flow Definition and Potential Source Evaluation, Area of Investigation 11/Area Of U14, NASA Ames Research Center, Moffett Field, California, May 2000
- U14-3. Soil and Groundwater Investigation Report of Findings, South of Area of Investigation 11/U14, NASA Ames Research Center, Moffett Field, California, July 1999
- U14-4. Soil and Groundwater Investigation Workplan, Area of Investigation 11, South of U14, NASA Ames Research Center, Moffett Field, California, July 1999
- U14-5. Soil and Groundwater Investigation Report of Findings, Area of Investigation 11, Site U14, NASA Ames Research Center, Moffett Field, California, July 1999
- U14-6. Soil and Groundwater Investigation Workplan, Area of Investigation 11/U14, NASA Ames Research Center, Moffett Field, California, September 1998

PCBs

- P1. Draft, Implementation Report, PCBs in Site Soils Remediation, Buildings N218, N221, and Electrical Substation N225A, NASA Ames Research Center, Moffett Field, California, November 2007
- P2. Draft, Implementation Report, PCBs in Site Soils Remediation, Building N218, Building N221, and Building N225, NASA Ames Research Center, Moffett Field, California, December 2005
- P3. Draft, Implementation Plan, PCBs in Site Soils Remediation, Buildings N218, N221, and Electrical Substation N225A, July 2005
- P4. Draft Sampling and Analysis Plan, Phase II, PCBs in Site Soils, NASA Ames Research Center, Moffett Field, California, February 2005

Monitoring Wells

Data Table of PV Area Monitor Well Analytical Data (CD)

## EXHIBIT G

### GUARANTY OF LEASE

This Guaranty of Lease (this "Guaranty"), dated as of \_\_\_\_\_, 2008, is made by GOOGLE INC., a Delaware corporation (the "Guarantor"), in favor, and for the benefit, of the NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, an Agency of the United States, acting by and through Ames Research Center ("Landlord"), with reference to the following facts:

#### RECITALS

A. Landlord as lessor, and PLANETARY VENTURES, LLC, a Delaware limited liability company ("Tenant"), as lessee, have entered into that certain Enhanced Use Lease dated \_\_\_\_\_, 2008 (such Lease, as the same may be amended from time to time, is referred to herein as the "Lease"). Pursuant to the Lease, Tenant is leasing certain unimproved real property consisting of approximately 42.28 acres (collectively, the "Premises"), as more particularly described on Exhibit A-1 to the Lease. Each capitalized term used in this Guaranty, but not defined herein, shall have the meaning ascribed to it in the Lease.

B. Pursuant to the Lease, Landlord and Tenant have entered, or expect to enter, into one or more Temporary Construction Licenses. The Lease, the Temporary Construction Licenses and such other documents as may be executed by Landlord and Tenant pursuant to the Lease, as each of the same may be amended from time to time, are collectively referred to herein as the "Lease Documents."

C. Pursuant to the Lease, Tenant is permitted to undertake certain improvements to the Premises, including the construction of the Phase 1 Improvements, the Phase 2 Improvements and the Phase 3 Improvements, including infrastructure improvements, and certain Off - Site Improvements, all as more particularly set forth in the Lease.

D. Guarantor owns all of the equity interests in GEV Real Estate, Inc., a Delaware corporation, which in turn owns all of the equity interests in Tenant.

E. As a condition to the willingness of Landlord to enter into the Lease Documents, Landlord has required that Guarantor enter into this Guaranty for the benefit of Landlord.

NOW, THEREFORE, in consideration of the agreement of Landlord to enter into the Lease Documents, and to induce Landlord to enter into the Lease Documents, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby agrees as follows:

2. Guaranty. Guarantor absolutely, unconditionally and irrevocably guarantees to Landlord (i) the timely payment of all amounts that Tenant may at any time owe under the Lease Documents (and all extensions, renewals or modifications of any of the Lease Documents), and (ii) the full, faithful and timely performance by Tenant of all of its obligations under the Lease Documents (and all extensions, renewals or modifications of any of the Lease Documents) (individually and collectively, the "Obligations"), together with all expenses of, for and

incidental to collection, including reasonable attorneys' fees. Guarantor's obligations hereunder shall remain in full force whether any of the Obligations: are due or not due; absolute or contingent; liquidated or unliquidated; legal or equitable; or are incurred before, during or after any bankruptcy, reorganization, insolvency, receivership or similar proceeding ("Insolvency Proceeding"). In addition, Guarantor's obligations hereunder shall remain in full force whether Tenant is liable individually or jointly or with others, and whether recovery of any of the Obligations is or becomes barred by a statute of limitations or is or becomes otherwise unenforceable (except to the extent of the Obligations so barred or otherwise unenforceable). This Guaranty is a guarantee of the immediate and timely payment and performance of the Obligations as and when the same are due and payable and/or performable, and shall not be deemed to be a guarantee of collection only. In the event and to the extent that Tenant shall be released from further Obligations under the Lease, the obligations of Guarantor hereunder shall correspondingly be released.

3. Guaranty Absolute. Guarantor irrevocably and unconditionally guarantees that the Obligations will be paid and performed in accordance with the terms of the Lease Documents. The obligations of Guarantor under this Guaranty are independent of Tenant's obligation for payment and performance of the Obligations under the Lease Documents, and a separate action or actions may be brought and prosecuted against Guarantor to enforce this Guaranty, irrespective of whether any action is brought against Tenant or any other person or entity or whether Tenant or any other person or entity is joined in any such action or actions. The liability of Guarantor under this Guaranty shall be irrevocable; absolute and unconditional; and irrespective of (and Guarantor hereby irrevocably waives any) rights or defenses it may now or hereafter have in any way relating to any or all of the following:

(a) any change in the amount of, the time, manner or place of payment or performance of, or in any other term of, all or any of the Obligations or any other obligations of any other person or entity under the Lease Documents (or any renewal, modification or amendment of the Lease Documents);

(b) any taking, exchange, release or non – perfection of any collateral for the performance of, or any taking, release, amendment or waiver of, or consent to departure from, any other guaranty of, the Obligations under the Lease Documents;

(c) any manner of application of collateral, or proceeds thereof, to all or any of the Obligations or any manner of sale or other disposition of any collateral for all or any of the Obligations;

(d) any change, restructuring or termination of the organizational structure or existence of Guarantor or Tenant or any of their respective affiliates;

(e) any failure of Landlord to disclose to Guarantor any information relating to the financial condition, operations, properties or prospects of Tenant (Guarantor waiving any duty on the part of Landlord to disclose such information);

(f) any act or failure to act by Landlord with regard to this Guaranty or the Lease Documents;

(g) the voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization or arrangement under bankruptcy or similar laws, composition with creditors or readjustment of, or other similar procedures affecting Guarantor or Tenant or any of the assets of either of them;

(h) any failure or delay in the enforcement of the obligations of Guarantor with respect to this Guaranty or of notice thereof (subject in any event to any statute of limitations applicable to the enforcement of this Guaranty); or any suit or other action brought by any shareholder or creditor of Guarantor or any other person or entity, for any reason, including, without limitation, any suit or action in any way attacking or involving any issue, matter or thing in respect of this Guaranty, the Lease Documents or any other agreement;

(i) in respect of Tenant, any change of circumstances, whether or not foreseen or foreseeable, whether or not imputable to Landlord or any other person; or

(j) any attachment, claim, demand, charge, lien, order, process, encumbrance or any other happening or event or reason, similar or dissimilar to the foregoing, or any withholding or diminution at the source, by reason of any taxes, assessments, expenses, indebtedness, obligations or liabilities of any character, foreseen or unforeseen, and whether or not valid, incurred by or against any person, or any claims, demands, charges or liens of any nature, foreseen or unforeseen, incurred by any person, or against any sums payable under this Guaranty, so that such sums would be rendered inadequate or would be unavailable to make the payments herein provided.

4. Reinstatement of Guaranty. All of Landlord's rights pursuant to this Guaranty continue with respect to amounts previously paid to Landlord on account of any Obligations that are thereafter restored or returned by Landlord, whether in an Insolvency Proceeding of Tenant or for any other reason, all as though such amounts had not been paid to Landlord, and Guarantor's liability under this Guaranty (and all its terms and provisions) shall be reinstated and revived, notwithstanding any surrender or cancellation of this Guaranty. Landlord, in its reasonable discretion, may determine whether any amount paid to it must be restored or returned.

5. Additional Waivers and Acknowledgments.

(a) Except for notices required to be given under the terms of the Lease, Guarantor hereby waives promptness, diligence, notice of acceptance and any other notice with respect to any of the Obligations or this Guaranty.

(b) Guarantor hereby waives any right to revoke this Guaranty, and acknowledges that this Guaranty is continuing in nature and applies to all of the Obligations, whether existing now or in the future.

(c) Guarantor acknowledges that it will receive substantial direct and indirect benefits from the transactions referred to herein and that the waivers set forth in this Guaranty are knowingly made in contemplation of such benefits.



(d) Except for notices required to be given under the terms of the Lease, Guarantor hereby waives all presentments, demands for performance, notices of non-performance, protests, notices of protest, notices of dishonor, notices of default, notice of acceptance of this Guaranty, and notices of the existence, creation or incurring of new or additional indebtedness, and all other notices or formalities to which a guarantor or surety may otherwise be entitled.

(e) WITHOUT LIMITING THE GENERALITY OF ANY OTHER WAIVER OR OTHER PROVISION OF THIS GUARANTY, GUARANTOR HEREBY WAIVES, TO THE MAXIMUM EXTENT SUCH WAIVER IS PERMITTED BY LAW, ANY AND ALL RIGHTS OF SUBROGATION, REIMBURSEMENT, INDEMNIFICATION AND CONTRIBUTION AND ANY OTHER RIGHTS AND/OR DEFENSES ARISING DIRECTLY OR INDIRECTLY UNDER ANY ONE OR MORE OF CALIFORNIA CIVIL CODE SECTIONS 2787 TO 2855, INCLUSIVE, OR ANY SUCCESSOR STATUTES.

6. Subrogation. Guarantor will not exercise any rights (direct or indirect) that it may now or hereafter acquire against Tenant or any other guarantor that arise from the existence, payment, performance or enforcement of the Obligations or Guarantor's obligations under this Guaranty, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution, indemnification or other rights of payment or recovery and any right to participate in any claim or remedy of Landlord against Tenant or any other guarantor or any collateral, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from Tenant or any other guarantor, directly or indirectly, in cash or other property or by setoff or in any other manner, payment or security on account of such claim, remedy or right, unless and only so long as all of the Obligations under the Lease Documents have been then paid and performed in full. Guarantor hereby agrees that, in light of the above waivers, Guarantor shall not be deemed a "creditor" of Tenant for any purpose, including, but not limited to, sections 547 and 550 of the Bankruptcy Code.

7. Subordination. Upon the occurrence of an Event of Default or any breach or default under any Temporary Construction License, all liabilities and commitments of Tenant to Guarantor, which may then or thereafter exist ("Guarantor's Claims") shall become subordinate to the Obligations. So long as any such Event of Default or breach or default under any Temporary Construction License shall continue, at Landlord's request, Guarantor's Claims will be enforced, and performance thereon received by Guarantor only as a trustee for Landlord, and Guarantor will promptly pay over to Landlord all proceeds recovered for application to the Obligations without reducing or affecting Guarantor's liability under other provisions of this Guaranty.

8. Representations of Guarantor. Guarantor represents and warrants that: (a) is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware, and is duly qualified to do business in the State of California; (b) this Guaranty is a valid and legally binding obligation of Guarantor, enforceable in accordance with its terms; (c) the execution and delivery of this Guaranty are not, and the performance of this Guaranty will not be, in contravention of, or in conflict with, any agreement, indenture or undertaking to which Guarantor is a party or by which Guarantor or any of the property of Guarantor is or may be

bound or affected and do not, and will not, cause any security interest, lien or other encumbrance to be created or imposed upon any such property to the extent that any such contravention or conflict, or such security interest, lien or other encumbrance, would have a material adverse effect on the conduct of Guarantor's business operation; and (d) Guarantor has copies of and is fully familiar with the Lease Documents and the Obligations thereunder, and represents and warrants that all necessary action has been taken by Tenant to authorize Tenant's execution of the Lease Documents and performance of the Obligations and to engage in the transactions thereby contemplated.

9. Amendments or Waivers. No amendment or waiver of any provision of this Guaranty, and no consent to any departure by Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by Landlord, and then such waiver or consent shall be effective only in the specific instance, and for the specific purpose, for which given.

10. Notices. Any demand, notice, consent or other communication required or permitted under this Guaranty shall be in writing and shall be delivered in the manner specified in, and shall be effective in accordance with the terms of, the Lease, and shall be addressed as appropriate to the following addresses (or to such other or further addresses as the parties or their successors or assigns may designate by notice given in accordance with this section 9):

If to Landlord:

National Aeronautics and Space Administration  
Ames Research Center  
Mail Stop 204 - 2  
Moffett Field, CA 94035 - 1000  
Attn: Chief, NRP Development Office

If to Guarantor:

Google Inc.  
1600 Amphitheatre Parkway  
Mountain View, CA 94043  
Attn: Legal Department - Real Estate

11. No Waiver; Remedies. No failure on the part of Landlord to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. All rights, powers and remedies of Landlord hereunder and under any other agreement now or at any time hereafter in force between Landlord and Guarantor shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to Landlord at law, in equity or by statute.

12. Severability. In case any one or more of the provisions of this Guaranty shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality

or unenforceability shall not affect any other provision of this Guaranty, and this Guaranty shall be construed as if such invalid, illegal or unenforceable provisions had not been contained herein.

13. Time of the Essence. Time is hereby expressly declared to be of the essence of this Guaranty and of each and every term, covenant, agreement, condition and provision hereof.

14. Headings. Section and subsection headings in this Guaranty are for convenience only and are not to be construed as a part of this Guaranty or in any way limiting or amplifying the provisions hereof.

15. Guaranty Construed as a Whole. The language in all parts of this Guaranty shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either Guarantor or Landlord. Guarantor acknowledges that Guarantor and its counsel have reviewed this Guaranty and participated in its drafting and therefore that the rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed or applied in the interpretation of this Guaranty.

16. Meaning of Terms. Whenever the context so requires, the neuter gender shall include the masculine and the feminine, and the singular shall include the plural and vice versa. The word "including", whether or not followed by "but not limited to", shall mean "including, without limitation."

17. Governing Law. Except to the extent the same may be in conflict with the laws of the United States, the laws of the State of California shall govern the validity, construction and effect of this Guaranty. In instances where the laws of the United States refer to the laws of the state applicable to a transaction, such reference shall be made to the laws of the State of California.

18. Entire Agreement. This instrument constitutes the sole agreement between Landlord and Guarantor respecting the Obligations. This Guaranty may not be amended or modified in any respect whatsoever except by an instrument in writing signed by landlord and guarantor.

IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be duly executed and delivered as of the date first above written.

GOOGLE INC.,  
a Delaware corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

EXHIBIT H

Infrastructure Value Outstanding Balance

<u>Fiscal Year</u>	<u>Infrastructure Value Reduction Cap Balance</u>
October 1, 2008-September 30, 2009	\$20,100,000
October 1, 2009-September 30, 2010	\$19,792,233
October 1, 2010-September 30, 2011	\$19,469,385
October 1, 2011-September 30, 2012	\$19,130,718
October 1, 2012-September 30, 2013	\$18,775,457
October 1, 2013-September 30, 2014	\$18,402,787
October 1, 2014-September 30, 2015	\$18,011,857
October 1, 2015-September 30, 2016	\$17,601,771
October 1, 2016-September 30, 2017	\$17,171,590
October 1, 2017-September 30, 2018	\$16,720,331
October 1, 2018-September 30, 2019	\$16,246,961
October 1, 2019-September 30, 2020	\$15,750,395
October 1, 2020-September 30, 2021	\$15,229,497
October 1, 2021-September 30, 2022	\$14,683,076
October 1, 2022-September 30, 2023	\$14,109,879
October 1, 2023-September 30, 2024	\$13,508,596
October 1, 2024-September 30, 2025	\$12,877,851
October 1, 2025-September 30, 2026	\$12,216,198
October 1, 2026-September 30, 2027	\$11,522,125
October 1, 2027-September 30, 2028	\$10,794,042
October 1, 2028-September 30, 2029	\$10,030,283
October 1, 2029-September 30, 2030	\$ 9,229,100
October 1, 2030-September 30, 2031	\$ 8,388,659
October 1, 2031-September 30, 2032	\$ 7,507,037
October 1, 2032-September 30, 2033	\$ 6,582,214
October 1, 2033-September 30, 2034	\$ 5,612,076
October 1, 2034-September 30, 2035	\$ 4,594,401
October 1, 2035-September 30, 2036	\$ 3,526,859
October 1, 2036-September 30, 2037	\$ 2,407,009
October 1, 2037-September 30, 2038	\$ 1,232,285
October 1, 2038 and after	\$ 0.00

Basis of Schedule:

Principal Amount: \$20,100,000

Interest Rate: 4.9%

Term: 30 Years

Annual compounding.

EXHIBIT I

Recording Requested By, and  
When Recorded Return To:

Planetary Ventures, LLC  
1600 Amphitheatre Parkway  
Mountain View, CA 94043  
Attn: Sallie McLean, Esq.

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**MEMORANDUM OF LEASE**

This Memorandum of Lease ("Memorandum"), dated as of \_\_\_\_\_, 2008, is entered into between the NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, an Agency of the United States, acting by and through Ames Research Center ("Landlord"), and PLANETARY VENTURES, LLC, a Delaware limited liability company ("Tenant"), with reference to the following facts:

Recitals

A. Landlord and Tenant are concurrently entering into that certain Enhanced Use Lease (the "Lease"), pursuant to which Landlord is leasing to Tenant and Tenant is leasing from Landlord that certain unimproved real property more particularly described in attached Exhibit A and incorporated by reference ("Premises").

B. Landlord and Tenant desire to execute this Memorandum to provide public, constructive notice of Tenant's rights under the Lease to all third parties.

NOW, THEREFORE, the parties agree as follows:

1. Lease; Term; Mortgages. Landlord leases the Premises to Tenant for an initial term of approximately forty (40) years commencing on \_\_\_\_\_, 2008, and ending on September 30, 2048, on all of the terms and conditions of the Lease. Tenant has the unilateral right to extend the term of the Lease for up to three (3) consecutive periods of ten (10) years and the right, with the consent of Landlord, to further extend the term of the Lease for up to two (2) additional consecutive periods of ten (10) years, in each case on all of the terms and conditions of the Lease. In no event shall the term of the Lease extend beyond September 30, 2098. Tenant has the right to enter into one or more Mortgages (as defined in the Lease) encumbering all or a portion of Tenant's leasehold estate arising under the Lease, on the terms and conditions specified in the Lease.

2. Purpose of Memorandum. The purpose of this Memorandum is to give public, constructive notice of the Lease and the terms and conditions set forth in the Lease, and for no other purpose. The provisions of this Memorandum shall not in any way change or affect the provisions of the Lease, express reference to which is hereby made and the terms and conditions of which are incorporated herein by this reference.

3. Governing Law. Except to the extent the same may be in conflict with the laws of the United States, the laws of the State of California shall govern the validity, construction and

effect of this Memorandum. In instances where the laws of the United States refer to the laws of the state applicable to a transaction, such reference shall be made to the laws of the State of California.

Executed as of the date first above written.

Tenant:

PLANETARY VENTURES, LLC,  
a Delaware limited liability company

Landlord:

NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION,  
an Agency of the United States

By \_\_\_\_\_

David Radcliffe  
Manager

By \_\_\_\_\_

S. Pete Worden  
Director, Ames Research Center

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

On \_\_\_\_\_, 2008, before me, \_\_\_\_\_,  
personally appeared DAVID RADCLIFFE, 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/she executed the within instrument in his/her authorized capacity, and that, by  
his/her signature on the within instrument, the person or the entity upon behalf of which he/she  
acted executed the within 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.

Signature \_\_\_\_\_

(Seal)



EXHIBIT A TO MEMORANDUM OF LEASE

Legal Description of the Premises

**[To Be Inserted]**



EXHIBIT J

Scope of Off – Site Improvements

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**SITE PLANNING AND DEVELOPMENT OUTLINE DESIGN STANDARDS:**

Besides the Codes and Standards listed in APD 8829.1 the standards of other public agencies shall be used in the following order of preference:

1. California Department of Transportation (Caltrans)
2. Santa Clara Valley Transportation Authority (VTA)
3. City of Mountain View

Where conflicts exist among the standards the most stringent standard shall apply.

**APPLICABLE PUBLIC AGENCY STANDARDS:**

The public agency standards listed below, modified as needed by NASA, will generally be used for the applications described.

**Design Criteria** - The Caltrans Highway Design Manual will be used for roadway design. The VTA Bicycle Technical Guidelines shall be used for bicycle lane design. The City of Mountain View Design Criteria will be used for wet utilities, street lighting, street trees (although trees must be on the approved BV Design Guide plants list), and irrigation systems. Dry utilities will conform to the design criteria of the appropriate public utility service provider.

**Standard Details** - Caltrans details will generally be used for roadway construction, planting, irrigation, signage, and electrical systems, as well as some storm drain facilities. VTA details will generally be used for bicycle lanes. Mountain View details will generally be used for sidewalks, sewer, storm, water, and street lights. Dry utilities will conform to the standard details of the appropriate public utility service provider.

**Specifications** - NASA shall provide specifications to PV for the [REDACTED] and Water Storage Improvements on a reimbursed basis. Caltrans and City of Mountain View specifications shall be used for the other Off-Site Improvements.

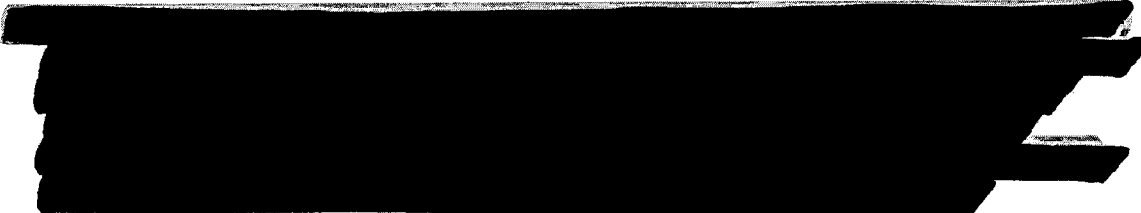
B-2(H)  
B-7(F)

## ANTICIPATED REQUIRED IMPROVEMENTS & SPECIFIC DESIGN STANDARDS:

### GENERAL

The following Off-Site Improvements will be required to support the development of the Bay View area:

1. NASA Main Entrance (Reference Exhibit A-3.1) - Required improvements from the Highway 101 and Moffett Boulevard intersection to the intersection at Arnold and Clark Roads to accommodate increased traffic as identified in the NASA Ames Development Plan.
2. R. T. Jones Road (Reference Exhibit A-3.2) - Required improvements from intersection with Moffett Boulevard to the Premises to accommodate increased traffic to as identified in the traffic studies performed for PV's complete planned development.
3. Water Storage (Reference Exhibit A-3.3) - Bay View and Ames Campus shared storage/emergency water storage for fire protection and 3 days domestic supply.
4. NASA (N258) Cooling Tower (Reference Exhibit A-3.4) - Replacement of existing equipment in a new location to meet NASA requirements. The new Tower will need to provide not less than equivalent cooling capacity as the existing system. The new Tower shall be fully tested and operational prior to closure and demolition of existing equipment.



B-2(H)  
B-7(P)

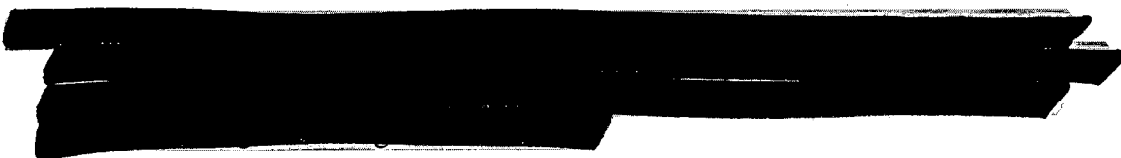
6. Park and Recreation Improvements on Parcel 5 (Reference Exhibit A-3.6) - Required improvements to Parcel 5 to mitigate the future development of Chase Park.
7. Stormwater Detention and Open Space Improvements - Required improvements to detain and slow peak flow stormwater run off from the Premises as well as overland flow from other areas of the Site and to establish a burrowing owl preserve in Bay View Parcels 6 & 7.

In general, these improvements will be constructed in accordance with the public agency standards listed on the first page, modified as needed by NASA. An outline of the anticipated required improvements for each of the general categories listed above, together with some specific design standards for each item, is provided below.

SCOPE OF WORK FOR OFF-SITE IMPROVEMENTS

1. NASA Main Entrance -

- a. Pavement Reconstruction - Widening as required to accommodate increased traffic anticipated by NADP development, complete pavement overlay, new signage and pavement markings;
- b. Curb, Gutter and Sidewalk - New curb, gutter, sidewalk, accessible ramps, and median curbs as required to accommodate intersection re-design;
- c. Landscaping and Irrigation - New parkway and median landscaping and street trees (using plants and trees from the approved list) as required to accommodate intersection re-design, together with irrigation improvements (using reclaimed water) needed to support plantings;
- d. Storm Drain - New inlets, pipe, and other structures as required to accommodate intersection re-design;
- e. Reclaimed Water - Extension of reclaimed water service from R. T. Jones Road to extent of intersection improvements to provide irrigation with reclaimed water and to provide for future connection for NASA Research Park;



- g. Street Lighting - New street lights, conduit and wire as required to accommodate intersection re-design;
- h. Signalization of Intersection - New automated signal for intersection that can be timed/sequenced with the Caltrans Moffett/101 signalization in the future;
- i. Gate and Fencing - Relocation of Historic Gate and installation of new fencing as required to accommodate intersection re-design;
- j. Coordination with Other Agencies/Authorities – Jurisdiction for the offsite improvement plans and construction that are not located on NASA property shall be submitted to and approved by the appropriate Agencies/Authorities (City of Mountain View, Caltrans, or others as applicable).

2. R. T. Jones Road - From intersection with Moffett Boulevard to Premises

- a. Pavement Reconstruction - Installation of approximately 4,000 lineal feet of roadway comprising 4 travel lanes and 2 bicycle lanes. Installation of turn pockets as required to accommodate connections to existing side streets and site entrances. Pavement overlay on Hunsaker Road from R. T. Jones Road to Parsons Avenue. New signage and pavement markings.
- b. Reconstruction of existing driveway entrances and provision of new entries as planned by US Army for Orion Park.
- c. Curb, Gutter and Sidewalk - New curb, gutter, sidewalk, accessible ramps, and median curbs as required to support new roadway.

- d. Landscaping and Irrigation - New parkway and median landscaping and street trees as required to support new roadway, comprising approximately 3,000 lineal feet of 12 foot wide landscape median and approximately 8,000 lineal feet of 5 foot wide landscape parkway. Irrigation improvements (using reclaimed water) needed to support plantings.
- e. Bus Shelters - It is anticipated that at least two bus shelters will be required along the new roadway. Construction for each would include concrete bus turnout, signage, additional pedestrian paving, bench, shelter, and lighting as required to support the bus shelter. Refer to VTA for guidelines on shelters as well as road design for safe bus pull outs.
- f. Storm Drain - New inlets, pipe, and other structures as required to support the roadway.
- g. Storm Water Treatment - It is anticipated that engineered tree filters will be utilized to provide treatment of storm water runoff from the new roadway.

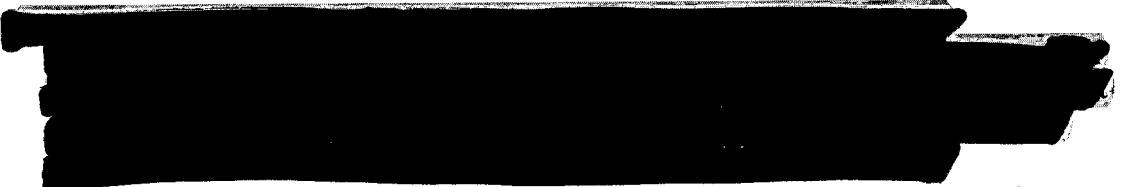


B-2(H)  
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- i. Reclaimed Water - Extension of reclaimed water service from Bay View to intersection with Moffett Boulevard to provide irrigation with reclaimed water and to provide for future connection for NASA Research Park.
- j. Joint Trench - Installation of full joint trench conduit, wire and vaults to accommodate undergrounding of existing overhead lines and relocation of existing electrical, telecommunications and gas structures to accommodate the new roadway.
- k. Existing manholes and valve boxes shall be adjusted to the new grade.
- l. Street Lighting - New street lights, conduit and wire as required to support the roadway. It is anticipated that a pair of street lights will be installed every 100 feet along the new roadway, for a total of approximately 80 street lights.



- n. Demolition and landscape restoration where the roadway has been rerouted.



B-2(H)  
B-7(F)

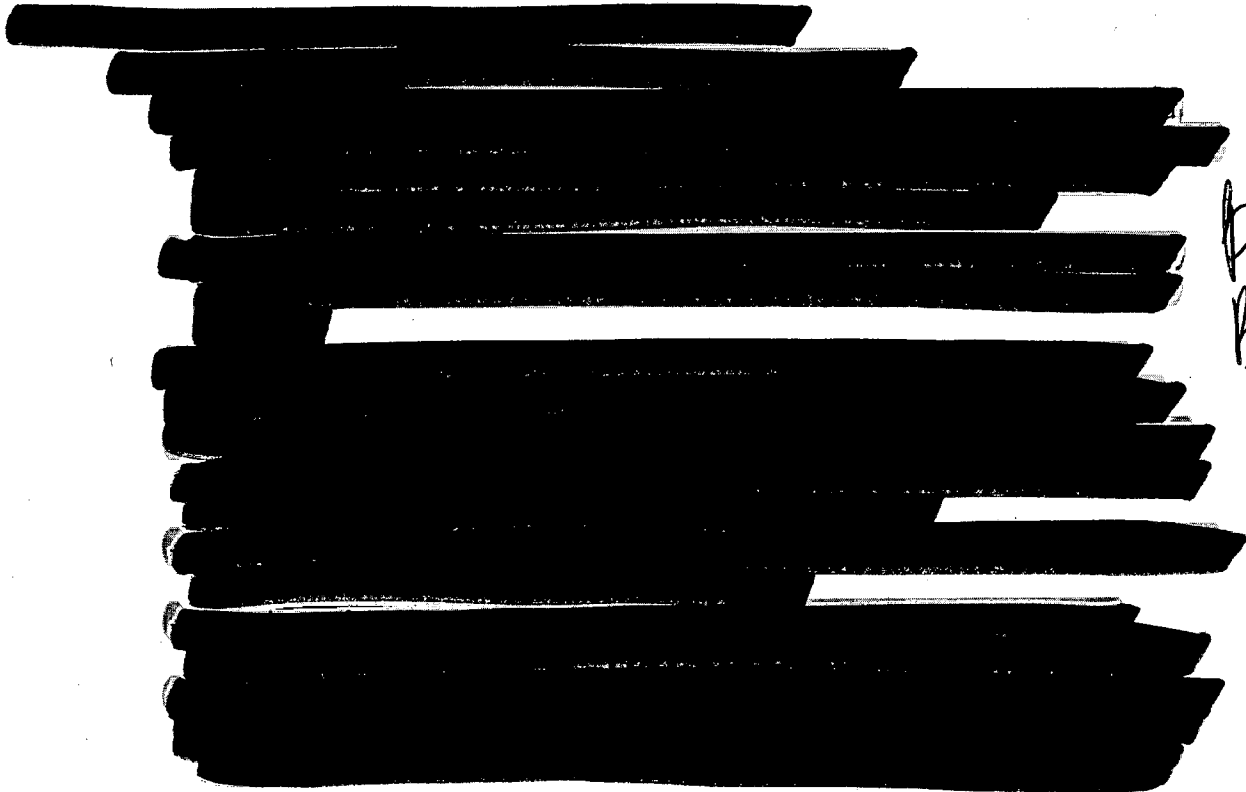
- p. Accommodate and protect from damage the air sparge system located across from Road A.
- q. Accommodate and protect from damage wells locations (Reference Exhibit A-3.7), coordinate with NASA environmental services for any modifications, closures, relocations, and demolition actions.
- r. Modify guy anchors for antenna near wind tunnel as required to accommodate the new roadway.

3. Water Storage - Bay View and Ames Campus shared storage

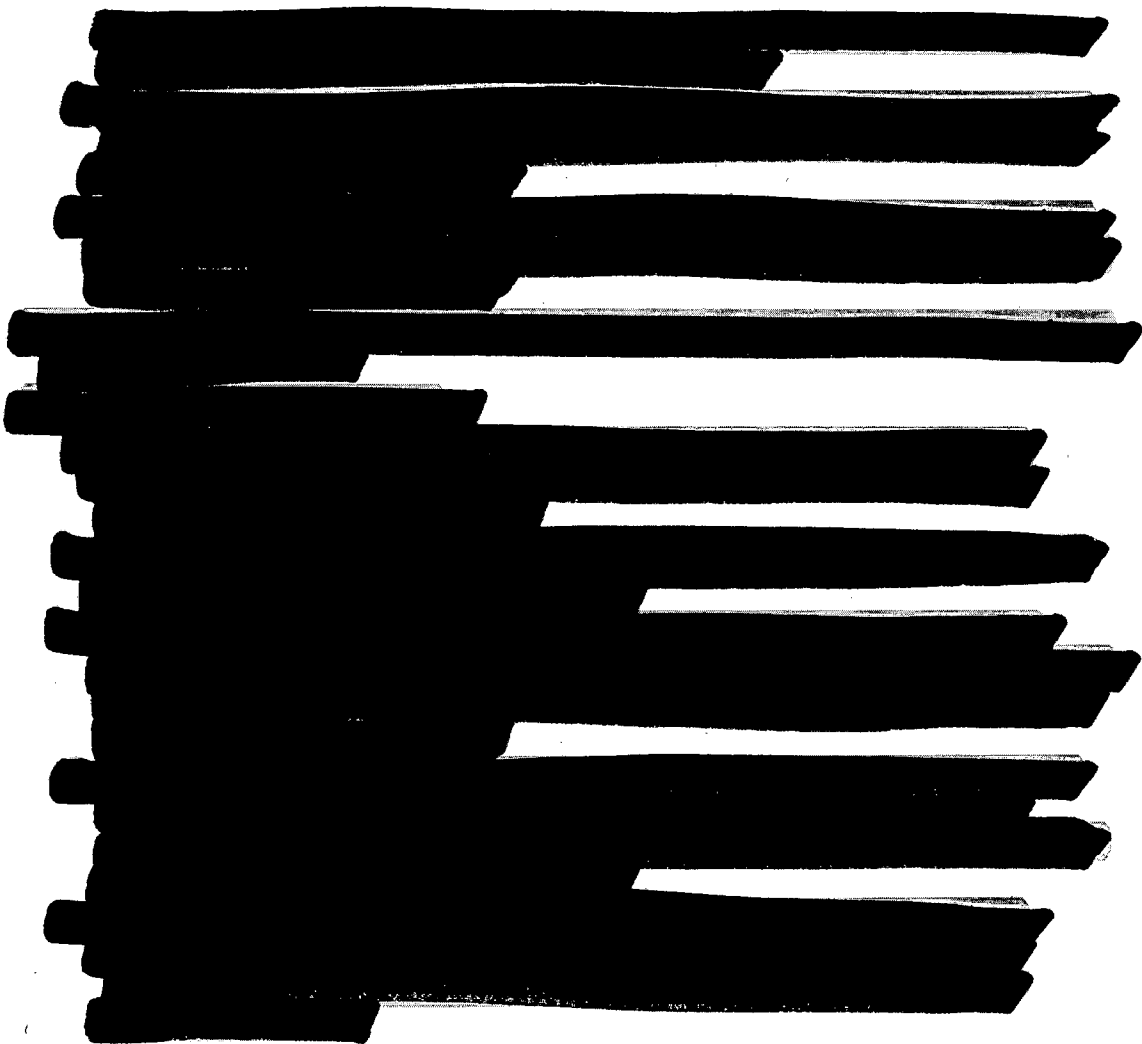
- a. Storage Tank Volume - It is anticipated that approximately 2,120,000 gallons of emergency water storage will be required for fire protection and 3 days domestic supply for Bay View and Ames Campus. Of the total volume, 1,200,000 gallons represents Bay View's share and 920,000 gallons represents Ames Campus's share.
- b. Pump Station - A pump station will be required to supply the water stored in the tank(s) at the proper pressure and flow rate.

4. NASA (N258) Cooling Tower

- a. Replacement of existing equipment to meet NASA requirements. The new Tower will need to provide the equivalent cooling capacity as the existing system.
- b. At a minimum the cooling tower structure shall be concrete, with concrete casing, cylinders, basin and sump. Towers shall have four cells, ceramic fill, and PVC drift eliminators. Towers shall be served by four vertical multi-stage turbine pumps protected with duplex basket strainers and centrifugal solids separators.
- c. The new Tower shall be fully tested and operational prior to closure and demo of existing equipment.
- d. The final assembly shall include all components required to provide a safe, secure and aesthetic Tower.



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6. Park and Recreation Improvements

- a. Parcel 5 shall be developed as a "Turn Key" community recreational park equivalent to Chase Park located in NRP (South Campus). As contemplated in the 2002 NASA Ames Development Plan, Final Environmental Impact Statement (EIS), the Park Improvement shall be topographically improved and made suitable for the proposed park;
- b. The EIS also intends for the park areas in the Bay View Area to serve as in-line storm water detention in order to assist in the meeting the requirement for Bay View to achieve no net increase in peak discharge to the storm water detention pond;
- c. Design and construction of the following park and recreation features:
  - The design for the park shall be programmed to include a wide range of activities and uses for the new multi-sport field complex. The field may be configured as baseball, softball, and soccer type uses and the appropriate features, fencing and accoutrements for the various sports will be included in the "Turn-Key" project;

- Construction shall be for irrigated sod fields, landscaping that meets the BVDP, and designed to include screening from industrial areas to the south and protection from the prevailing winds from the north;
  - Construction shall include areas for picnicking, public restrooms, and parking for a minimum of 60 cars for exclusive use of the park.
- d. Accommodate and protect from damage wells locations within Parcel 5 construction areas (Reference Exhibit A-3.7), coordinate with NASA environmental services for any modifications, closures, relocations, and demolition actions.

7. Storm Water Detention and Open Space Improvements

- Installation of grass-lined swales, ponds or other improvements to control discharge of storm water into the western or eastern diked marshes. The system shall be designed to manage the flows from the Premises as well as the excess runoff from the western portion of the Ames Campus area.
- Preparation of Burrowing Owl Preserve and burrows as outlined in the NADP Burrowing Owl Habitat Management Plan.

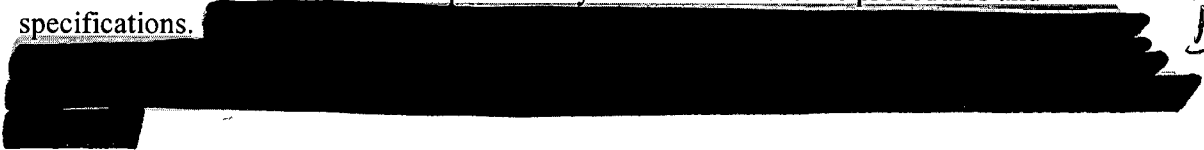
General Items for all Improvements –

- a. Demolition, grading, and traffic, noise, dust, and erosion control as required to support the construction operation.
- b. Relocation of utilities or other features as required for new construction.
- c. All permits, licenses, insurance, bonding, and other legal items required to support the construction operations.
- d. Joint trenches shall be required where multiple utilities are running in a parallel right of way.
- e. Accommodate and protect from damage wells locations (Reference Exhibit A-3.7), coordinate with NASA environmental services for any modifications, closures, relocations, and demolition actions.
- f. All referenced exhibits are prepared at a conceptual design level, drawn from the Bay View Concept Development Plan. The exact location or size of the prescribed area of improvements may be adjusted during the schematic design phase for any portion of the off-site improvements or as project plans are approved by NASA.

SCOPE OF WORK FOR INFRASTRUCTURE—ON THE PROPERTY

1. Backbone Infrastructure – As noted on the Points of Connection exhibit several utilities will require construction outside the Premises. The routing of these lines shall be coordinated with NASA during conceptual design review.

3. Improvements within the City of Mountain View - Improvements to the City reclaimed water system are required, and improvements to the City sewer system may be required. These items will be coordinated and performed per the City of Mountain View's procedures and specifications.



4. Layout and Schedule - The layout of all infrastructure systems and the construction schedule, including preparation of permit drawings, must be coordinated with all other utility systems within the Property backbone roadways.

5. Activities shall be planned and implemented in a manner that protects existing site utilities, structures, surface features, service operations, monitoring and other types of wells, and the general site environment. This includes the protection of trees, shrubs, and grass not in the affected zone from dust damage, soil compaction, and physical contact with machines and equipment.

6. Restore roadways, landscaping and other utilities as required. .

7. Work shall not intrude upon or disrupt activities within the functional areas

8. See "General Items for all Improvements" above.



B-2 (#)

B-7 (F)

	2008				2009				2010				2011				2012				2013				2014				2015				2016				2017				2018				2019				2020				2021				2022				2023				2024				2025			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4																
Lease Term Time Period	[Shaded bar spanning all quarters from 2008 Q1 to 2025 Q4]																																																																							
Bay View Studies																																																																								
Bay View Design Guide	[Shaded bar]																																																																							
Bay View CEMP	[Shaded bar]																																																																							
Bay View EIMP	[Shaded bar]																																																																							
Bay View TDM Phase 1	[Shaded bar]																																																																							
Bay View Stormwater Plan	[Shaded bar]																																																																							
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LEED Checklist	[Shaded bar]																																																																							
Bay View Security Plan	[Shaded bar]																																																																							
Bay View Habitat Study	[Shaded bar]																																																																							
Pre-Infrastructure Projects																																																																								
Water Towers	[Shaded bar]																																																																							
Recreation Park	[Shaded bar]																																																																							
Site Security	[Shaded bar]																																																																							
Cooling Tower	[Shaded bar]																																																																							
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Phase 2	[Shaded bar]																																																																							
Phase 3	[Shaded bar]																																																																							

\*\* Bay View Buildings - Note the timing of Phase 2 and Phase 3 is notional; refer to the Ground Lease for specific timing information.

EXHIBIT M

Support Agreement

The Support Agreement consists of one page, immediately following this page.

## SUPPORT AGREEMENT

<b>1. AGREEMENT NUMBER</b> <i>(Provided by Supplier)</i> SAA2-402175	<b>2. SUPERSEDED AGREEMENT NO.</b>	<b>3. EFFECTIVE DATE</b> May 14, 2008	<b>4. EXPIRATION DATE</b> <i>(May be "indefinite")</i> September 30, 2008
<b>5. SUPPLYING ACTIVITY</b>		<b>6. RECEIVING ACTIVITY</b>	
a. NAME AND ADDRESS National Aeronautics and Space Administration Ames Research Center Moffett Field, CA 94035-1000		a. NAME AND ADDRESS Planetary Ventures, LLC 1600 Amphitheatre Parkway Mountain View, CA 94043	
b. MAJOR COMMAND National Aeronautics and Space Administration		b. MAJOR COMMAND Planetary Ventures, LLC "Google Inc."	
<b>7. SUPPORT PROVIDED BY SUPPLIER</b>			
a. SUPPORT <i>(Specify what, when, where, and how much)</i>		b. BASIS FOR REIMBURSEMENT	c. ESTIMATED REIMBURSEMENT
Cash Rent for quarter May 14, 2008 thru June 30, 2008 Due and payable by May 14, 2008		Quarterly estimate	\$431,000.06
In-kind consideration for quarter May 14, 2008 thru June 30, 2008		Quarterly Estimate	\$ 56,666.75
Cash Rent for quarter July 1, 2008 thru September 30, 2008 Due and payable by July 1, 2008		Quarterly estimate	\$808,125.00
In-kind consideration for quarter July 1, 2008 thru September 30, 2008		Quarterly Estimate	106,250.00
Total Cash Rent for FY 08			\$1,239,125.06
Total in-kind consideration for FY 08			\$ 162,916.75
Demand Services Upon Request			
ADDITIONAL SUPPORT REQUIREMENTS ATTACHED: <input type="checkbox"/> Yes <input type="checkbox"/> No			
<b>8. SUPPLYING COMPONENT</b>		<b>9. RECEIVING COMPONENT</b>	
a. COMPTROLLER SIGNATURE	b. DATE SIGNED	a. COMPTROLLER SIGNATURE	b. DATE SIGNED
<b>c. APPROVING AUTHORITY</b>		<b>c. APPROVING AUTHORITY</b>	
(1) Typed Name Paul Agnew		(1) Typed Name	
(2) Organization Chief Financial Officer	(3) Telephone Number (650) 604-1301	(2) Organization	(3) Telephone Number
(4) Signature	(5) Date Signed	(4) Signature	(5) Date Signed
<b>10. TERMINATION <i>(Complete only when agreement is terminated prior to scheduled expiration date.)</i></b>			
a. APPROVING AUTHORITY SIGNATURE	b. DATE SIGNED	a. APPROVING AUTHORITY SIGNATURE	b. DATE SIGNED

EXHIBIT N

TEMPORARY CONSTRUCTION LICENSE  
BETWEEN  
THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,  
AMES RESEARCH CENTER  
AND  
PLANETARY VENTURES, LLC

This Temporary Construction License (the "License") is made as of \_\_\_\_\_, 20\_\_\_\_ pursuant to that certain Enhanced Use Lease dated as of \_\_\_\_\_, 2008 (SAA2 – 402175) (as the same may be amended, the "Lease") by and between the National Aeronautics and Space Administration, an agency of the United States of America, acting by and through Ames Research Center, located at Moffett Field, California ("Licensor"), and PLANETARY VENTURES, LLC, a Delaware limited liability company ("Licensee"), for the temporary, non-exclusive use of certain lands owned and controlled by Licensor. Each capitalized term used but not defined in this License shall have the meaning ascribed to it in the Lease.

1. PURPOSE.

Pursuant to the Lease, Licensee has agreed to construct and install the \_\_\_\_\_ [insert description of applicable portion of Off – Site Improvements (i.e., Water Tank Improvements) or other infrastructure work (i.e., Utility lines in connection with a Phase between the Premises and the applicable point of connection)] more particularly described on Exhibit A attached hereto (the "Project"). Licensee shall construct and install the Project on the portions of the Property more particularly described on Exhibit B attached hereto (the "License Area"). The Parties desire to enter into this License to allow Licensee to use the License Area to construct and install the Project on the terms and conditions of the Lease and this License.

2. AUTHORITY.

Licensor grants this non-exclusive License to Licensee pursuant to the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. §2451, et seq.), and other Applicable Laws.

3. TERM AND TERMINATION.

The term of this License (the "Term") shall commence on the date of execution of this License and shall expire on the earliest to occur of the following dates: (a) the date on which the Project is complete in accordance with the terms of the Lease; (b) \_\_\_\_\_, 20\_\_\_\_; or (c) the date of expiration or earlier termination of the Lease.

4. SCOPE OF ACTIVITIES.

4.1 In accordance with the terms and conditions of the Lease and this License, Licensee, its employees, agents, contractors and invitees, at Licensee's sole cost, are hereby granted the non – exclusive, non – possessory right to enter upon and use the License Area for the purpose of constructing and installing the Project as more particularly set forth in the

applicable construction documents and the permits issued in connection therewith. All operations of Licensee, its employees, agents, contractors and invitees will be compatible with, and will not unreasonably interfere with, the operations of Licensor or of other authorized users or occupants of the Property. Any interference by Licensee with Licensor's mission or threat of material damage to Licensor's property incident to the exercise of this License will, upon written notice from Licensor, be promptly ended or corrected to the satisfaction of Licensor.

5. NOTICES; POINTS OF CONTACT.

Except as otherwise specifically provided in this License, all requests, approvals, consents, notices and other communications under this License shall be properly given only if made in writing and either deposited in the United States mail, postage prepaid, certified with return receipt requested, or delivered by hand (which may be through a messenger or recognized delivery, courier or air express service), and addressed to the applicable POC (as defined below) (or to such other personnel or place as a party may from time to time designate in a written notice to the other party). Such requests, approvals, consents, notices and other communications shall be effective on the date: of receipt (evidenced by the certified mail receipt) if delivered by United States mail; or of hand delivery if hand delivered. If any such request, approval, consent, notice or other communication is not received or cannot be delivered due to a change in the address of the receiving party of which notice was not previously given to the sending party or due to a refusal to accept by the receiving party, such request, approval, consent, notice or other communication shall be effective on the date delivery is attempted.

The following personnel are designated as the key officials for their respective party. These key officials are the principal points of contact ("POC") between the parties in the performance of this License.

*For Licensor:*

**Principal Point of Contact:**

NASA Ames Research Center  
Mail Stop 204 – 2  
Moffett Field, CA 94035 – 1000  
Attn: Chief, NRP Development Office

*For Licensee:*

**Principal Point of Contact:**

Planetary Ventures, LLC  
1600 Amphitheatre Parkway  
Mountain View, CA 94043  
Attn: Vice President – Real Estate

Notwithstanding the foregoing, Licensor's construction administrator, \_\_\_\_\_, will function as the delegated officer for day-to-day operations and dealings with Licensee, and Licensee's \_\_\_\_\_, \_\_\_\_\_, will function as the delegated officer for day-to-day operations and dealings with Licensor.

6. EXCAVATION, SITE AND GROUND DISTURBANCE.

6.1 Licensee shall not remove any landscape features such as shrubs or bushes, conduct mining or drilling operations, remove sand, gravel or similar substances from the ground, commit waste of any kind, or in any manner substantially change the contour or condition of the License Area, except as may be contemplated by or reasonably necessary to complete the work shown on the applicable construction documents.

6.2 Licensee shall erect such appropriate barricades in the immediate vicinity of the License Area so as to prevent injury to persons or property.

6.3 Licensee shall maintain all excavations, embankments, stockpiles, roads and all other work areas free from excess dust to such reasonable degree as to avoid causing a hazard or nuisance to personnel and surrounding facilities, and to ensure compliance with the Bay View MIMP. Dust control shall be performed as the work proceeds and before a dust nuisance or hazard occurs.

7. HAZARDOUS MATERIAL; ENVIRONMENTAL PROTECTION; HEALTH AND SAFETY.

7.1 Licensee shall, at Licensee's sole cost and expense, comply with all Applicable Laws (including, without limitation, with respect to hazardous waste site worker training) to the extent they affect Licensee's activities on the License Area.

7.2 Licensee shall not use, handle, treat, keep, store, sell, release, transport, discharge or dispose of any Hazardous Material from, on, about, under or into the License Area, except in compliance with Applicable Laws.

7.3 The applicable provisions of the Lease, Applicable Laws and the Applicable Policy and Guidance Documents shall apply to the remediation or removal of any Hazardous Material discovered during any excavation, site or ground disturbance on any portion of the License Area. If Licensee or any of Licensee's employees, agents or contractors encounter any underground tanks, wells or other evidence of Hazardous Material on the License Area, Licensee shall immediately notify Licensor, verbally and in writing, and shall take all precautions and actions necessary to insure that any such tank, well or suspected Hazardous Material are not further disturbed or exacerbated prior to clean up and remediation.

7.4 Licensee shall comply with the terms of the Applicable Policy and Guidance Documents regarding historic properties of an archeological nature that are discovered by Licensee or its employees, contractors, subcontractors or consultants. In the event of any such discovery during grading or excavation work, work within a fifty (50) foot radius of the archaeological property shall cease. Licensee shall immediately notify Licensor, both verbally and in writing.

7.5 Prior to commencing the Project, Licensee shall comply with Applicable Policy and Guidance Documents, among other things with respect to burrowing owls on or in the vicinity of the License Area and protection of their nests, burrows or habitat during the Project.

8. DEFAULT AND TERMINATION.

8.1 This License is made upon the express condition that, if Licensee shall fail to keep and perform any of the covenants, agreements, terms, or conditions hereof, such failure shall constitute a breach of this License by Licensee and this License shall, at the option of Licensor, terminate and become null and void (subject to the survival of those provisions which this License expressly states as surviving termination); provided, however, subject to the other provisions of this ARTICLE 8, that Licensor shall first give Licensee at least thirty (30) days

written notice of Licensor's intention to terminate this License based upon any breach by Licensee, setting forth in such written notice the specific breach under this License. If Licensee cures the specified breach within such thirty (30) day period, then no default shall occur and Licensor shall not have the right to terminate this License on account of such breach. Notwithstanding the foregoing, if the time required to cure would ordinarily take more than thirty (30) days, then Licensee shall not be deemed to be in default, and Licensor shall not have the right to terminate this License, so long as Licensee, within such period, shall present a written plan to Licensor outlining the proposed cure and shall promptly commence the actions necessary to cure the breach in accordance with such plan and shall diligently thereafter pursue such cure to completion.

8.2 In the event that Licensor fails to effect such cure, at any time after expiration of the cure period specified above and upon written notice thereof to Licensee, Licensor may terminate this License as to all or any part of the License Area, without any cost or liability to Licensor. Such notice shall be effective as of a day to be specified therein, which shall be at least five (5) but not more than thirty (30) calendar days after its receipt by Licensee. Upon the expiration or earlier termination of this License, (i) Licensee's right to use of the License Area shall immediately terminate, (ii) Licensee shall immediately vacate the License Area and shall remove all Personal Property, tools, equipment, materials and debris, restore any damage to the Property caused by Licensee or its employees, agents, contractors or invitees, and leave the License Area in good condition, reasonable wear and tear excepted, and (iii) Licensor shall be entitled to recover from Licensee possession of the License Area and all damages of whatever type or kind suffered or incurred by Licensor by reason of the default including but not limited amounts necessary to compensate Licensor for all detriment proximately caused by Licensee's failure to perform its obligations under this License.

8.3 The occurrence of any one or more of the following events shall also constitute a breach under this License: (a) cancellation of or default under the Guaranty by Guarantor; and (b) failure by Licensee to cure within the applicable times permitted any breach or default under the Lease. A default hereunder shall, at Licensor's election, constitute a default under the Lease.

9. REPRESENTATIONS AND WARRANTIES OF LICENSEE.

Licensee hereby represents and warrants to Licensor as follows:

9.1 Licensee is a limited liability company, duly formed and validly existing under the laws of the State of Delaware, and qualified to do business in the State of California.

9.2 Licensee has the right, power, legal capacity and authority to enter into and perform its obligations under this License, and no approval or consent of any person is required in connection with Licensee's execution and performance of this License. The execution and performance of this License will not result in or constitute any default or event that would, with notice or lapse of time or both, be a default, breach or violation of the organizational instruments governing Licensee or any agreement or any order or decree of any court or other governmental authority to which Licensee is a party or to which it is subject.



9.3 Licensee has taken all necessary action to authorize the execution, delivery and performance of this License and this License constitutes the legal, valid and binding obligation of Licensee.

10. NO WAIVER BY LICENSOR.

No failure by Licensor to insist upon the strict performance of any term, covenant, agreement, provision, condition or limitation of this License or to exercise any right or remedy hereunder, shall constitute a waiver of any such term, covenant, agreement, provision, condition or limitation. No term, covenant, agreement, provision, condition or limitation of this License and no default hereunder may be waived, altered or modified except by a written instrument executed by Licensor. No waiver of any default shall affect or alter this License but each and every term, covenant, agreement, provision, condition and limitation of this License shall continue in full force and effect with respect to any other then existing or subsequent default.

11. NO PARTNERSHIP OR JOINT VENTURE.

Licensor is not for any purpose a partner or joint venturer of Licensee in the construction or installation of the Off – Site Improvements. Licensor shall not under any circumstances be responsible or obligated for any losses or liabilities of Licensee.

12. ANTI – DEFICIENCY ACT.

Licensor's activities and obligations under or pursuant to this License are subject to the availability of appropriated funds, and no provision shall be interpreted to require the obligation or provision of funds in violation of the Anti-Deficiency Act (31 U.S.C. §1341).

13. CONFLICTING PROVISIONS.

If and to the extent of any conflict between the terms of this License and the terms of the Lease, the latter shall prevail.

14. GENERAL PROVISIONS.

14.1 Binding Upon Execution.

This License shall become binding on Licensor and Licensee only when fully executed by Licensor and Licensee. Neither Licensor nor Licensor's agents have made any representations or promises with respect to the License Area, or any portion thereof, except as expressly set forth in this License, and no rights, easements or licenses are acquired by Licensee by implication or otherwise except as expressly set forth in the provisions of this License or the Lease.

14.2 Severability.

In case any one or more of the provisions of this License shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or

unenforceability shall not affect any other provision of this License, and this License shall be construed as if such invalid, illegal or unenforceable provisions had not been contained herein.

14.3 Exhibits and Attachments.

All exhibits and attachments, riders and addenda referred to in this License and attached hereto are incorporated into this License and made a part hereof for all intents and purposes as if fully set out herein. All capitalized terms used in such documents shall, unless otherwise defined therein, have the same meanings as are set forth herein.

14.4 Time of the Essence.

Time is hereby expressly declared to be of the essence of this License and of each and every term, covenant, agreement, condition and provision hereof.

14.5 Headings.

Article and section headings in this License are for convenience only and are not to be construed as a part of this License or in any way limiting or amplifying the provisions hereof.

14.6 License Construed as a Whole.

The language in all parts of this License shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either Licensor or Licensee. The Parties acknowledge that each party and its counsel have reviewed this License and participated in its drafting and therefore that the rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed nor applied in the interpretation of this License.

14.7 Meaning of Terms.

Whenever the context so requires, the neuter gender shall include the masculine and the feminine, and the singular shall include the plural and vice versa.

14.8 Governing Law.

Except to the extent the same may be in conflict with the laws of the United States, the laws of the State of California shall govern the validity, construction and effect of this License. In instances where the laws of the United States refer to the laws of the state applicable to a transaction, such reference shall be made to the laws of the State of California.

14.9 Entire License.

This instrument and the Lease, together with the exhibits hereto and thereto, constitute the sole agreements between Licensor and Licensee respecting the License Area, and correctly sets forth the obligations of Licensor and Licensee with respect thereto. Any agreement or representations respecting the License Area not expressly set forth in this instrument or the Lease are hereby superseded and rendered void. This License may not be

PREDECISIONAL – NOT FOR PUBLIC RELEASE

amended or modified in any respect whatsoever except by an instrument in writing signed by Licensor and Licensee.

Executed in duplicate originals by the undersigned who are authorized to bind their respective organizations to the terms hereof.

Tenant:

PLANETARY VENTURES, LLC,  
a Delaware limited liability company

Landlord:

NATIONAL AERONAUTICS AND SPACE  
ADMINISTRATION,  
an Agency of the United States

By

\_\_\_\_\_  
David Radcliffe  
Manager

By

\_\_\_\_\_  
S. Pete Worden  
Director, Ames Research Center

EXHIBIT A TO LICENSE

Description of the Project

**[To Be Inserted**

**Refer to Approved Construction Documents and Permits  
Refer to Scope of Off – Site Improvements and Other Portions of Lease]**

EXHIBIT B TO LICENSE

Depiction of the License Area

**[To Be Inserted]**