

EFF. DATE:  
4/26/97

ORDINANCE NO. 3461

1702

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
BURBANK APPROVING PLANNED DEVELOPMENT NO.  
96-1 AND A DEVELOPMENT AGREEMENT RELATED  
THERE TO.

### City Attorney's Synopsis

This Ordinance changes the Zone Map of the City of Burbank for the National Broadcasting Company, Inc. ("NBC") Studios property located immediately north of the Ventura Freeway, east of California Street, and south of Alameda Avenue, in the City of Burbank, from the MDM-1 Zone to the Planned Development Zone. A twenty year Development Agreement is also approved in this Ordinance.

#### THE COUNCIL OF THE CITY OF BURBANK FINDS:

A. The Council of the City of Burbank at its regular meeting of March 11, 1997, held a public hearing on Planned Development No. 96-1 applied for by the National Broadcasting Company, Inc. ("NBC") authorizing the construction of 1,825,865 office equivalent gross square feet ("OEGSF") over a twenty year period for the property located immediately north of the Ventura Freeway, east of California Street, and south of Alameda Avenue in the MDM-1 Zone.

B. Said hearing was properly noticed in accordance with the provisions of Section 31-19127 of the Burbank Municipal Code.

C. Planned Development No. 96-1 is a component of the NBC Studio Master Plan, which was analyzed in and examined in a Final Environmental Impact Report, State Clearinghouse No. 96071055 ("EIR"). In Resolution No. 24,992, the Council certified the EIR in accordance with California Environmental Quality Act ("CEQA") Guidelines §15090, adopted findings in accordance with Public Resources Code §21081 and CEQA Guidelines §15091 ("CEQA Findings"), and issued a Statement of Overriding Considerations in accordance with CEQA Guidelines §15093.

D. The Project is a unique studio development, including sound stages, media office buildings, and other facilities, which creates a desirable functional and community environment under the controlled conditions of a development plan.

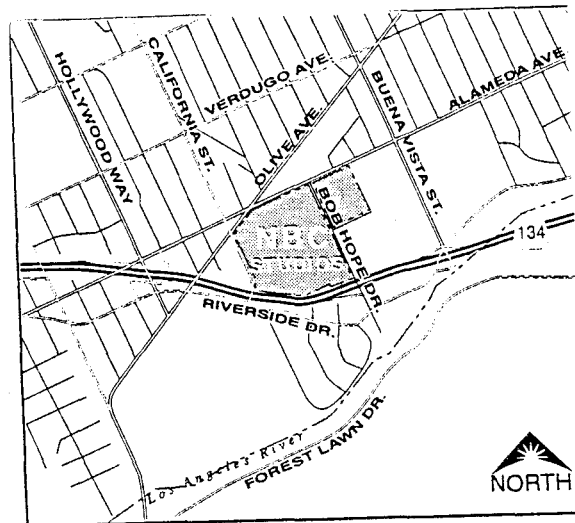
E. The Planned Development observes all of the applicable Design Review Criteria of Municipal Code §31-19124, as follows:

1. The Project design is comprehensive and embraces land, buildings, landscaping, and their interrelationships, and is consistent with the General Plan.
2. The Project will provide for adequate permanent open areas, circulation, off-street parking, and pertinent pedestrian amenities. The building structures and facilities and accessory uses within the Project will be well integrated with each other and to the surrounding topographic and natural features of the area.
3. The Project is compatible with existing and planned land uses on adjoining properties.
4. Private street systems and circulation systems will be designed for the efficient and safe flow of vehicles, pedestrians, bicycles, and the handicapped, without creating a disruptive influence on the activity and functions of any area of facility. The public streets are designed using standard City lane widths, capacities, and travel speeds. The design will include adequate space and improvements for transit vehicles and facilities for bicycle and pedestrian circulation. City standard entrance control requirements will be maintained. The design of major streets will provide sidewalks, adequate street lighting, and concrete median islands on major arterial streets.
5. The Project applicant will provide compatibility of architectural design and appearance, including signage. In addition, architectural harmony with surrounding neighborhoods will be achieved by the applicant so far as is practicable.
6. An adequate variety of uses and facilities are provided in order to meet the needs of the Project and impacts upon adjacent neighborhoods are mitigated.
7. The Project and each building intended for occupancy will be designed, placed, and oriented in a manner conducive to the conservation of energy.

F. This Council considered the report and recommendations of the Community Development Director, the action and recommendations of the Planning Board as evidenced by its Resolution No. 2541, the EIR, and the evidence presented at such hearing.

THE COUNCIL OF THE CITY OF BURBANK ORDAINS:

1. The Zone Map of the City of Burbank, adopted by reference by Section 31-302 of the Burbank Municipal Code, is amended by changing the zone designation of the property described in Exhibit "A", attached hereto and incorporated by this reference, from the MDM-1 Zone to the Planned Development Zone as shown and delineated as follows:



2. That certain Development Agreement (the "Agreement") by and between the City of Burbank and National Broadcasting Company, Inc., a Delaware corporation, in the form presented at this meeting and as executed by John E. O'Neill, Vice President Facilities and Corporate Sourcing, is hereby approved, and the City Manager is authorized to execute at the time this Ordinance becomes effective, and the City Clerk to attest, the Agreement on behalf of the City.

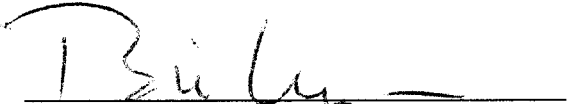
3. The findings herein are based upon the facts recited in the report from the Community Development Director dated March 11, 1997, the EIR, the CEQA Findings, the Statement of Overriding Considerations, and other documents contained in the Project file, all of which are incorporated herein by reference.

4. The City Clerk shall certify to the passage of this Ordinance and cause the title, number, date, and synopsis of this Ordinance to be published once in the Burbank Leader, a newspaper of general circulation, published and circulated in the City of Burbank, California.

5. This Ordinance shall become effective at 12:01 a.m. of the thirty-first day after publication.

6. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this City Council hereby declares that it would have passed the remainder of this Ordinance, if such invalid portion thereof has been deleted.

PASSED and ADOPTED this 18th day of March, 1997.

  
\_\_\_\_\_  
Bill Wiggins  
Mayor of the City of Burbank

Attest:

  
\_\_\_\_\_  
Margaret M. Lauerman, City Clerk

# DESCRIPTION

1

PARCEL 1:

LOT 1 IN BLOCK 64 OF THE RANCHO PROVIDENCIA AND SCOTT TRACT, IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 43 PAGES 47, ET SEQ. OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 2:

THAT PORTION OF LOT 2 IN BLOCK 64 OF THE RANCHO PROVIDENCIA AND SCOTT TRACT, IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 43 PAGE 47 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTH OF OLIVE AVENUE, AS SHOWN UPON SAID MAP.

PARCEL 3:

LOTS 3 AND 4 IN BLOCK 64 OF RANCHO PROVIDENCIA AND SCOTT TRACT, IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 43 PAGES 47, ET SEQ. OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT FROM SAID LOT 3, THAT PORTION THEREOF LYING SOUTHERLY OF THE LINE DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED JULY 25, 1958 AS INSTRUMENT NO. 1857 AS HAVING A RADIUS OF 2000.00 FEET AND AN ARC DISTANCE OF 687.18 FEET.

PARCEL 3A:

THAT PORTION OF CALIFORNIA STREET AS SHOWN ON TRACT NO. 7553, IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 99 PAGES 16 AND 17 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, VACATED BY RESOLUTION NO. 16970 OF THE COUNCIL OF THE CITY OF BURBANK, A CERTIFIED COPY OF WHICH RECORDED DECEMBER 12, 1974 AS INSTRUMENT NO. 2739.

PARCEL 4:

THAT PORTION OF BLOCK 65 OF RANCHO PROVIDENCIA AND SCOTT TRACT, IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 43 PAGES 47, ET SEQ. OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHWESTERLY OF THE SOUTHWEST LINE OF SAID LINES PROLONGED, OF THE LAND DESCRIBED IN THE DEED TO SISTERS OF CHARITY OF THE HOUSE OF PROVIDENCE, ST. JOSEPH'S HOSPITAL OF BURBANK, RECORDED APRIL 28, 1949 AS INSTRUMENT NO. 17 IN BOOK 29948 PAGE 58, OFFICIAL RECORDS.

EXCEPT THAT PORTION OF SAID BLOCK 65, LYING SOUTHEASTERLY OF THE SOUTHWESTERLY PROLONGATION OF THE SOUTHEASTERLY LINE OF SAID LAND DESCRIBED IN SAID DEED TO SISTERS OF CHARITY OF THE HOUSE OF PROVIDENCE, ST. JOSEPH'S HOSPITAL OF BURBANK, RECORDED APRIL 28, 1949 IN BOOK 29948 PAGE 58, OFFICIAL RECORDS.

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STATE OF CALIFORNIA            )  
COUNTY OF LOS ANGELES       )  SS.  
CITY OF BURBANK                )

I, Margaret M. Lauerman, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. 3461 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 18th day of March, 1997, by the following vote:

- AYES:           Council Members Golonski, Kramer, McConkey, Spanos and Wiggins.
- NOES:           Council Members None.
- ABSENT:         Council Members None.

I further certify that said Synopsis was published as required by law in the Burbank Leader as a newspaper of general circulation in the City of Burbank, California on the 26th day of March, 1997.

M M Lauerman  
Margaret M. Lauerman, City Clerk

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1702

RECORDING REQUEST BY

WHEN RECORDED MAIL TO

NAME  
MAILING ADDRESS  
CITY, STATE ZIP CODE  
RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:  
CITY CLERK  
CITY OF BURBANK  
P. O. BOX 6459  
BURBANK, CA 91510

RECORDED/FILED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA  
11:01 AM OCT 07 1997

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

TITLE(S)

FEE \$ 19000

62

D.A. FEE Code 20 \$ 2.00

NBC MASTER PLAN DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF BURBANK

AND

NATIONAL BROADCASTING COMPANY, INC.

RELATIVE TO THE PLANNED DEVELOPMENT OF

THE NBC MASTER PLAN

## NBC MASTER PLAN DEVELOPMENT AGREEMENT

This NBC Master Plan Development Agreement (the "Agreement") is entered into this 19 day of March, 1997, by and between the NATIONAL BROADCASTING COMPANY, INC., (the "Developer"), and the CITY OF BURBANK (the "City"), a municipal corporation of the State of California.

### RECITALS

A. Developer is the owner of the real property located in the City of Burbank, County of Los Angeles, State of California, outlined in Exhibit "A", Depiction of Project Site, referred to as the "Project Site," the legal description of which is set forth in Exhibit "B", Legal Description of Project Site.

B. City is authorized to enter into development agreements with persons having a legal or equitable interest in real property which is located within the City, pursuant to Government Code Sections 65864 to 65869.5.

C. City has adopted procedures and requirements for consideration of development agreements, pursuant to Section 65865 of the Government Code, in the "Development Agreement Ordinance" set forth in Division 9, Sections 31-1997 et seq. of the Burbank Municipal Code (the "Code").

D. City has also adopted Division 10, Sections 31-19118 et seq. of the Code, the "Planned Development Ordinance", establishing procedures and requirements for consideration of planned development projects to accommodate major and unique developments in the City, including combinations of uses and modified development standards which would create a desirable, functional, and community environment under the controlled conditions of a development plan. The Planned Development Ordinance requires that the approval of a planned development be subject to a developer entering into a development agreement under the Development Agreement Ordinance.

E. City has also adopted Ordinance-No. 3224, the "Media District Specific Plan," a comprehensive growth control ordinance governing all new development in the Media District, and Article 21, Sections 31-2101 et seq. of the Code (the "MDSP"), establishing the "Media District Overlay Zone," which regulates commercial and industrial land within the "Media District," where the Project Site is located, for use, density, height, and setbacks, as well as other design standards. A goal of the MDSP is to "allow sufficient and reasonable development opportunity for media and medical establishments, which have a special need to locate and expand within the Media District."

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F. Developer has applied for and intends to develop a planned development on the Project Site, over a period not to exceed twenty (20) years, as fully described in Exhibit "C", Project Description, (the "Project"). The Project is discussed and analyzed in the Project Report on file at the Office of the City Planner (the "Project Report"), and in the Draft Environmental Impact Report dated November, 1996 (State Clearinghouse No. 96071055) and the Final Environmental Impact Report dated February, 1997 for the Project (collectively, the "EIR").

G. Consistent with Section 31-19128 of the Code, Developer desires to enter into a binding agreement with City for the provision and guarantee of the terms, conditions, and regulations for the construction of the Project as a planned development, including, but not limited to, identifying certain exactions to the City and the construction or the payment in lieu of construction of certain public improvements.

H. Developer desires to obtain the binding agreement of the City that the City will permit Developer to construct, develop, use, and operate the Project as a planned development in accordance with the City's ordinances, rules, regulations, and official policies governing permitted land uses, governing density and intensity of uses, dedications, and other exactions, and governing the design, improvement, and construction standards and specifications applicable to development of the Project and the Project Site in force at the time of execution of this Agreement, and without requiring Developer to dedicate property, or construct public improvements or make financial contributions to the City in lieu of public improvements, except as expressly set forth in this Agreement.

I. Developer has requested City to enter into this Agreement and proceedings have been taken in accordance with Government Code Sections 65864-65869.5 and Sections 31-1997 et seq. of the Code.

J. The City Council has determined that the Project is consistent with and satisfies the relevant provisions of the Code, including the goals and objectives of the City's General Plan, the MDSP, and the Media District Overlay Zone.

K. The City Council has found that the provisions of this Agreement are consistent with the relevant provisions of the Code, the City's General Plan, and any applicable specific plan.

L. All actions taken by City have been duly taken in accordance with all applicable legal requirements, including the California Environmental Quality Act, Public Resources Code Section 21000, et seq. ("CEQA"), and all other requirements for

notice, public hearings, findings, votes, and other procedural matters.

M. On March 18, 1997, the City Council adopted its Ordinance No. 3461 approving this Agreement.

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants and agreements contained herein and other good and valuable consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

1. TERM AND GENERAL RIGHTS

1.1 Ownership. Developer represents to the City that it is the owner in fee of the Project Site as of the execution of this Agreement.

1.2 Term. The term of this Agreement shall commence on the date hereof and shall continue for twenty (20) years thereafter, unless said term is otherwise terminated, modified, or extended by circumstances set forth in this Agreement or by mutual consent of the parties hereto after the satisfaction of all applicable public hearing and related procedural requirements.

1.3 Effective Date. This Agreement shall be dated, and the obligations of the parties hereunder shall be effective, as of the execution of the Agreement by all parties, which date shall be written on the first page of this Agreement (the "Effective Date").

1.4 Assignment. Developer may assign less than the entirety of its interests, rights, or obligations hereunder without prior written consent of the City. However, the Developer shall not assign or transfer the entirety of its interests, rights, or obligations under this Agreement to an unrelated third party without the prior written consent of the City, which consent shall not be withheld or delayed if both the financial condition and credit of the proposed assignee or transferee are reasonably satisfactory to the City and the Developer is not in default under this Agreement. Express assumption of the Developer's obligations under this Agreement by any such third-party assignee shall relieve the Developer from such obligations. Without limiting the generality of the foregoing, Developer may assign any of its interests, rights, and/or obligations hereunder, other than the entirety thereof, to run with or relate to any recorded lot or lots within the Project Site, without consent of the City, which assignment shall relieve Developer of such assigned obligations.

1.5 Amendment or Cancellation. Except as expressly stated to the contrary herein, this Agreement may be amended or canceled in whole or in part only by mutual consent of the parties and in

the manner provided for in Government Code Section 65868 and the City's Development Agreement Ordinance.

1.6 Termination. This Agreement shall be deemed terminated and of no further effect upon (a) expiration of the term of this Agreement as set forth in Section 1.2, or (b) completion of the Project in accordance with the terms of this Agreement including issuance of all required occupancy permits, whichever occurs first. Termination of this Agreement shall not affect any right or duty arising from the entitlements and approvals to develop the Project set forth under Section 2.1 below.

1.7 Covenant to be executed by Developer. Prior to the termination of this Agreement, Developer shall sign in recordable form, of which City shall cause its recordation at Developer's expense, a covenant on the Project Site which shall list the permitted uses of this Planned Development Zone, Development Standards of the Zone, and all on-going obligations required of Developer in this Agreement and as special requirements of this Zone (the "Covenant"). The Covenant shall be recorded with the Los Angeles County Recorder's Office and shall run with the land comprising the Project Site, and the burdens and benefits hereof shall bind and inure to the benefit of each of the parties hereto and all successors in interest to the parties hereto until the Covenant is removed from title. The Covenant shall set forth the process for amending or removing any provisions therein, which shall reflect the planned development process. In the event this Covenant is not recorded prior to the expiration of the term of this Agreement, this Agreement shall automatically be extended without further action by the parties but with respect only to the obligations of Developer identified in Exhibit "D", Conditions of Approval. In no event does this automatic extension apply to any vested rights for proposed development granted to Developer by this Agreement.

## 2. DEVELOPMENT OF THE PROJECT

2.1 Rights to Develop. Subject to the terms, conditions, and covenants of this Agreement, including the Reservations of Power in Section 2.3, Developer shall have a vested right to develop the Project as a planned development subject to the conditions of approval set forth in Exhibit "D", Conditions of Approval. Except as otherwise provided in this Agreement, the permitted uses of the Project Site, the density and intensity of use, the location of uses, the maximum height and size of proposed buildings, the minimum setbacks and other standards of Project design, the payment of fees or exactions, the construction of public improvements or the payment of fees in lieu thereof, and the reservation and dedication of land for public purposes shall be consistent with Exhibit "C", Project Description, and in compliance with the conditions of approval set forth in Exhibit

"D", Conditions of Approval. Any development standard not addressed in this Agreement or in Exhibit "D", Conditions of Approval, shall conform to those set forth in the MDM-1 Zone as of the date of this Agreement.

2.2 Action By City. Subject to the terms, conditions, and covenants of this Agreement, including the Reservations of Power in Section 2.3, the development regulations applicable to development of the Project and the Project Site shall be those ordinances, rules, regulations, official policies, standards, and specifications of the City governing the design, improvement, and construction standards and specifications applicable to development of the Project and the Project Site that are in force as of the execution of this Agreement (the "Existing Development Regulations"). Existing Development Regulations shall not mean taxes, fees, assessments, or charges imposed by the City which are inconsistent with any specific provision of this Agreement. No amendment to, revision of, or addition to any of the Existing Development Regulations which conflicts with the Project Approvals, as defined below, or prevents or delays development of the Project Site in accordance with this Agreement, shall have any application to the Project.

2.3 Reservation of Power. Notwithstanding any other provision of this Agreement, City reserves the right to apply Non-Conflicting Subsequent Regulations to the development of the Project, as may be enacted or amended hereafter. As used herein, "Non-Conflicting Subsequent Regulations" include regulations which do not conflict with this Agreement the Project Approvals, the Conditions of Approval, or the development of the Project, and are not necessarily limited to the following:

2.3.1 Building, electrical, mechanical, fire, and similar building codes based upon uniform codes adopted in, or incorporated by reference into, the Code, solely to the extent broadly applicable to all development projects in the City.

2.3.2 In the event of fire or other casualty requiring reconstruction of more than fifty percent (50%) of any building previously constructed hereunder, nothing herein shall prevent the City from applying to such reconstruction all requirements of the City's building, electrical, mechanical, and similar building codes based upon uniform codes adopted in, or incorporated by reference into, the Code, solely to the extent broadly applicable to all development projects in the City; provided that this provision is not intended to amend or increase any parking requirements or other development standards authorized or required in Exhibit "C", Project Description, or Exhibit "D", Conditions of Approval.

2.3.3 Except as expressly provided in Section 2.5 below, this Agreement shall not prevent the City from denying or from conditionally approving any development application for any subsequent project (other than any part of the Project) on the basis of the then existing or new rules, regulations, and policies.

2.3.4 As provided in Section 65869.5 of the Development Agreement Act, this section 2.3 shall not preclude the application to the Project or to the development of the Project Site of changes in City ordinances, resolutions, rules, regulations, laws, plans, or policies, the terms of which are specifically required to be applied to developments such as the Project by changes in state or federal laws or regulations. The City shall not apply to the Project any such rule, regulation, or policy which is inconsistent with this Agreement until the City makes a finding that such rule, regulation, or policy is necessary to comply with such State or Federal laws or regulations.

2.3.5 This section 2.3 shall not preclude the application to the Project or to the development of the Project Site of new rules, regulations, and policies of the City, other than those referenced in subsection 2.5.2, to the extent they are found by the City, based upon substantial evidence in the record, to be necessary to the health and safety of the public, as it relates to the Project Site, and are generally applicable to all properties in the City.

2.4 Illustrative Project Phasing. As described in this Agreement and in Exhibit "C", Project Description, Project build-out may occur over the twenty (20) year term of this Agreement. Developer's current best estimate of Project phasing, assuming the individual construction projects set forth in Exhibit "E", Illustrative Concept Diagram, is as set forth in Exhibit "F", Illustrative Project Phasing.

## 2.5 Vesting: Rules, Regulations and Official Policies.

2.5.1 General Statement. The City desires to cause all development permits and other approvals which may be required to develop the Project to be deemed vested in the Developer, as of the Effective Date, to the greatest extent permitted by law and, except as herein provided, to be free of: (a) all discretionary acts or review of the City or any body or agency thereof, it being understood that any subsequent review shall be ministerial; as further provided herein; and (b) the application of any subsequent building moratoria or restrictions on development which are inconsistent with this Agreement, including, but not limited to, those related to or affecting the rate, timing, phasing, or sequencing of the construction of the Project, whether by Subsequent Action (as defined in Section 2.5.2) or otherwise.

2.5.2 Existing Development Regulations to Govern. No amendment to, revision of, or addition to any of the Existing Development Regulations without Developer's written approval, whether adopted or approved by the City Council or any office, board, commission, or other agency of the City, or by the people of the City through charter amendment, referendum, initiative, or other ballot measure, or in any other fashion (a "Subsequent Action"), shall be effective or enforceable by the City with respect to the Project, its design, density, intensity of use, grading, construction, use or occupancy, or schedule of development, except as set forth in section 2.3. The City and the Developer, each to the extent legally permissible, specifically agree that any Subsequent Action which conflicts with the Project Approvals defined in Section 4.1 below shall have no application to the Project or the Project Site.

2.5.3 Right to Rebuild or Replace. The Developer's vested rights under this Agreement shall include, without limitation, the right to remodel, renovate, rehabilitate, rebuild, or replace the Project or any portion thereof throughout the applicable term for any reason, including, without limitation, for reasons of damage, destruction, or obsolescence of the Project or any portion thereof, subject to the Existing Development Regulations applicable to development of the Project, except to the extent limited by Section 2.3 of this Agreement, Reservation of Power.

### 3. DEVELOPER'S OBLIGATIONS

3.1 Conditions of Approval. Developer shall comply with the conditions of approval set forth in Exhibit "D", Conditions of Approval, attached hereto and incorporated by reference herein. These conditions include the mitigation measures of the EIR so that significant environmental effects will be mitigated or avoided. The City shall not impose any additional conditions, mitigation measures, exactions, reservations, dedications and public improvements beyond those provided in Exhibit "D", Conditions of Approval, or otherwise permitted under this Agreement, as a condition to the development of the Project.

3.2 Fees. No fees shall be vested by this Agreement, except as set forth in this section. Developer shall pay impact fees, whether imposed Citywide or in the Media District area in accordance with the terms of this Agreement. This Agreement vests with Developer the right to pay only those categories or types of City fees that are in effect as of the date of this Agreement; except that if after the Effective Date, the City imposes a Media District wide impact fee supported by a valid nexus study, and serving only to offset impacts of new development, then Developer shall be required to pay such Media District wide fee, provided that it is applied on a non-discriminatory basis.

For categories or types of fees in effect on the Effective Date, Developer, pursuant to the preceding paragraph, shall be required to pay the fee at the time such fee is normally required to be paid, provided that such fees are in effect Citywide or in the Media District area and applied on a non-discriminatory basis. Without limiting the generality of the foregoing, the following fees are discussed in more detail below: (1) the Non-Transportation Related Fees addressed in subsection 3.2.1 below, which includes four community facilities subfees for parks and recreation, fire, police, and libraries; (2) the Transportation Fee addressed in subsection 3.2.2 below; and (3) utility fees and charges and City processing fees addressed in subsection 3.2.4 below.

3.2.1 Non-Transportation Related Fees. As mitigation for certain environmental impacts identified in the EIR and in satisfaction of certain conditions of approval, Developer shall pay Non-Transportation Related Fees to the City pursuant to Section 31-2224 to 31-2230 of the Code, which is a combination of four subfees for parks and recreation, fire, police, and libraries. Such fees shall be paid at the time of issuance of building permits for development of the Project at the rate then in effect. All other provisions of Article 22 of Chapter 31 of the Burbank Municipal Code, as effective on the Effective Date of this Agreement, or as amended, but only if such amendment is requested to be applied by Developer, shall apply to the Project.

3.2.2 Transportation Improvements or Fees. As mitigation for certain environmental impacts identified in the EIR and in satisfaction of certain conditions of approval, Developer shall pay Transportation Related Fees to the City pursuant to Section 31-2217 to 31-2223 of the Code. Developer shall install or cause to be installed, the measures set forth in Exhibit "D", Conditions of Approval, relating to traffic improvements, except as expressly provided herein, to assure compliance with CEQA. The measure(s) shall be installed prior to the issuance of a Certificate of Occupancy for any building causing the net new development to equal or exceed the development thresholds set forth in the Conditions. In the event Developer desires to forego the installation of a traffic measure which is part of the City's fee program and to instead pay the Transportation Improvement Fee (the "Fee"), per Division 2, Article 22, Chapter 31 of the Code (Sections 31-2217 to 31-2223), Developer shall make its request to pay the Fee instead of installing the mitigation measure during the Confirmation of Compliance Process set forth in Section 4.3 below. The City Community Development Director ("Director") may permit the payment of the Fee only if the City is prepared to construct and install the required measure. Should the Director permit the payment of the Fee instead of the actual installation of the measure, then the Fee shall be paid by Developer at the time the relevant building permit application is made.

Notwithstanding the foregoing, Developer may pay Transportation Fees for certain measures which specifically limit Developer's share in the Conditions of Approval and which pertain to transportation measures outside the jurisdiction or control of the City. In such case, Developer's share is limited to the amount specified in the applicable condition, but such amount shall be adjusted annually as set forth in Section 31-2207 of the Code.

3.2.3 Calculation of Community Facilities Fees. The fees specified in subsections 3.2.1 and 3.2.2 above shall be calculated at the time any building permit is issued over the twenty year term of this Agreement, and at the rate in existence at that time as applicable to such building. While the amounts of such fees are not vested by this Agreement and may be amended by the City Council, whether based on the City of Burbank Community Facilities Study (Dec. 1992)/City of Burbank Development Impact Fee Report (Dec. 1992) and the Transportation Funding Strategy Nexus Summary, or on new nexus reports or studies, the categories of the different types of Community Facilities Fees shall remain unchanged, and shall be limited to the fees specified in subsections 3.2.1 and 3.2.2 above.

3.2.4 Utility and Processing Fees. Developer shall pay to City standard and non-discriminatory utility fees and other related utility rates including, but not limited to, hook-up charges and aid-in-construction fees in accordance with the applicable electrical or water rates and rules in effect at the time of application for service. Developer shall also pay all standard and non-discriminatory Citywide processing fees for building permits, administrative plan check, and similar fees associated with development of the Project which are in existence at the Effective Date of this Agreement at the rate in existence at the time said fees are normally required to be paid to the City.

3.3 In-Lieu Credit for Community Facilities Fees. Developer shall be entitled to any applicable exemptions specified in Section 31-2203 of the Code, credits specified in Section 31-2211 of the Code, and refunds as specified in Section 31-2210 of the Code, and all other provisions of Article 22 in effect on the date of this Agreement. Eligibility for in-lieu credit is as stated in Section 31-2211b of the Code. That section provides that any capital improvement specified in the "Transportation Funding Strategy Nexus Summary" or the "City of Burbank Community Facilities Study"/"City of Burbank Development Impact Fee Report" shall be eligible for an in-lieu credit. Additional credit may be permitted by the City Manager, or his/her designee, in accordance with Section 31-2211b, which states in part that eligibility for and the amount of the credit shall be "based upon whether the contribution meets capital improvement needs for which the



particular development fee has been imposed; whether the developer contribution will substitute for or otherwise reduce the need for capital improvements anticipated to be provided with development fee funds; and the value of the developer contribution."

Without limiting the foregoing, it is hereby agreed that the following transportation improvements and programs contained in Exhibit "D", Conditions of Approval, shall receive in-lieu credit in the amount of their cost to Developer: Conditions 16, 17, 23, 24, 25, 26, 27, 29, 30, and 34. It is further agreed that the following transportation Conditions, if met by the payment of fees as provided therein and not by the completion of the stand-alone improvements provided therein, shall be credited against the total amount of Transportation Improvements or Fees applicable to this Project: Conditions 18, 20, 21, and 28. To the extent legally permissible, the City will use its best efforts to include the following conditions as capital improvements in an amendment to the citywide nexus study, presently known as the "Transportation Funding Strategy Nexus Summary" or the "City of Burbank Community Facilities Study"/"City of Burbank Development Impact Fee Report": Conditions 19, 22, 33, 35, 39, and 40. Any excess transportation-related credit from any individual construction project may be applied by Developer against Transportation Improvement Fees for future construction projects in accordance with Section 31-2211.

Whenever Developer installs a transportation measure in a public right-of-way (or chooses to install any street-scape measures as credit for the Art in Public Places Program), the process set forth in Section 31-2211 of the Code shall be followed, whether or not an in-lieu credit is requested. No work shall be performed on City property until applicable permits have been issued. Developer may be required to execute necessary covenants to identify Developer's on-going maintenance obligations if Developer chooses to perform work on the public right of way beyond City standards.

3.4 Art in Public Places Program. Because the Project may be carried out over many years, in connection with the development of those portions of the Project which are covered by the City's Art in Public Places Program, established by Ordinance No. 3290 (the "Art Ordinance"), and as an alternative means of complying with the development standard set forth in the Art Ordinance, Developer may elect to pay the alternative fee provided by the Art Ordinance in lieu of constructing art on site. Developer may treat each 60 month period following the effective date of this Agreement as a phase as defined in Section 31-1114 (3) of the Code. If Developer elects to consolidate its fees during each consecutive 60-month period, then Developer shall provide City with adequate assurances that it will pay the appropriate allocation for art for each building on a cumulative basis at end of each 60-month period. At the end of each 60-month period,

Developer will have the opportunity to pay the in-lieu fee or to provide for a significant art work or works. Significant art work or works which are developed as part of an open space, pedestrian plaza, or common area on the Project Site may be used to satisfy the art requirement, or portion thereof, if use of these funds is approved in accordance with the City's Art in Public Places Program.

3.5 Dedications and Improvements. Developer shall complete those public improvements in connection with the Project as specified in Exhibit "D", Conditions of Approval, attached hereto and incorporated herein by reference; provided that Developer shall have the option of contributing funds to the City in lieu of constructing the required public improvements, facilities, and services. Developer is not required to make any dedications under this Agreement.

3.6 Phasing of Development: No Obligation to Proceed. The Project may be carried out over many years and in one or more phases, the exact number and timing of which will be determined by Developer based upon market conditions, industry factors, and business considerations, among other factors. The term of this Agreement is intended to allow sufficient time for Developer to complete the Project in an economically sound manner and in accordance with the Developer's schedule. Developer's current best estimate of Project phasing, assuming the individual construction projects set forth in Exhibit "E", Illustrative Concept Diagram, is as set forth in Exhibit "F", Illustrative Project Phasing. However, in no event shall the Developer be obligated to proceed with the Project in conformance with the phasing or illustrative examples as generally outlined in the Project Report or the EIR, and nothing in this Agreement shall be construed to require the Developer to proceed with the construction or any other implementation of the Project. The decision to proceed or to forbear or delay proceeding with Project implementation or construction shall be at Developer's sole discretion. Any failure by Developer to proceed with construction or implementation of the Project shall not result in any loss or diminution of development rights nor shall any such failure to proceed with, or delay or abandonment of, the Project give rise to any liability, claim or damages, or cause of action against the Developer.

3.7 Indemnification. The Developer agrees to and shall indemnify and hold harmless the City and its officers, agents, employees, and representatives from liability for damage or claims for damage or personal injury, including death, and claims for property damage which may arise from the negligent, direct or indirect, operations of the Developer or its contractors, subcontractors, agents, employees, or other persons acting on its behalf in relation to the Project. This hold harmless agreement applies to all damages and claims for damages suffered or alleged

to have been suffered by reason of the operations referred to in this paragraph, regardless of whether or not the City prepared, supplied, or approved plans or specifications, or both, and regardless of whether or not the insurance policies referred to in this Agreement are inapplicable. No indemnitee under this subsection shall settle any claim, demand, or liability suffered, or alleged to have been suffered, without the prior written consent of the Developer.

3.8 Insurance. Before beginning construction on the Project Site, the Developer shall cause the insurance required under this paragraph to be issued and thereafter to be maintained during the term of this Agreement, but only when actual work on the Project is being performed by the Developer or its contractors and subcontractors. Said insurance shall extend to the City and its elective and appointive boards, commissions, officers, agents, employees, and representatives and to the Developer and each contractor and subcontractor performing work on the Project. Said insurance shall include the following:

3.8.1 Workers compensation insurance for all persons employed at the Site and for all employees of each contractor and subcontractor. The Developer agrees to indemnify the City and its officers, agents, employees, and representatives for any damage resulting from failure to take out and maintain such insurance.

3.8.2 Public liability insurance in an amount of not less than \$1,000,000 for injuries (including death) to any one person and in an amount of not less than \$1,000,000 on account of any one occurrence; and for property damage in the amount of not less than \$1,000,000 on account of any one occurrence.

3.8.3 Developer shall maintain insurance in the amount of \$1,000,000 against damages sustained by reason of any action, claim, or demand made by reason of breach or claim for breach of contract or by reason of any contractual liability or alleged contractual liability on any contract entered into by the Developer or its contractors, subcontractors, agents, or employees with respect to the Project.

#### 4. CITY'S OBLIGATIONS

4.1 Project Approvals. To the greatest extent permitted by law, City shall be bound with respect to the density and intensity of use, the location of uses, the permitted uses, the maximum height and size of proposed buildings, the minimum setback of proposed buildings, other rules, regulations, and official policies of development applicable to the Project or the Project Site as set forth in this Agreement, any land use, zoning, site plan and all other approvals and entitlements required or obtained

for the development of the Project, including, but not limited to, zone changes (including designating the Project Site a "planned development zone" and, thereby, establishing special set-back standards), conditional use permits, grading permits, building permits, and site plan approvals that will accomplish development of the Project in accordance with the terms of this Agreement (collectively, the "Project Approvals"). The City hereby agrees that the land uses set forth in the Project Approvals are approved or will be approved pursuant to the terms of this Agreement, provided that the Developer satisfactorily complies with all administrative procedures, actions, payments, and criteria generally required of developers by the City for processing applications for developments and not in conflict with the terms of this Agreement. The City agrees promptly to grant and implement, in accordance with this Section 4, any necessary Project Approvals pursuant to the Existing Development Regulations, subject to the terms, conditions, and exceptions contained herein.

4.2 Processing of Applications and Permits. The City, upon satisfactory completion by the Developer of all required administrative procedures, actions, and payments of appropriate processing fees, if any, shall, in a timely fashion, proceed to complete all required steps necessary for the implementation of this Agreement and the development by the Developer of the Project in accordance with this Agreement. City shall use its best efforts to assure that approval of the initial plan check (if no corrections are required) shall be rendered within 10 weeks of acceptance.

4.3 Scope of Subsequent Review/ Confirmation of Compliance Process. This planned development approval and Agreement constitute compliance with the City's development review requirements as set forth in Sections 31-1908 through 31-1914 of the Code (or other pre-building permit review process which is then in place). Nothing set forth herein shall impair or interfere with the right of the City to require the processing of building permits as required by law pursuant to the applicable provisions of the Code which are in effect as of the Effective Date and the provisions of City's Fire Codes and ordinances, health and safety codes and ordinances, and building, electrical, mechanical, and similar building codes; provided, however, that nothing herein shall authorize or permit the City to impose any condition on and/or withhold approval of any proposed building, the result of which would be inconsistent with any term or provision of this Agreement, and it is hereby further provided that the basis for the City's subsequent review shall be limited to:

(a) the provisions of the Code which are in effect as of the Effective Date;

(b) the provisions of City's Fire Codes and ordinances, health and safety codes and ordinances, and building, electrical, mechanical, and similar building codes;

(c) conformity with the conditions of approval set forth in Exhibit "D", Conditions of Approval, to this Agreement, which are in conformity with the Revised Mitigation Monitoring Program set forth in the EIR and which constitute the City's program to ensure compliance with all Project mitigations; and

(d) consistency with the Illustrative Concept Diagram set forth in Exhibit "E" or, if not consistent, a showing that there will be no new significant environmental impacts other than those analyzed in the EIR, those mitigated by mitigations Developer and the City may agree upon, or those otherwise approved by the City pursuant to CEQA.

Prior to each request for a building permit, Developer shall provide City with a Compliance Certificate ("Certificate") in a form created by Developer and approved by the City, which shall describe how all applicable conditions of approval and/or mitigation measures, such as consistency with a construction/noise control mitigation plan, have been fully complied with. The Certificate shall be distributed to relevant City departments for checking the representations made by Developer on the Certificate. City shall use its best efforts to complete this review within thirty (30) days of a completed Certificate and completed application for building permit.

4.4 Subsequent Environmental Review. In connection with the Project Approvals, the City has reviewed, considered, and certified the Project EIR, which complies with CEQA and the CEQA Guidelines. No further CEQA documents shall be required for subsequent Project Approvals unless revision of the EIR is required pursuant to Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 to 15164. In connection with the City's issuance of any additional Project Approvals or any action required for the Project which is subject to CEQA, the City shall promptly commence and diligently process any and all additional documents required by CEQA.

4.5 Imposition of Conditions, Mitigation Measures, Exactions Assessments, Fees, Reservations, Dedications, and Public Improvements. The City shall not impose any conditions, mitigation measures, exactions, assessments, fees, reservations, dedications, and/or public improvements as a condition of the Project Approvals or otherwise for the implementation of the Project not required as a Condition of Approval set forth in Exhibit "D", Conditions of Approval, or as otherwise set forth in this Agreement.

4.6 Infrastructure and Public Service Capacity. In order to assure the adequacy of the infrastructure and public services necessary for the Project, the City shall (i) to the extent the City retains responsibility for completing the off-site infrastructure and public services necessary to serve any new building on the Project Site, ensure that such infrastructure and public services are available in a timely fashion so as not to delay the occupancy of such building, and (ii) require projects outside of the Project Site which may significantly impact the infrastructure and public services necessary to serve the Project to mitigate any such impacts in the manner required by CEQA and any other law, ordinance, rule, or regulation, including, without limitation, bearing their appropriate share of any tax, assessment, fee, or similar charge imposed to finance infrastructure or other public service or improvement.

4.7 Cooperation.

4.7.1 Project Approvals. It is the express intent of this Agreement that the parties cooperate and diligently work to implement any zoning or other land use, site plan, subdivision, grading, or building approval or other Project Approval for the development of the Project, and City agrees to cooperate with Developer in implementing all conditions of Project Approvals.

4.7.2 Other Governmental Permits. The Developer may apply for such other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. The City shall cooperate with the Developer in its endeavors to obtain such permits and approvals. Such permits and approvals may include, but are not limited to, (i) permits from the State of California Department of Transportation relating to freeway improvements; (ii) permits required for the construction of the street improvement program; and (iii) permits or approvals required for anticipated surface water runoff.

4.7.3 Public Funding. In the event Developer seeks or applies for public funding related to the Project or related to any condition of approval for the Project, the City shall cooperate with the Developer in its efforts to obtain such funding.

4.8 Project Approvals Independent. All Project Approvals which may be granted pursuant to this Agreement, and all land use entitlements or approvals generally which have been issued or will be granted by the City with respect to the Project, constitute independent actions and approvals by the City. If any provision of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of

competent jurisdiction to be invalid or unenforceable, or if this Agreement terminates for any reason, then such invalidity, unenforceability, or termination of this Agreement or any part hereof shall not affect the validity or effectiveness of any such Project Approvals or other land use approvals and entitlements. In such cases, such approvals and entitlements will remain in effect pursuant to their own terms, provisions, and conditions of approval. It is understood by the parties to this Agreement that, pursuant to existing law, such approvals and entitlements shall not remain valid for the term of this Agreement, but only for the term of such approvals and entitlements. Accordingly, the Developer shall have the right to file such new entitlement applications on portions of the Project where such previously approved approvals and entitlements have expired. Any such new applications filed for the Project shall be reviewed in accordance with the Existing Development Regulations. To the extent not expressly held invalid or unenforceable, this paragraph shall survive the termination of this Agreement.

4.9 Review for Compliance. The City Planner shall review this Agreement at least once during every twelve (12) month period following the Effective Date of this Agreement, in accordance with the City's procedures and standards for such review set forth in the City's Development Agreement Ordinance or Planned Development Ordinance. During such periodic review by the City, the Developer shall be required to demonstrate, and hereby agrees to furnish, such evidence of good faith compliance with the terms hereof as the City may reasonably require consistent with commonly accepted building standards prevailing in the industry. In the event the City fails to complete such a review, the Developer shall be deemed to be in full compliance with the terms of this Agreement.

4.10 More Favorable Future Laws. If in the future any law, ordinance, or regulation of the City becomes more favorable to Developer than that in existence on the date of this Agreement, the Developer may elect to comply with the more favorable law, ordinance or regulation in Developer's sole discretion.

5. DEFAULT; REMEDIES; DISPUTE RESOLUTION.

5.1 Default and Remedy Provisions.

5.1.1 Notice of Default. In the event of failure by either party hereto substantially to perform any material term or provision of this Agreement, the non-defaulting party shall have those rights and remedies provided herein, provided that such non-defaulting party has first submitted, by registered or certified mail, return receipt requested, a written notice of default in the manner required by Section 7.1 hereof identifying with specificity the nature of the alleged default and the manner in which said default may satisfactorily be cured. In the event

Developer has made any assignment of rights or obligations pursuant to Section 1.4 hereof, no default by the holder of less than all rights and obligations hereunder shall be deemed a default by any other holder of rights and obligations hereunder.

5.1.2 Cure of Default. Upon the receipt of the notice of default, the alleged defaulting party shall promptly commence to cure the identified default at the earliest reasonable time after receipt of the notice of default and shall complete the cure of such default not later than sixty (60) days after receipt of the notice of default, or such longer period as is reasonably necessary to remedy such default, provided that the alleged defaulting party commences such cure within thirty (30) days after receiving the notice of default and continuously and diligently pursues such remedy at all times until such default is cured.

5.1.3 Default by Developer. If, after the cure period has elapsed, the City staff makes a preliminary determination that the Developer remains in default and recommends that the City terminate or modify this Agreement, the City staff shall set a public hearing before the Planning Board in accordance with the notice and hearing requirements of Sections 31-19114 and 31-19106 of the Code and Government Code Sections 65867 to 65868. If, after public hearing, the Planning Board determines, on the basis of substantial evidence, that Developer has not cured the alleged default pursuant to this Section 5, Developer shall be entitled to appeal that finding and determination to the City Council in accordance with Section 5.2.2. The Planning Board's decision that all defaults are cured may be appealed to City Council by either party.

If, after a hearing, the City Council determines, on the basis of substantial evidence, that the Developer has not cured the alleged default pursuant to this Section 5, the City may terminate or modify this Agreement to impose such conditions as are reasonably determined to be necessary to remedy the effect of the Developer's defaults. There shall be no termination or modification of this Agreement unless the City acts pursuant to Government Code Sections 65867 to 65868, irrespective of whether an appeal is taken as provided in Section 5.2.2.

5.1.4 Default by City. If the City does not accept, process, or render a decision on the Project Approvals in a timely manner, in accordance with the terms of this Agreement, or the City otherwise defaults under the provisions of this Agreement, the Developer, upon a valid determination that City remains in default after the cure period has elapsed, shall be entitled to exercise its remedies hereunder, including, without limitation, the right to terminate or modify this Agreement. In addition to any other remedies of Developer, Developer may, at its option, terminate or modify the terms of the Agreement to remedy the



effect of City's default. If Developer desires to terminate or modify the terms of this Agreement, it shall request a processing of such modification pursuant to Government Code Section 65868, and City staff shall be required to present such requested modifications thereof to City's Planning Board and the City Council at the earliest available public meeting thereof.

5.1.5 Remedies for Default. In the event of default by either party hereunder, after expiration of all applicable notice and cure periods, the non-defaulting party shall have available all of the following remedies, which remedies shall be exclusive of all other remedies at law or in equity: suits for injunctive or declaratory relief, specific performance, or relief in the nature of mandamus, and termination in accordance with the terms of this Agreement. All of said remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of said remedies shall not constitute a waiver or election in respect to any other available remedy.

## 5.2 Dispute Resolution.

5.2.1 Issuance of Interpretations by the Director. Should a dispute arise between the parties concerning the proper interpretation of this Agreement, the City's Director of Community Development (the "Director") shall issue a written interpretation of the disputed provision of this Agreement within 30 days of receipt of a written request by the Developer, but only after consultation with the City Attorney, any affected department, the Developer, and counsel for the Developer.

5.2.2 Appeals of Interpretations. The Developer may appeal any interpretation issued by the Director, or the failure of the Director to timely issue an interpretation, to the Planning Board, which shall act within thirty (30) days of receipt of a written appeal. The Developer may appeal any interpretation adopted by the Planning Board, or the failure of the Planning Board timely to adopt an interpretation, to the City Council, which shall act within thirty (30) days of receipt of a written appeal.

5.2.3 Litigation. If the City Council fails to timely adopt an interpretation within thirty (30) days after a written appeal is filed with the City Council by the Developer, or if the Developer contests any interpretation adopted by the City Council, the Developer may institute legal action, including, but not limited to, an action for declaratory relief pursuant to Code of Civil Procedure Section 1060 *et seq.*, to interpret this Agreement after complying with the administrative procedures of this subsection.

The parties agree that the Developer has a fundamental vested interest in this Agreement and in the Project and that, in the event the Developer seeks judicial review of the City's actions with respect to implementation, compliance, modification, or termination of this Agreement, such judicial review of the actions of the City shall be conducted by the court pursuant to the independent judgment test.

6. MORTGAGEE PROTECTION: CERTAIN RIGHTS OF CURE

6.1 Encumbrances on the Project Site. This Agreement shall not prevent or limit the Developer, in any manner, at the Developer's sole and absolute discretion, from encumbering the Project Site or any portion thereof or any improvements thereon with any Mortgage securing financing with respect to the construction, development, use, or operation of the Project. The City acknowledges that a Mortgagee may require certain modifications to this Agreement, and the City agrees, upon request, from time to time, to meet with Developer and/or representatives of any such Mortgagee to negotiate in good faith any such request for modification. The City further agrees that it will not unreasonably withhold its consent to any such requested modification to this Agreement provided such modifications are processed in accordance with Subsection 7.9 related to procedures for amendment of this Agreement. Any Mortgagee and its successors and assigns shall be entitled to the rights and privileges set forth in this section.

6.2 Mortgage Protection. This Agreement shall be superior and senior to the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish, or impair the lien of any Mortgage made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Project Site or any portion thereof by a Mortgagee (whether pursuant to foreclosure, trustee's sale, deed in lieu of foreclosure, lease termination, or otherwise) shall be subject to all of the terms and conditions of this Agreement.

6.3 Mortgagee Not Obligated. No Mortgagee will have any obligation or duty under this Agreement to perform the obligations of the Developer or other affirmative covenants of Developer hereunder, or to guarantee such performance, except that, to the extent that any covenant to be performed by the Developer is a condition to the performance of a covenant by the City, the performance thereof shall continue to be a condition precedent to the City's performance hereunder.

6.4 Notice of Default to Mortgagee; Right of Mortgagee to Cure. City shall deliver to each Mortgagee a copy of any notice of default given to Developer under the terms of this Agreement

within ten (10) days of sending such notice of default to Developer. The Mortgagee shall have the right, but not the obligation, for such period of time (but not less than ninety (90) days after the receipt of such notice from City) as is reasonably necessary to cure or remedy, or to commence to cure or remedy, the default. If the default is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession of the Project Site or any portion thereof, such Mortgagee shall have the right to seek to obtain possession with diligence and continuity through foreclosure, a receiver, or otherwise and shall be permitted thereafter to remedy or cure the default within such time as is reasonably necessary to cure or remedy said default but in no event less than sixty (60) days after obtaining possession. If any such default cannot, with diligence, be remedied or cured within such sixty (60) day period, then such period shall be extended to permit the Mortgagee to effect a cure or remedy so long as Mortgagee commences said cure or remedy during such sixty (60) day period and thereafter diligently pursues and completes such cure.

6.5 Bankruptcy. Notwithstanding the foregoing provisions of this Section 6, if any Mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving the Developer, the times specified in Subsection 6.4 for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition. In addition, if this Agreement is rejected by the Developer or otherwise terminated in connection with any such proceeding, then upon the request of any Mortgagee, a new development agreement upon the same terms and conditions of this Agreement shall be entered into between such Mortgagee and the City.

7. MISCELLANEOUS

7.1 Notices. All notices permitted or required hereunder shall be effected upon personal delivery or upon being sent by registered or certified mail, postage fully prepaid, addressed to the following parties, or to such other address as any party may from time to time designate in writing in the manner as provided herein:

To City: City of Burbank  
275 E. Olive Avenue  
Burbank, California 91502  
Attn: Community Development Director

With a copy Office of the City Attorney  
to: City of Burbank  
275 E. Olive Avenue  
Burbank, California 91502

To Developer: National Broadcasting Company, Inc. 3000 West  
Alameda Avenue  
Burbank, California 91523  
Attn: John E. O'Neill

With a copy  
to: National Broadcasting Company, Inc.  
30 Rockefeller Plaza, 10th Floor  
New York, New York 10112  
Attn: Barry D. Lites

With a copy  
to: Latham & Watkins  
633 West Fifth Street, Suite 4000  
Los Angeles, California 90071  
Attn: James L. Arnone

7.2 Enforcement. Unless amended, canceled, or terminated as provided herein, this Agreement shall be enforceable according to its terms, notwithstanding any change in the City's applicable regulations which alters or amends the City's rules, regulations, or design improvement and construction standards and specifications.

7.3 Superseding State or Federal Law. In the event that any state or federal law or regulation, enacted or adopted after the Effective Date of this Agreement, or other action of any governmental entity not under the control of the City, shall prevent or preclude compliance with any of the provisions hereof, such provisions shall be modified or suspended only to the extent and for the time necessary to achieve compliance with said law, regulation, or other governmental action, and the remaining provisions of this Agreement shall be in full force and effect. Upon repeal of said law, regulation or other governmental action or occurrence or other circumstances removing the effect thereof upon this Agreement, the provisions hereof shall be restored to their full original effect.

7.4 Force Majeure. In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or failures to perform are due to war, insurrection, strikes, walk-outs, riots, floods, earthquakes, the discovery and resolution of significant geologic, hydrologic, archaeological, or paleontologic problems on the Project Site, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions imposed or mandated by other governmental entities, litigation not commenced by a party to this Agreement claiming the enforced delay, governmental restrictions or priority, unusually severe weather, acts of another party, acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the City shall not excuse performance by the City), or any other causes beyond the control or without the fault of the party claiming an

extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause. If, however, notice by the party claiming such extension is sent to the other party more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of performance under this Agreement may also be extended in writing by the City and the Developer.

7.5 Binding Effect. This Agreement, and all of the terms and conditions hereof, shall be binding upon and inure to the benefit of the parties, any subsequent owner of all or any portion of the Project or the Project Site, and their respective assigns, heirs, or successors in interest.

7.6 Independent Entity. The parties acknowledge that, in entering into and performing this Agreement, the Developer is acting as an independent entity and not as an agent of the City in any respect.

7.7 Agreement Not to Benefit Third Parties. This Agreement is made for the sole benefit of the parties, and, except for any Mortgagee entitled to rights under Section 6 of this Agreement, no other person shall be deemed to have any privity of contract under this Agreement nor any right to rely on this Agreement to any extent for any purpose whatsoever, nor have any right of action of any kind on this Agreement, nor be deemed to be a third party beneficiary under this Agreement.

7.8 Covenants; No Dedication or Lien. The provisions of this Agreement shall constitute covenants which shall run with the land comprising the Project Site for the benefit thereof, and the burdens and benefits hereof shall bind and inure to the benefit of each of the parties hereto and all successors in interest to the parties hereto for the term of this Agreement. Nothing herein shall be construed as a dedication or transfer of any right of interest in, or as creating a lien with respect to, the title to the Project Site.

7.9 Amendment of Agreement. This Agreement may be amended from time to time by mutual consent of the original parties or such party to which the Developer assigns all or any portion of its interest in this Agreement, in accordance with the provisions of the City's Development Agreement Ordinance and Government Code Sections 65867 and 65868, provided that any amendment to this Agreement which does not materially affect the term, permitted uses, density or intensity of use, location of uses, height or size of buildings, provisions for reservation, dedication, and improvement of land for public purposes, conditions, terms, restrictions, and requirements relating to subsequent

discretionary actions, monetary contributions by the Developer, or any conditions or covenants relating to the use of the Project Site shall not require notice or public hearing before the parties may execute an amendment hereto.

7.10 Cooperation in the Event of a Legal Challenge. In the event of any court action or proceeding challenging the validity of this Agreement, the planned development approval, or the certification of the EIR, the Developer shall indemnify, hold harmless, pay all costs actually incurred, and provide defense in said action, with counsel reasonably satisfactory to both the City and the Developer. The City shall cooperate with the Developer in any such defense as the Developer may reasonably request.

7.11 Interim Uses. The City agrees that the Developer may use the Project Site during the term of this Agreement for any Less Intensive Use, as defined herein, which is otherwise permitted by the Planned Development. Less Intensive Uses shall be defined as 1) those uses permitted in the Planned Development Zone; and 2) a temporary structure not intended to be used for a time which exceeds the then-remaining term of the agreement.

7.12 No Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought and referring expressly to this Section. No delay or omission by either party in exercising any right or power accruing upon non-compliance or failure to perform by the other party under any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof, except as expressly provided herein. No waiver by either party of any of the covenants or conditions to be performed by the other party shall be construed or deemed a waiver of any succeeding breach or non-performance of the same or other covenants and conditions hereof.

7.13 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect to the extent that the invalidity or unenforceability does not impair the application of this Agreement as intended by the parties.

7.14 Cooperation in Carrying Out Agreement. Each party shall take such actions and execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

7.15 Estoppel Certificate. Any party hereunder may, at any time, deliver written notice to any other party requesting such party to certify in writing that, to the best knowledge of the certifying party, (i) this Agreement is in full force and effect and a binding obligation of the parties, (ii) this Agreement has not been amended or modified either orally or in writing or, if so amended, identifying the amendments, (iii) the requesting party is not in default in the performance of its obligations under this Agreement or, if in default, describing the nature and amount of any such defaults, and (iv) any other reasonable information requested. A party receiving a request hereunder shall execute and return such certificate within fifteen (15) days following the receipt thereof. The City acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees. Failure to deliver such statement within such time shall constitute a conclusive presumption against the party which fails to deliver such statement that (i) this Agreement is in full force and effect without modification, except as may be represented by the requesting party, and (ii) there are no uncured defaults in the performance of the requesting party, except as may be represented by the requesting party.

7.16 Termination by Developer. The Developer may terminate this Agreement at any time upon thirty (30) days' notice to the City in accordance with the procedure set forth in Government Code Section 65868.

7.17 Construction. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and vice versa.

7.18 Recordation. Notwithstanding the provisions of Section 65868.5 of the Government Code, Developer shall provide the City with proper recordation fees, and the City shall cause the recordation of the Agreement.

7.19 Captions and References. The captions of the paragraphs and subparagraphs of this Agreement are solely for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement. References herein to paragraphs or exhibits are the paragraphs, subparagraphs, and exhibits of this Agreement.

7.20 Time. Time is of the essence in the performance of this Agreement and of each and every term and condition hereof as to which time is an element.

7.21 Entire Agreement. This Agreement, including all Exhibits attached hereto, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement,

and this Agreement supersedes all previous negotiations, discussions, and agreements between the parties, and no parol evidence of any prior or other agreement shall be permitted to contradict or vary the terms hereof.

7.22 Time Period of Tentative Map. The term of Vesting Tentative Tract Map No. 52223 approved as part of the Project shall be extended for the term of this Agreement. Multiple final tract maps covering all or any portion of the Project Site may be recorded from time to time, in Developer's sole discretion, provided that such final maps are substantially in compliance with Vesting Tentative Tract Map No. 52223 and that the total number of lots created does not exceed 15 lots. At the expiration or termination of this Agreement, the term of Vesting Tentative Tract Map No. 52223 may be extended for an additional five years pursuant to Government Code Section 66452.6(e) and also may be extended for an additional 36 months by the filing of each final map pursuant to Government Code Section 66452.6(a).

7.23 Exhibits. The Exhibits to which reference is made in this Agreement are deemed appropriated herein in their entirety. Said Exhibits are identified as follows:

- A. Depiction of Project Site
- B. Legal Description of Project Site
- C. Project Description
- D. Conditions of Approval
- E. Illustrative Concept Diagram
- F. Illustrative Project Phasing

7.24 Signature Pages. For convenience the parties may execute and acknowledge this Agreement on separate signature pages which, when attached hereto, shall constitute this as one complete Agreement.



7.25 Inconsistency with Exhibits. In the event that any inconsistencies exist between the Exhibits and this Agreement, then the latter shall prevail.


IN WITNESS WHEREOF, the Developer and the City have executed this Agreement as of the date first hereinabove written.

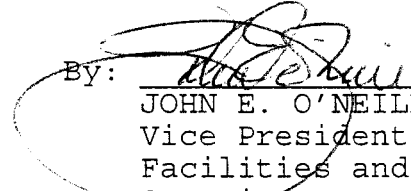
"CITY"

"DEVELOPER"

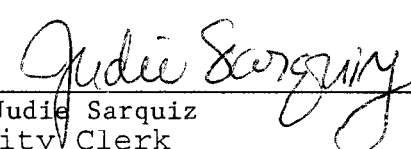
CITY OF BUEBANK,  
a municipal corporation

NATIONAL BROADCASTING COMPANY, INC.,  
a Delaware corporation

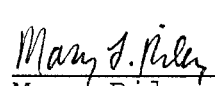
By:   
ROBERT R. OVROM  
City Manager

By:   
JOHN E. O'NEILL  
Vice President  
Facilities and Corporate  
Sourcing

Attest:

  
Judie Sarquiz  
City Clerk

Approved as to form:  
Office of the City Attorney

  
Mary Riley  
Assistant City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

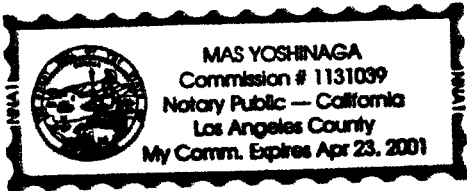
State of CALIFORNIA

County of LOS ANGELES

On May 9, 1997 before me, MAS YOSHINAGA Notary Public

personally appeared ROBERT R. OVRUM

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



WITNESS my hand and official seal. [Signature of Notary]

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- Individual, Corporate Officer, Partner(s), Limited, General, Attorney-in-fact, Trustee(s), Guardian/conservator, Other: Public Boy

DESCRIPTION OF ATTACHED DOCUMENT

NBC MASTER PLAN DEVELOPMENT AGREEMENT, 27, 3/19/97

SIGNER IS REPRESENTING: City of Burbank

JOHN E. O'NEILL (NBC, Inc.) SIGNER(S) OTHER THAN NAMED ABOVE

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

No. 5907

State of California

County of Los Angeles

On March 17, 1997 before me, Gloria Wheeler, Notary Public,  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared John E. O'Neill,  
NAME(S) OF SIGNER(S)

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



WITNESS my hand and official seal.

Gloria Wheeler  
SIGNATURE OF NOTARY

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER**

- INDIVIDUAL
- CORPORATE OFFICER  
VP, facilities & Corp  
TITLE(S) Sou
- PARTNER(S)  LIMITED
- ATTORNEY-IN-FACT  GENERAL
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

NBC master Plan  
TITLE OR TYPE OF DOCUMENT Development Agreement

27 pages w/27 page AH.  
NUMBER OF PAGES

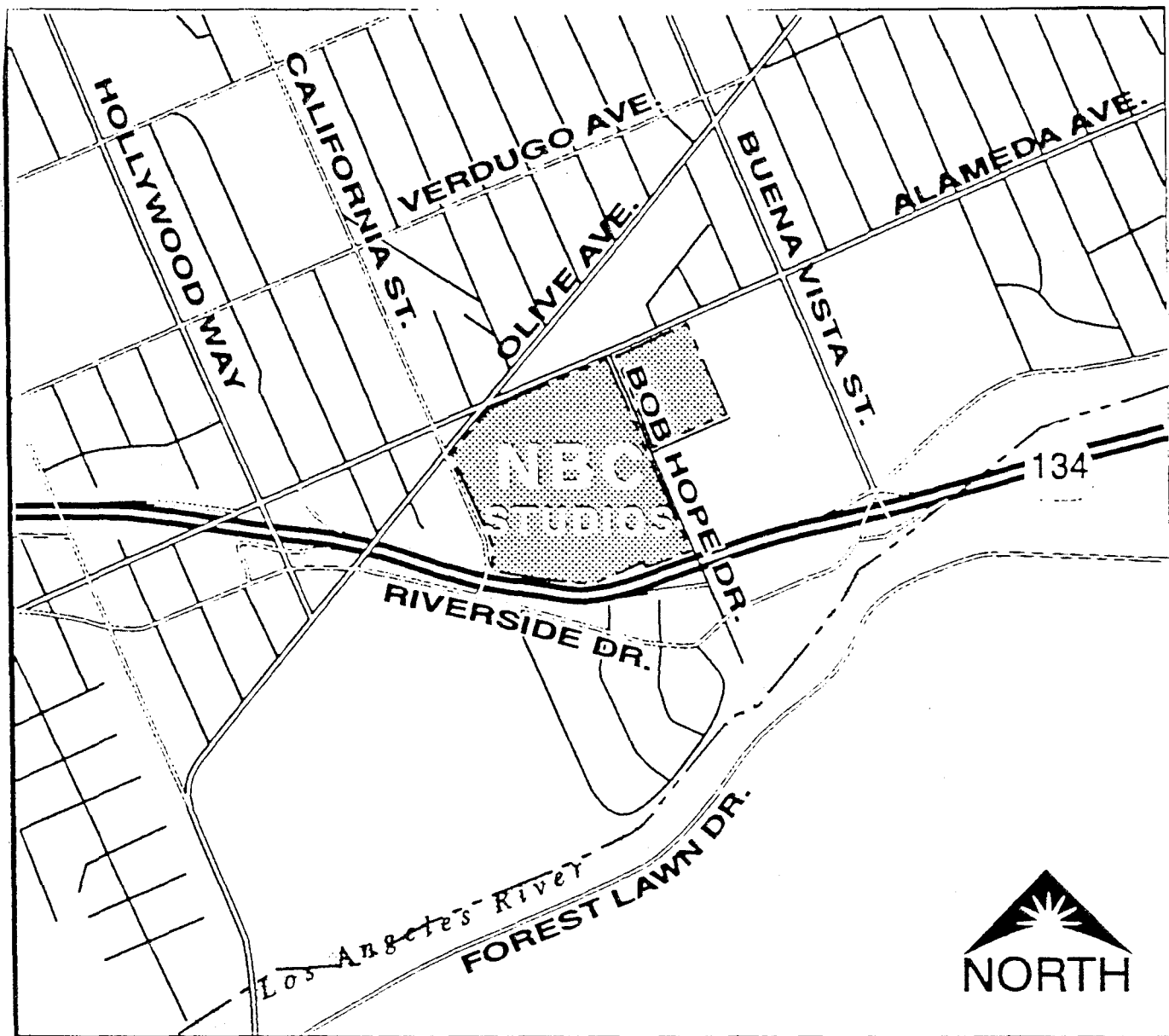
3-17-97  
DATE OF DOCUMENT

**SIGNER IS REPRESENTING:**  
NAME OF PERSON(S) OR ENTITY(IES)

National Broadcasting Company, Inc.

4 City of Bbk Pages  
SIGNER(S) OTHER THAN NAMED ABOVE

E X H I B I T "A"  
DEPICTION OF PROJECT SITE



97 1553642

E X H I B I T "B"

LEGAL DESCRIPTION OF PROJECT SITE

DESCRIPTION

PARCEL 1:

LOT 1 IN BLOCK 64 OF THE RANCHO PROVIDENCIA AND SCOTT TRACT, IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 43 PAGES 47, ET SEQ. OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 2:

THAT PORTION OF LOT 2 IN BLOCK 64 OF THE RANCHO PROVIDENCIA AND SCOTT TRACT, IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 43 PAGE 47 OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTH OF OLIVE AVENUE, AS SHOWN UPON SAID MAP.

PARCEL 3:

LOTS 3 AND 4 IN BLOCK 64 OF RANCHO PROVIDENCIA AND SCOTT TRACT, IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 43 PAGES 47, ET SEQ. OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT FROM SAID LOT 3, THAT PORTION THEREOF LYING SOUTHERLY OF THE LINE DESCRIBED IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED JULY 25, 1958 AS INSTRUMENT NO. 1857 AS HAVING A RADIUS OF 2000.00 FEET AND AN ARC DISTANCE OF 687.18 FEET.

PARCEL 3A:

THAT PORTION OF CALIFORNIA STREET AS SHOWN ON TRACT NO. 7553, IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 99 PAGES 16 AND 17 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, VACATED BY RESOLUTION NO. 16970 OF THE COUNCIL OF THE CITY OF BURBANK, A CERTIFIED COPY OF WHICH RECORDED DECEMBER 12, 1974 AS INSTRUMENT NO. 2739.

PARCEL 4:

THAT PORTION OF BLOCK 65 OF RANCHO PROVIDENCIA AND SCOTT TRACT, IN THE CITY OF BURBANK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 43 PAGES 47, ET SEQ. OF MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING SOUTHWESTERLY OF THE SOUTHWEST LINE OF SAID LINES PROLONGED, OF THE LAND DESCRIBED IN THE DEED TO SISTERS OF CHARITY OF THE HOUSE OF PROVIDENCE, ST. JOSEPH'S HOSPITAL OF BURBANK, RECORDED APRIL 28, 1949 AS INSTRUMENT NO. 17 IN BOOK 29948 PAGE 58, OFFICIAL RECORDS.

EXCEPT THAT PORTION OF SAID BLOCK 65, LYING SOUTHEASTERLY OF THE SOUTHWESTERLY PROLONGATION OF THE SOUTHEASTERLY LINE OF SAID LAND DESCRIBED IN SAID DEED TO SISTERS OF CHARITY OF THE HOUSE OF PROVIDENCE, ST. JOSEPH'S HOSPITAL OF BURBANK, RECORDED APRIL 28, 1949 IN BOOK 29948 PAGE 58, OFFICIAL RECORDS.

97 1553642

E X H I B I T "C"

PROJECT DESCRIPTION

The "Project" approved by this Agreement is the development, use, and occupancy pursuant to the master plan of the Project Site depicted in Exhibit "A", Depiction of Project Site, and described in Exhibit "B", Legal Description of Project Site, over a period not to exceed twenty (20) years from the date of this Agreement, of up to a maximum total development (including existing and future uses) of 1,825,865 office-equivalent gross square feet ("OE-GSF"), as OE-GSF is defined in Section 31-2107 of the Burbank Municipal Code in effect on the date of this Agreement, as well as the development and use of parking facilities and structures serving the development. The Project includes any mix of uses Developer may select during the term of this Agreement, provided that the only uses allowed shall be the following: (a) all uses permitted in the MDM-1 zone as set forth in Section 31-2104 of the Code on the date of this Agreement; (b) parking facilities and structures serving the Project Site in accordance with Condition No. 11 of Conditions of Approval; (c) the relocation of Developer's existing helistop to another location on the Project Site that Developer may designate, provided that such new location complies with all applicable state and federal laws governing such helistops; (d) any commercial uses which primarily serve the employees or residents of the Media District and which the Director of Community Development or the Planning Board determines will not be likely to attract a substantial percentage of patrons from outside the Media District; and (e) upon issuance of a conditional use permit, any conditional uses permitted in Section 31-2105 of the Code for which express authorization is not provided herein. Structures or facilities may be located on the Project Site wherever Developer may select to place them during the term of this Agreement, provided that all structures and facilities must be located in accordance with all height, setback, and other restrictions set forth in this Agreement.

The maximum Project Site development of 1,825,865 OE-GSF was determined by computing the total MDSP - allowed development rights for the Project Site, 2,136,038 OE-GSF, and subtracting the development rights previously transferred to another property, 310,173 OE-GSF, leaving remaining development rights of 1,825,865 OE-GSF.



**E X H I B I T "D"**  
**CONDITIONS OF APPROVAL**

CONDITIONS OF APPROVAL  
Planned Development No. 96-1 and  
Vesting Tentative Tract Map No. 52223  
National Broadcasting Company, Inc.  
Burbank Facility Master Plan

GENERAL CONDITIONS

1. All terms used in these Conditions of Approval ("Conditions") and defined herein shall have the meanings given them herein. Terms not defined herein shall have the meanings and definitions set forth in the NBC Master Plan Development Agreement between the City of Burbank and the Developer (the "Agreement"). Terms not defined herein or in the Agreement shall have the meanings and definitions set forth in the Burbank Municipal Code in effect as of the date of the Agreement (the "Code"), or in the Media District Specific Plan in effect as of the date of the Agreement (the "MDSP"), if defined therein, or the meanings and definitions generally attributed to such terms. All references herein to the Code or to the MDSP shall be deemed to mean the Code or MDSP as they were in effect on the date of the Agreement. As used herein the term "guarantee" when it pertains to guaranteeing the installation of a traffic mitigation measure shall mean to cause the improvement to be completed or to provide adequate security to the City, in a form acceptable to the City Attorney's Office, for the completion of such measure.
2. Each individual construction project occurring as part of the Project approved by the Agreement will be subject to review by the City to ensure consistency with all applicable height, setback, parking, landscape, lighting, sign and other applicable development standards or Project obligations. The City's review will be subject to a standard of reasonableness in light of the circumstances as a whole. Without limiting Developer's flexibility under the terms of the Agreement, the individual construction projects shown in the Illustrative Concept Diagram in Exhibit "E" to the Agreement shall conclusively be deemed to be consistent with these Conditions.
3. These Conditions shall be applicable to all new development on the Project Site. These Conditions shall not be applicable to existing development on the Project Site.

LAND USE

4. Developer shall have the right to develop the Project as described in the Agreement (including without limitation

Section 4.3 of the Agreement), Exhibit "C" to the Agreement, Project Description, and in accordance with these Conditions.

5. Total development on the Project Site may not exceed 1,825,865 OE-GSF. Permitted uses on the Project Site shall be as described in Exhibit "C" to the Agreement, Project Description.
6. Developer may relocate its existing helistop to another location on the Project Site that Developer may designate, provided that any such new location complies with all applicable rules and requirements of the Federal Aviation Administration and the California Department of Transportation Aeronautics Program governing such helistops. No conditional use permits or other approvals beyond the approvals granted in the Agreement shall be required for Developer to relocate the helistop in accordance with this Condition. In the event Developer selects a helistop location on the Project Site significantly different than that shown on Exhibit "E", Illustrative Concept Diagram, and if that different location creates a new significant environmental impact other than any impacts analyzed in the EIR, then such relocating of the helistop may be subject to any further environmental review required by CEQA. The Burbank City Council shall consider and approve any revision of the location of the helistop which is significantly different than that shown on Exhibit "E", Illustrative Concept Diagram. By approving the Agreement and this Condition, the Burbank City Council approves and adopts the plans for construction as shown on Exhibit "E", Illustrative Concept Diagram, pursuant to Section 21661.5 of the California Public Utility Code.
7. Developer's relocated helistop may only be used for the following purposes: (i) in support of local and/or network news operations; and (2) for emergency services. The use of any helicopter landing site that may be constructed on top of Project office buildings, other than any relocated helistop discussed in this condition and the preceding condition, shall be limited to emergency uses or other uses approved by the City Fire Chief.
8. The heights of all future structures to be built on the Project Site may not exceed the height limits set forth in Section 31-2107(b)(1) of the Code, nor shall any structure exceed fifteen (15) stories. With respect to approvals for buildings consistent with Section 4.3(d) of the Agreement, no conditional use permits or other approvals beyond the approvals granted in the Agreement shall be required for

Developer to construct structures up to such maximum heights and maximum number of stories.

9. In determining the height of any building or structure, building height shall be: (i) measured from the natural grade which shall be the average elevation calculated by adding the elevation of all corners of the applicable portion of the Project Site and dividing by the number of corners; and (ii) measured to the ceiling height of the highest room for human occupancy.
10. The minimum setbacks for all future structures to be built on the Project Site shall be as set forth in Section 31-2107(c) of the Code, except that in computing the 20% of building height setback from street right-of-ways set forth therein, Developer may construct buildings consisting of more than one tier such that the part of each building tier closest to the street right-of-way must be set back at least 20% of the height of that tier, rather than 20% of the highest portion of the building. No conditional use permits or other approvals beyond the approvals granted in the Agreement shall be required for Developer to construct structures with such setbacks.
11. The Project shall comply with the minimum parking requirements set forth in Section 31-2107(d) of the Code. The Project may exceed those minimum parking requirements as a matter of right, up to a maximum total of 8,880 parking spaces on the Project Site. No conditional use permits or other approvals beyond the approvals granted in the Agreement shall be required for Developer to construct parking structures or surface facilities to meet the rights and requirements of this Condition.
12. In addition to complying with the minimum setbacks required in Condition No. 10, all buildings on the portion of the Project Site bounded by Alameda Avenue on the north, Saint Joseph Medical Center on the east, Parkside Avenue on the south and Bob Hope Drive on the west, shall be built to avoid interference with the existing 4MC Satellite licensed communication path. The table below sets the building setback and height criteria needed to clear the existing antenna line-of-sight to licensed satellites.

Setback from Alameda Line of Sight Property Line (in feet)	Building Height to (in feet)
15	165.0
20	168.2
25	171.4

30	174.6
35	177.9
40	181.1
45	184.3
50	187.5
55	190.7
60	193.9
65	197.1

AESTHETICS

13. Prior to issuance of building permits for any individual construction project occurring as part of the Project approved by the Agreement, the individual construction project shall be reviewed and approved by the City of Burbank to ensure consistency with the following design guidelines:

- a. The scale of building elements shall be carefully related to adjacent pedestrian areas and buildings. Buildings shall be designed so that the height and massing contributes to human-scaled pedestrian walkways along major public streets.
- b. Arcades, canopies, non-reflective paving and artificial illumination shall be utilized to overcome the problem of glare to the extent possible. Building elevations with 50 percent or more of the building surface in glass or other reflective materials shall be limited to a maximum of 15 percent reflectivity for these materials. Building elevations with less than 50 percent of the building surface in glass or other reflective materials shall be limited to a maximum of 20 percent reflectivity for those materials.
- c. Proportion of buildings and components of buildings shall, to the greatest extent possible, relate to dominant patterns in the immediate visual environment.
- d. To lessen the appearance of excessive bulk, the following techniques may be used: varying the planes of the exterior walls in depth and/or direction; varying the height of the building so that it appears to be divided into distinct massing elements; articulating the different parts of a building's facade by use of color, arrangement of facade elements; and using landscaping to lessen the impact of an otherwise bulky building.

- e. The finish quality of any new office buildings constructed as part of this Project (not including any sound stages, production facilities, warehouses, or other facilities which may include offices ancillary to such structures' primary uses) shall be at least that of the Alameda Street frontage of the existing 4NBC Building located at the corner of Alameda Street and Olive Street. This finish quality standard shall not be interpreted to require the use of any particular architectural design or finish material.
14. Prior to issuance of building permits for any individual construction project occurring as part of the Project approved by the Agreement, Developer shall adhere to the following development standards:
- a. All setbacks and non-paved areas shall be landscaped.
  - b. Trees shall be planted in areas of public view adjacent to and along side and rear building lines. All required trees shall be a 24-inch minimum box size.
  - c. Combinations of berming, landscaping, walls, and buildings shall be used to screen loading areas, storage areas, trash enclosures and utilities from public view.
  - d. The landscaping shall be of adequate maturity to reach the height and density sufficient to provide the necessary screening within 18 months of installation.
  - e. All landscaping planters shall have a minimum plan dimension of five (5) feet.
  - f. The following requirements apply only to parking within above ground parking structures:
    - (1) The exterior elevations of parking structures shall be designed to minimize the use of blank concrete facades. This can be accomplished through the use of textured concrete, planters or trellises, or other architectural treatments.
    - (2) Parking structures or that portion of a building used for parking shall be designed to substantially screen automobiles contained therein from the public view. The facade of any parking structure shall be designed so it is similar in color, material, and architectural detail with the building which it serves for parking.

- g. Walls and fences shall be designed to complement the buildings architecture and that of adjacent fences and walls through the use of similar materials and construction details.
- h. Where long fences or wall surfaces are required, periodic articulation or change of material shall be used to prevent monotony. Undifferentiated wall lengths shall be no longer than 100 feet.
- i. Identification signs are allowed on no more than two opposite elevations with a design that consists only of a logo or individual letters. No signs that extend above the uppermost roof line (including any parapets, mechanical penthouses, or other structural elements of a building) shall be allowed. In the event Developer seeks to erect any new sign on the Project Site in excess of this Condition or of the signage restrictions set forth in the Code as of the date of the Agreement, Developer may erect such signage only if the following occur: (i) Developer submits a comprehensive sign plan to the Community Development Director covering signage on the entire Project Site; and (ii) the Planning Board approves such plan (consideration of such plan shall be a Board Consideration Item). The Planning Board's determination may be appealed to the City Council only by the City or by the Developer.
- j. All Project lighting shall be designed to minimize glare onto adjacent properties.
- k. Carports, garages, parking areas, and driveways shall contain security lighting.
- l. Low-level architectural lighting of the buildings and landscaped areas is encouraged.
- m. The design of light standards shall be encouraged to be compatible with building architecture and adjacent light standards in the public right-of-way and within adjacent projects.
- n. Primary pedestrian walkways shall be lighted for pedestrian safety.
- o. Energy conservation shall be an important consideration in nighttime lighting plans. Plans for the design and operation of lighting and illumination shall be developed consistent with the latest technical and operational energy conservation concepts.

- p. The design of any above ground parking structure built across from Johnny Carson Park on Bob Hope Drive or Parkside Avenue shall, in addition to all other requirements of these Conditions, include the use of one or more of the following elements such that no undifferentiated exterior wall lengths of longer than 60 feet occur: articulation of building planes, changes of texture or materials, and/or the use of planter boxes with landscaping.

#### TRAFFIC AND CIRCULATION

15. Prior to the City's issuance of a Certificate of Occupancy for any individual construction project occurring as part of the Project, Developer shall comply with all traffic mitigation measures, in whatever fashion permitted under the applicable measure, that are applicable to the development threshold triggered by the individual construction project for which a Certificate of Occupancy is sought, as provided herein.

If the implementation of any of Conditions 15 through 41, inclusive, (the "Transportation Conditions") is delayed by factors beyond the control of the Developer, the City may substitute implementation of another transportation improvement measure, provided that such replacement measure is of an equal or lesser cost and will not delay development on the Project Site. In the event any approving agency other than the City does not approve of the implementation of a Transportation Condition, or if a Transportation Condition is met by the actions of others, Developer shall be relieved of the obligation to meet that Condition. Notwithstanding any of these Transportation Conditions, Developer shall be entitled to pay the City any Transportation Improvement Fees in accordance with Article 22 of the Code, rather than directly implementing an "in-lieu" measure, provided that the fees collected from the Developer are adequate to cover the cost of the needed improvement. Certificate(s) of Occupancy shall not be withheld if the City Traffic Engineer determines that any delay in completing any Transportation Condition was primarily the result of delays, rejections and/or other factors which were reasonably beyond Developer's control.

#### **A. Roadway Improvements**

16. Alameda Avenue/Victory Boulevard. Connect this traffic signal to the Burbank Citywide signal control system. Additionally, restripe the southbound approach and install parking prohibitions at approximately 10 spaces to permit the installation of dual left-turn-lanes at this



intersection. Developer shall comply with this measure by making a "fair share" contribution of \$17,000 prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 100,000 net new OE-GSF. Such payment shall constitute full compliance with this measure.

17. Riverside Drive and Buena Vista Street/Ventura Freeway Ramps. Remove approximately twelve parking spaces and restripe southbound Buena Vista Street to provide: one left-turn-only lane; one through lane to the eastbound Ventura Freeway; one shared lane for the eastbound freeway, Riverside Drive and the westbound freeway; and an exclusive right-turn lane for the westbound freeway. Modify the signal to provide separate northbound and southbound left-turn phases in place of the existing opposed phasing. Developer shall guarantee the installation of this measure prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 100,000 net new OE-GSF.
18. Barham Boulevard/Forest Lawn Drive/Lakeside Plaza Drive. Remove approximately 11 parking spaces, modify the Lakeside Plaza Drive median and restripe the westbound and eastbound approaches to provide dual left turn lanes, one through lane and one right-turn-only lane westbound, and dual left turn lanes, one through lane, one through/right shared lane and one right-turn-only lane eastbound. Modify the signal equipment to eliminate the eastbound and westbound opposed phasing and provide a southbound right-turn phase. Modify islands and restripe Barham Boulevard to provide a right/through shared optional lane in place of the northbound right-turn-only lane. Developer shall offer to install this measure prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 430,000 net new OE-GSF.
19. Bob Hope Drive and Eastbound Ventura Freeway Off-ramp. Install a traffic signal at this location and interconnect this signal to the signals at Bob Hope Drive and Riverside Drive and at Bob Hope Drive and Alameda Avenue at the time of installation. Developer shall guarantee the installation of this measure prior to the City issuing a Certificate of Occupancy for any parking structure causing an increase of 300 or more parking spaces with direct access to Bob Hope Drive.
20. Cahuenga Boulevard (West)/S/B Hollywood Freeway Ramps. Convert the southbound right-turn only lane to a shared right/through/left lane. Developer shall offer to install this measure prior to the City issuing a Certificate of

Occupancy for any structure causing net new Project development to exceed 670,000 net new OE-GSF.

21. Barham Boulevard/Cahuenga Boulevard (East). Widen the southbound approach to provide a separate right-turn-only lane. Developer shall offer to install this measure prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 720,000 net new OE-GSF.
22. Riverside Drive and Bob Hope Drive. Remove up to 10 parking spaces and restripe Bob Hope Drive to provide a southbound left-turn pocket and a left/through/right shared lane. Modify the signal to provide opposed north-south phasing. Developer shall guarantee the installation of this measure prior to the City issuing a Certificate of Occupancy for any parking structure causing an increase of 300 or more parking spaces with direct access to Bob Hope Drive.
23. Alameda Avenue/Olive Avenue. Assure that the programmed City improvements to this intersection (consisting of removing the median on the northbound and southbound Olive Avenue approaches and the median on the eastbound Alameda Avenue approach to provide separate left-turn lanes) are installed. Developer shall guarantee the installation of this measure prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 950,000 net new OE-GSF.
24. Alameda Avenue/Buena Vista Street. Connect this signal to the Burbank Citywide Signal Control System. In addition, revise the programmed improvements at this intersection to provide one left-turn lane, two through lanes, and a right - turn lane in the westbound direction and one left-turn lane, two through lanes, and one through/right-turn shared lane in the eastbound direction. Developer shall comply with this measure by making a "fair share" contribution of \$35,000 prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 960,000 net new OE-GSF. Additionally, Developer shall guarantee the installation of striping revisions (if appropriate) prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 960,000 net new OE-GSF.
25. Hollywood Way/Alameda Avenue. Connect this traffic signal to the Burbank Citywide Signal Control System. Additionally, if the westbound Ventura Freeway on-ramp from Alameda Avenue opposite Cordova Street is not yet constructed, widen Alameda Avenue to convert the westbound right-turn-only lane to a through/right shared lane to serve the existing on-ramp

west of Hollywood Way. Developer shall comply with this measure by making a "fair share" contribution of \$35,000 prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 1,020,000 net new OE-GSF. Additionally, Developer shall guarantee the installation of striping revisions (if ramp is not already constructed) prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 1,020,000 net new OE-GSF.

26. Alameda Avenue/Lake Street. Connect this traffic signal to the Burbank Citywide signal control system. Developer shall comply with this measure by making a "fair share" contribution of \$5,000 prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 1,050,000 net new OE-GSF. Such payment shall constitute full compliance with this measure.
27. Hollywood Way/Olive Avenue. Remove approximately twelve parking spaces and restripe the eastbound approach to provide dual left-turn lanes. Developer shall guarantee the installation of this measure prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 1,060,000 net new OE-GSF.
28. Barham Boulevard/Cahuenga Boulevard (West). Remove approximately twelve parking spaces and restripe the eastbound approach to provide dual left-turn lanes. Developer shall offer to install this measure prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 1,130,000 net new OE-GSF.
29. Alameda Avenue/Pass Avenue. Connect this traffic signal to the Burbank Citywide Signal Control System. Developer shall comply with this measure by making a "fair share" contribution of \$35,000 prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 1,150,000 net new OE-GSF. Such payment shall constitute full compliance with this measure.
30. Olive Avenue/First Street. Remove up to five parking spaces and restripe Olive Avenue to provide a left-turn only lane, two through lanes and a right-turn only lane in the westbound direction. Developer shall guarantee the installation of this measure prior to the City issuing a Certificate of Occupancy for any structure causing net new Project development to exceed 1,200,000 net new OE-GSF.

## B. Transportation Demand Management (TDM) Plan

31. Transportation Management Program. A Transportation Demand Management ("TDM") program shall be prepared for the Project which can achieve a minimum 15 percent reduction in peak hour trips. Reduction of regional impacts will require that the longest vehicle trips, which contribute the most to regional VMT and congestion, be targeted by this TDM program. Programs that most effectively reduce longer trips shall be emphasized. The following is a menu of potential TDM program measures, from which a program that achieves the minimum 15 percent peak hour Project trip reductions can be constructed. The following potential TDM measures shall be evaluated during the formulation of this program and incorporated into the TDM program as appropriate, but no particular TDM measure or measures are to be deemed requirements of these Conditions:
- a. Media District TMO Membership. Provide assistance with achieving trip-reduction goals through programs operated by the Media District Transportation Management Organization.
  - b. On-Site TDM Coordinator. Provide for a trained Transportation Coordinator responsible for the development, implementation, marketing, and evaluation of the Project trip-reduction programs.
  - c. Centralized TDM Office. Provide for a centrally located office under the direction of the Transportation Coordinator, and an appropriately sized staff to provide one-stop commute planning services.
  - d. Public Transit Program. Provide for personalized route information; distribution of schedule information; on-site sale of transit passes; subsidies for the use of transit; coordination with local transit operators to enhance service to the site, including convenient, attractive stop locations; and development of shuttles to local transit hubs.
  - e. Personalized Rideshare Matching. Provide an in-house matching system to create carpools or vanpools, or assistance in obtaining matching information from the regional database.
  - f. Vanpool Program. Provide for vanpool service and vanpool fare subsidies; shared vanpools with adjacent employers.

- g. Parking Management. Provide preferential parking locations and convenient pick-up/drop-off locations for carpools and vanpools.
- h. Non-Vehicle Commuting Program. Provide safe and secure bicycle storage areas, and shower and clothes locker facilities; monetary incentives to encourage bicycling and walking to work; and loaning of company bicycles.
- i. Guaranteed-Ride-Home Program. Provide a system to transport TDM participants in case of daytime emergencies or unexpected overtime.
- j. Child Care Facility. Locate or identify facilities with convenient access from the Project Site.
- k. Adjustable Work Hours. Provide programs which allow employees to change to a new fixed schedule in order to participate in rideshare arrangements.
- l. Compressed Work Weeks. Provide programs which allow employees to work fewer but longer days (e.g., 4/10 and 9/80 programs), to reduce the number of days per week each employee commutes.
- m. Telecommuting Program. Provide programs which allow employees to work at home or satellite centers at least one day per week, to reduce the number of days per week each employee commutes.
- n. Promotional Programs. Provide promotional events that include direct involvement of upper-level studio management, to show Developer's commitment to the program.
- o. Merchant Incentives. Provide discounts at local shops and restaurants for TDM program participants.

**C. Vehicle Miles Travelled Reduction Program**

- 32. Vehicle Miles Travelled Reduction Program ("VMT Program"). Developer shall prepare and implement a VMT Program for the Project including the following measures:
  - a. Delivery Management System. A system of tracking vendor deliveries will be established to move deliveries outside of peak travel times, utilize local vendors and consolidate deliveries whenever practicable.

- b. Business Trip Reductions. In order to reduce trips by employees working on the Project Site and visitors to the Project Site, new office facilities will have access to advanced trip reduction alternatives such as teleconferencing facilities. Employees will also be encouraged to "bundle" off-site meetings and visits by outside persons whenever possible to reduce the total number of trips and vehicle miles travelled.

**D. Site Access**

- 33. Signalize California Street Driveway. As part of a project located opposite the Project Site on California Street, a new signal located approximately midway between Alameda Avenue and Riverside Drive is proposed, in the general vicinity of the likely location of a primary Project Site access driveway. Developer shall coordinate any such Project Site access driveway with the owner or operator of the other project across California Street, such that the two driveways will be signalized in a coordinated fashion. The final design shall be approved by the City Traffic Engineer. Developer shall participate in the funding for the installation of this new traffic signal, either by reimbursing up to half the cost of the signal if it is installed by others or, if the signal is not installed by others at the time that 300 additional parking spaces with direct access to California Street are completed, by installing this signal with provisions made for appropriate reimbursement. Signal installation shall include interconnection with the proposed California Street and Olive Avenue signal.
- 34. Signalize the California Street and Olive Avenue Intersection. This intersection is proposed for signalization by others. If the signal is constructed by others, the Project shall provide reimbursement for up to half the cost of the signal installation. If this intersection is not signalized by others at the time that 300 additional parking spaces with direct access to California Street are completed, then the Project shall install a signal at this intersection, with provisions made for the appropriate reimbursements. Signal installation shall include interconnection with the existing signal at the intersection of Olive Avenue and Alameda Avenue.
- 35. Bob Hope Drive and Parkside Avenue Signal Interconnection. Developer shall signalize the intersection of Bob Hope Drive and Parkside Avenue at the time that the main Project driveway is realigned to form a fourth leg at this intersection. This signal installation shall include

interconnection with the existing Alameda Avenue and Bob Hope Drive signal.

36. Developer shall provide sufficient parking for all Developer and construction employees in Developer-controlled off-street parking facilities during all construction periods. In the event that any parking facility is located more than one-half mile from the Project Site, Developer shall provide a shuttle for workers using that facility.
37. In the event Developer locates any new restaurant or retail uses on the Project Site, Developer shall provide adequate on-site parking to accommodate such uses and shall provide adequate signage to direct patrons to such parking facilities.
38. Prior to adding 300 or more parking spaces to the portion of the Project Site north of Parkside Avenue and east of Bob Hope Drive, Developer shall work with St. Joseph's to improve the existing private driveway extending from Alameda Avenue opposite Naomi Street southward to the eastern terminus of Parkside Avenue such that the improved private driveway shall provide a minimum 36-foot wide approach to Alameda Avenue, a minimum 28-foot cross-section wherever curbside parking is not allowed, and a minimum 30-foot cross-section wherever curbside parking is allowed along one curb.

In the event Developer, after good faith negotiations, is unable to improve the existing private driveway because of an inability to reach agreement, then Developer shall propose an alternative design(s) to the satisfaction of City Traffic Engineer, as a substitute measure.

**E. Parking for Visitors to Johnny Carson Park**

39. Prior to removing any Park-Related Parking Spaces on Bob Hope Drive, Developer shall: (a) install angled parking (at an angle not exceeding 75 degrees) on the south side of Parkside Avenue immediately adjacent to Johnny Carson Park (the "Park") such that the total number of Park-Related Parking Spaces after installation remains at least equal to the total number of Park-Related Parking Spaces in existence as of the date of the Agreement; or (b) install to the City's satisfaction sufficient parking within 300 feet of the Park such that the total number of parking spaces conveniently available to Park visitors remains at least equal to the total number of Park-Related Parking Spaces in existence as of the date of the Agreement.

40. As used in these Conditions, "Park-Related Parking Spaces" shall mean all parking spaces immediately adjacent to the Park on both the east side of Bob Hope Drive north of State Route 134 and south of Parkside Avenue and the south side of Parkside Avenue. In installing any angled parking on the south side of Parkside Avenue as a result of the preceding Condition, Developer shall guarantee sufficient road width on Parkside Avenue to accommodate two lanes of traffic. To the extent necessary to ensure such road width, Developer shall move all or part of the existing City sidewalk on the north side of Parkside Avenue northward onto Developer's land so that all or part of the City land with the existing City sidewalk may be used for street traffic. In the event all or part of the existing sidewalk is moved northward onto Developer's land, that relocated sidewalk shall not be required to exceed six feet in width, nor shall it reduce Developer's allowable development density, nor shall it increase any structure's setback that would otherwise apply to such structure. It shall be acceptable for Developer to reduce the width of its landscape area along Parkside Avenue in an amount equal to the width of any portion of the sidewalk moved onto Developer's land. In complying with this Condition and the preceding Condition, Developer shall not be required to dedicate any land to the City, but shall maintain any portion of a sidewalk on Developer's land as a private sidewalk available to the public.
41. Prior to removing any Park-Related Parking Spaces on Bob Hope Drive, Developer shall install a sign at the Park directing Park visitors to additional parking at the City parking lot east of the Park.

#### AIR QUALITY

42. Developer and its contractors shall comply with the following construction-related air quality mitigation measures:
- a. Normal wetting procedures or other dust palliative measures shall be followed during earth-moving operations to minimize fugitive dust emissions in compliance with the Code and South Coast Air Quality Management District ("SCAQMD") Rule 403.
  - b. Roadways shall be periodically swept or otherwise cleared of any spilled export material to assist in minimizing fugitive dust.
  - c. Heavy-duty construction equipment shall be kept on-site when feasible and when not in operation to minimize



exhaust emissions associated with vehicles  
repetitiously entering and exiting the Project Site.

- d. Trucks importing or exporting soil material and/or debris shall be covered and/or sprinkled prior to entering public streets.
  - e. Plant any groundcover as soon as practicable after completion of earth-moving operations to provide for effective soil stabilization.
  - f. Activate the irrigation systems necessary to water and maintain the any groundcover as soon as feasible.
  - g. Discontinue any construction activities that contribute significantly to air emissions during any second stage smog alert.
43. Developer shall take all appropriate steps to ensure that any Project contractors record compliance at the required intervals with the City's Construction-Related Air-Quality Mitigation Monitoring form applicable to development in the Media District subject to Development Review.
44. Developer shall take all appropriate steps to ensure that any Project contractors comply with the following construction-related measures:
- a. Water site and equipment morning and evening.
  - b. Spread soil binders on site, unpaved roads and parking sites.
  - c. Operate street-sweepers on paved roads adjacent to site.
  - d. Reestablish groundcover on construction site through seeding and watering.
  - e. Wash off trucks leaving site.
  - f. Properly tune and maintain construction equipment.
  - g. Use low-sulfur fuel for construction equipment.
  - h. Provide rideshare incentives for construction personnel.
  - i. Provide transit incentives for construction workers.

- j. Configure construction parking to minimize traffic interference.
  - k. Minimize obstruction of through-traffic lanes.
  - l. Provide a flagperson to ensure safety at construction sites.
  - m. Schedule operations affecting roadways for off-peak traffic hours.
45. Uniform Building Code requirements for energy-efficient electrical and gas appliances shall be included in all applicable Project uses.
46. Developer shall comply with all SCAQMD rules and regulations applicable to the development of the Project in effect at the time of any construction on the Project Site.
47. Developer shall implement all applicable and feasible construction measures that are identified in Tables 11-2 and 11-4 of the SCAQMD's CEQA Air Quality Handbook, or which are in effect at that time.
48. To the extent technically and economically practicable, Developer shall use building materials that produce fewer emissions during their stages of development or use (e.g., bricks, stones, water-based paints).
49. To the extent technically and economically practicable, Developer shall use light-colored roofing materials as opposed to dark roofing materials.
50. To the extent technically and economically practicable, Developer shall increase roofing and wall insulation over the minimum standards currently required.
51. To the extent technically and economically practicable, Developer shall install special sunlight-filtering window coatings or double-paned windows to reduce thermal gain or loss.
52. Developer shall implement all applicable and feasible operational measures that are identified in Tables 11-6 and 11-7 of the SCAQMD's CEQA Air Quality Handbook, or which are in affect at that time.
53. Developer shall comply with Title 24 of the California Code of Regulations which are current at the time of any Project development.

54. Lighting for parking areas shall utilize energy efficient light and mechanical, computerized or photo cell switching devices to reduce unnecessary energy usage.
55. On-site subterranean parking structures shall provide adequate ventilation systems to disperse pollutants and preclude the potential for any unlawful or hazardous pollutant concentration to occur. In the event any on-site subterranean parking structures use a mechanical ventilation system, such mechanical ventilation system(s) shall not be located along a public right of way.
56. Developer shall provide conveniently-located recycling bins and containers on-site with adequate access for haulers.

NOISE

57. Prior to issuance of grading permits, Developer shall submit a noise control plan to the satisfaction of the City's Director of Community Development. Noise attenuating construction requirements shall be enforced by the Building Official. The noise control plan shall provide for all of the following requirements:
  - a. Excavation, grading, and other outdoor construction activities related to new Project construction (not including any set construction or other production-related activities) shall be restricted to 7:00 a.m. to 7:00 p.m. Mondays through Fridays, and 8:00 a.m. to 7:00 p.m. Saturdays, and shall be subject to approval of the Department of Building and Safety and/or other responsible agencies.
  - b. To the extent physically and economically practicable, all construction equipment shall be stored on the Project Site (or in the vicinity of the Project Site subject to the City Traffic Engineer's approval) during outdoor construction phases to eliminate or minimize daily heavy-duty truck trips on vicinity roadways.
  - c. All construction equipment, stationary or mobile, shall be equipped with properly operating and maintained mufflers, and all engines shall be kept in proper tune.
  - d. No idling or queuing of construction vehicles, including the idling or standing of the construction workers' personal vehicles, shall be permitted on local residential streets prior to 7:00 a.m. Mondays through Fridays or prior to 8:00 a.m. Saturdays.

- e. A hauling route plan shall be approved by the City that shows all construction haul routes and that prohibits construction hauling on local residential streets.
  - f. To the extent there is any outdoor construction on the west side of the Project Site along California Street that occurs concurrently with construction on the unrelated project across California Street, Developer shall attempt to meet with the developer of the unrelated project in a good faith effort to coordinate any concurrent construction activities to minimize construction traffic and ingress/egress impacts.
  - g. Notwithstanding paragraphs (a) and (d) of this Condition, Developer may propose construction times and days beyond those set above, provided that any such proposal be approved in advance of construction by the City's Director of Community Development upon the Director making a finding that the Developer's proposed construction hours will cause no excessive noise impacts to nearby residences or commercial uses.
  - h. All provisions of the noise control plan which require compliance by Developer's contractors or subcontractors shall be placed in all construction contracts between Developer and its contractors or subcontractors. Proof of compliance with this provision shall be part of the noise control plan.
58. Prior to issuance of building permits for any individual construction project occurring as part of the Project approved by the Agreement, Developer shall provide at least three days advance notice to all property owners within 300 feet of the Project Site (as determined by a list to be provided by the City) that site development-related activities will take place on the site, including types of equipment uses, expected length of the construction day, and construction duration.
59. Wherever outdoor construction occurs in close proximity to the residential area along Alameda Street, Johnny Carson Park, and St. Joseph's Medical Center, appropriate noise reduction measures shall be implemented, including changing the location of stationary construction equipment, shutting off idling equipment, and installing temporary acoustic barriers around stationary construction noise sources.
60. Any construction staging areas located on the Project Site shall be situated, to the extent physically and economically practicable, to minimize impact to nearby occupied residences.

61. At all times during any outdoor construction activity on the Project Site, Developer shall post signs on the Project Site visible from the nearest public right-of-way stating the allowable hours of outdoor construction and construction vehicle queuing, and providing telephone numbers for the following people to whom the public can lodge any complaints: a representative of the City Building Division; a representative of the City Police Department; and a representative of the Developer.

WATER

62. Prior to issuance of building permits for any individual construction project occurring as part of the Project approved by the Agreement, Developer shall pay the appropriate Water System fees in accordance with the Public Service Department, Water Division, Rules and Regulations adopted July 1, 1996.
63. Developer shall pay all costs for water system improvements needed for the development of the Project, provided that such improvements are solely for the benefit of the Project.
64. Pressure regulators shall be installed on all water services in accordance with the City's rules and regulations governing water service, provided that such rules and regulations are non-discriminatory and Citywide or Media District-wide in application.
65. Developer shall construct a 12-inch diameter distribution main in Bob Hope Drive, between Alameda Avenue and Warner Boulevard, and a 16-inch main in Olive Avenue between California Street and Alameda Avenue. This Condition shall be phased to be implemented when appropriate during the build out of the Project, based upon the City's reasonable, good faith determination that implementation of such Condition at a particular time is necessary to serve, or to mitigate impacts from, any individual construction project for which Developer seeks a building permit. Developer shall not be required to implement this Condition all at one time or when the first building permit is sought, but shall only implement the components of this Condition when it is appropriate and necessary to do so.
66. Developer shall design and install a separate irrigation system for the use of reclaimed water, which may be available in the future. The future reclaimed water system shall follow all requirements pertaining to the installation, identification, and separation from potable water that applies to reclaimed water systems in accordance

with Section 4.09 of Public Service Department - Water Division Rules and Regulations.

WASTEWATER

67. Developer shall pay applicable sewer facilities charges, as established by the Public Works Department, prior to the issuance of a permit to connect any new Project development to the Burbank sewer facilities system, provided that such charges are non-discriminatory and Citywide or Media District-wide in application.
68. Prior to receiving a Certificate of Occupancy for any office building on the portion of the Project Site east of Bob Hope Drive and north of Parkside Avenue, Developer shall construct a new public sewer line in Alameda Avenue from the portion of Alameda Avenue adjacent to this portion of the Project Site, easterly to a connection point with the existing 21-inch sewer in Buena Vista Street.
69. Developer shall pay a pro-rata share towards necessary downstream sewer pipeline improvements as outlined in the City of Burbank Wastewater Master Plan. Pro-rata share will be defined relative to the Project's impact on the existing downstream sewer system and will be offset by the cost of the new line in Alameda Avenue.

DRAINAGE

70. Developer shall acquire permits for the necessary connections and modifications to the existing storm drains from the City of Burbank Public Works Department.
71. Prior to receiving a Certificate of Occupancy for (a) any structure(s) adding 600,000 OE-GSF of new construction onto the portion of the Project Site west of Bob Hope Drive, or (b) any structure(s) adding 475,800 OE-GSF of new construction onto the portion of the Project Site east of Bob Hope Drive and north of Parkside Avenue, Developer shall improve the earthen ditch at the south end of Johnny Carson Park to accommodate redirected drainage flows.
72. Developer shall file a Notice of Intent ("NOI") with the California Regional Water Quality Control Board, Los Angeles Region ("RWQCB") which complies with the National Pollution Discharge Elimination System ("NPDES") permit requirements for construction activity.
73. As part of the NOI, a Storm Water Pollution Prevention Plan incorporating Best Management Practices (BMP's) for storm

water runoff shall be developed prior to issuance of grading permits for any individual construction project.

74. Developer shall take all physically and economically practicable measures to minimize the impact of construction activities to existing City streets.

#### ELECTRICAL

75. Developer shall pay the first costs of any electric improvements solely benefiting the Project Site, but Developer shall be entitled to be reimbursed from any future developments or projects using or benefiting from such improvements for any costs in excess of Developer's proportional share of such improvements.
76. Developer shall consider use of uninterruptible power supply equipment for critical computer and standby generator power use.
77. Developer shall use the California Non-Residential Building Standard (found in California Administrative Code Title 24) to consider and implement high-energy efficient electrical equipment and other devices for minimizing peak demand and wasteful energy consumption. New Project development shall comply with the minimum power factor required by the Code.
78. All new Project development shall incorporate the energy conservation requirements of the Uniform Building Code and the Code.
79. Developer shall pay for any relocation of existing electrical/street light facilities needed as a result of construction required for the Project development.
80. Developer shall consider use of surge suppressers, filters, isolation transformers or other available practical means to preserve the quality of its power service.
81. Developer shall add new electrical loads in such a way as not to affect adversely the Burbank Public Service Department's power quality.
82. Any new electrical load above a total load of 17,000 kVA on Developer's existing electric substation shall be served by a new 34.5 kV to 12.47 kV customer substation on the Project Site, or by a new community substation, unless Developer shows to the City's satisfaction that the Project's electrical load can be adequately and safely accommodated by an alternative method. No community substation shall be required without Developer's consent.

NATURAL GAS

83. Developer shall comply with all energy conservation requirements of the Uniform Building Code applicable to new Project development.

SCHOOLS

84. Developer shall pay school facilities impact fees to the Burbank Unified School District as required by state law when building permits are issued for any individual construction project built as part of the Project.
85. If, prior to the Effective Date of the Agreement, Developer has reached any agreement with the Burbank Unified School District for the payment of school fees above and beyond those impact fees required by law, then Developer shall comply with the terms and conditions of any such agreement.

TRACT MAP CONDITIONS

86. Developer shall have the right to record, from time to time and in its sole discretion, multiple final tract maps covering all or any portion of the Project Site, provided that such final maps are substantially in compliance with the Tentative Tract Map approved by the City in connection with this Project.
87. Prior to recording any final tract map, Developer shall identify which of these Conditions are applicable to each lot created, subject to approval by the City.
88. Developer shall have the right to create up to 15 lots, provided that such lots are substantially in compliance with the Tentative Tract Map approved by the City in connection with this Project.
89. Every lot shown on any final tract map shall have frontage on a public or private street in accordance with Code requirements.
90. Any final map(s) containing lots with frontage on Warner Boulevard shall include each lot's acquired portion of Warner Boulevard, should Warner Boulevard be vacated.
91. Fee vesting shall be as set forth in Section 3.2 of the Agreement.



**EXHIBIT "E"**  
**ILLUSTRATIVE CONCEPT DIAGRAM**

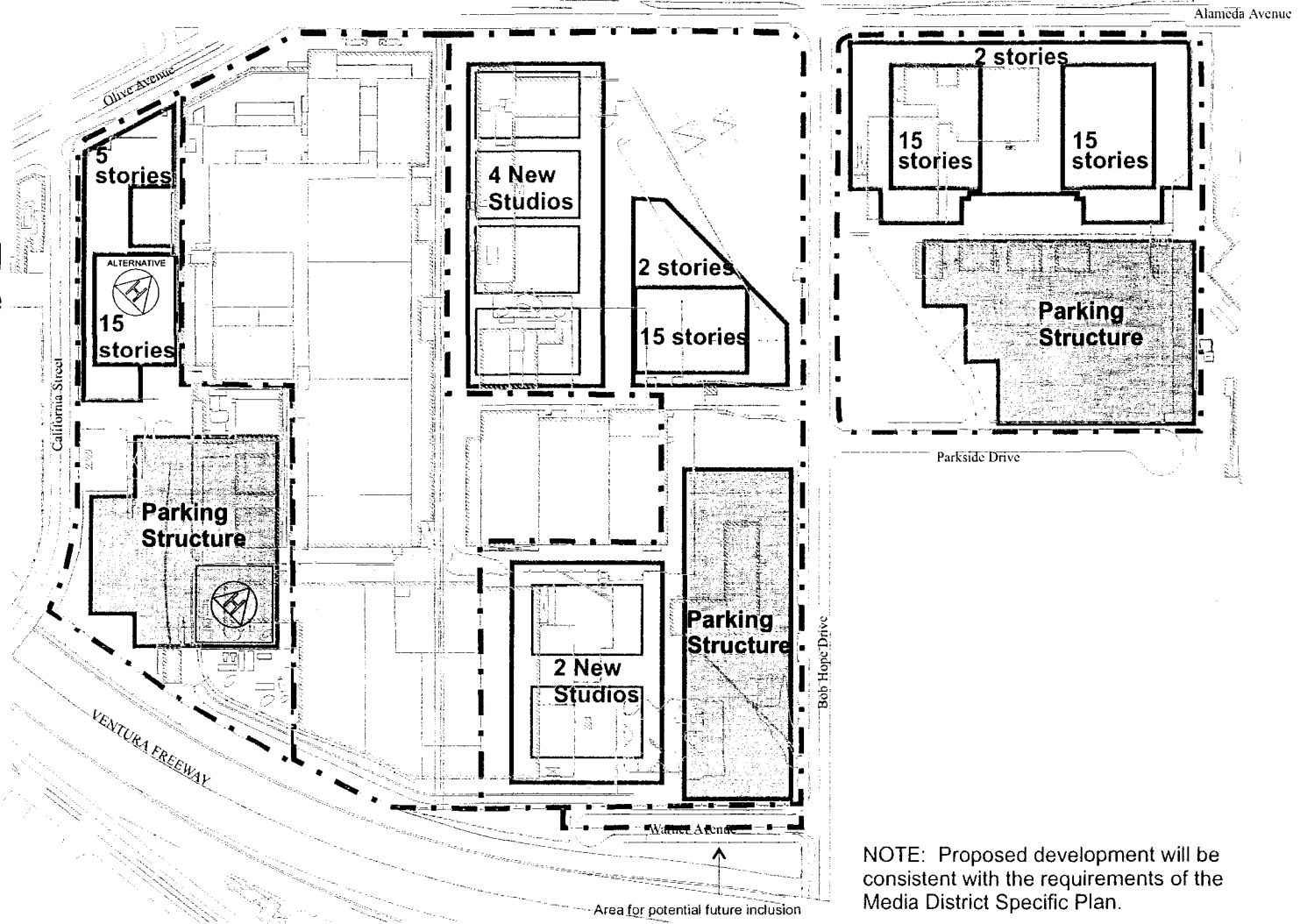
**97 1553642**

AREA 2  
Existing Core  
Studio, Service  
and Office

AREA 3  
Office, Studio  
and Service

AREA 4  
Office and Service

AREA 1  
Office and  
Service

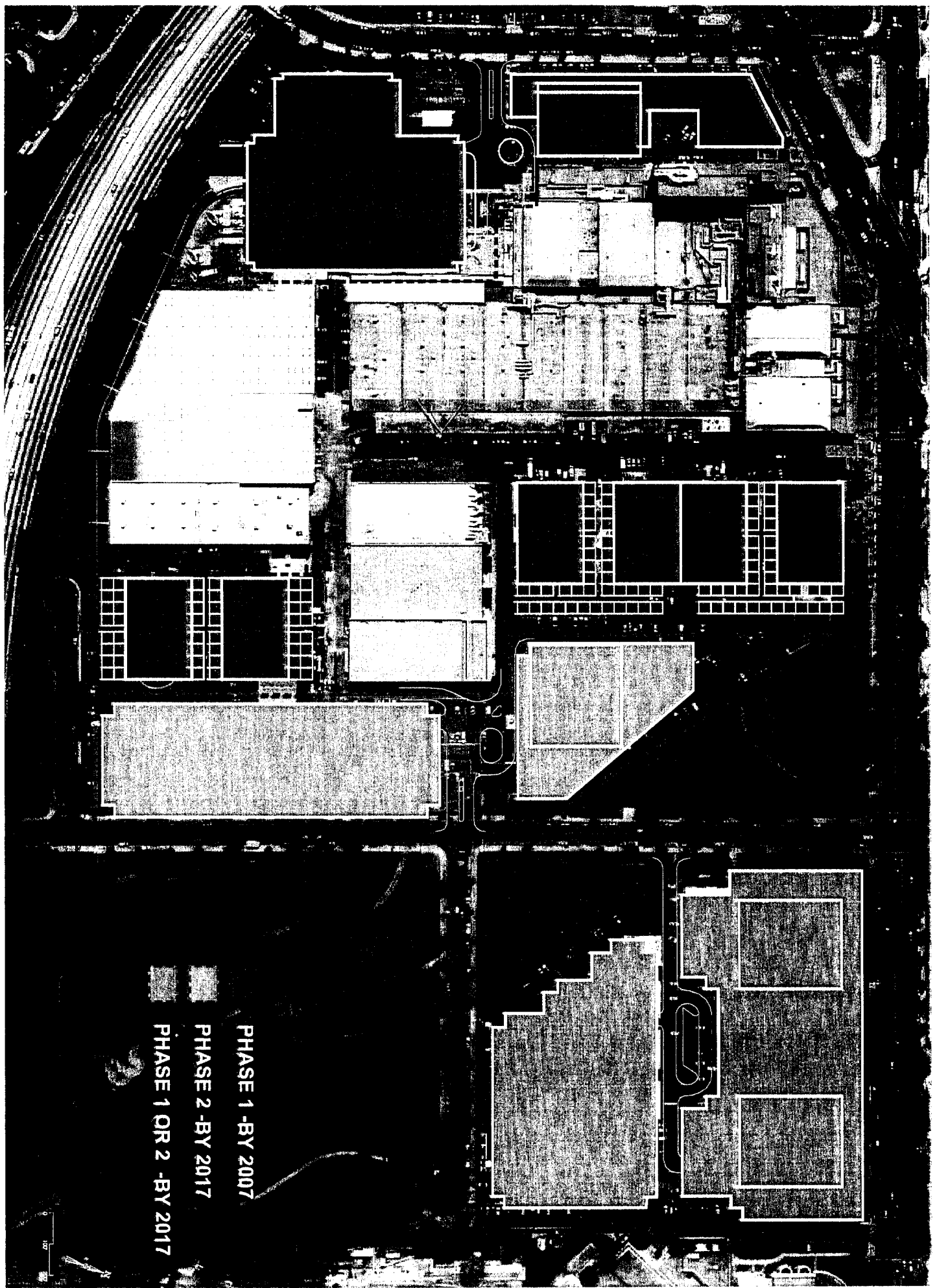


NOTE: Proposed development will be consistent with the requirements of the Media District Specific Plan.

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**EXHIBIT "E"**  
**ILLUSTRATIVE CONCEPT DIAGRAM**



PHASE 1 -BY 2007  
PHASE 2 -BY 2017  
PHASE 1 QR 2 -BY 2017

ILLUSTRATIVE PROJECT PH

NBC STUDIOS BUR

NG PLAN  
Master Planning