18-997 **Agenda Date: 7/16/2018**

INFORMATIONAL REPORT TO COUNCIL

SUBJECT

Informational Report on the Management Agreement with Santa Clara Chamber of Commerce/Convention-Visitors Bureau for Management of the Santa Clara Convention Center

EXECUTIVE SUMMARY

The purpose of this Information Report is to provide the City Council with an update on the above matter and advise the City Council on issues that will be before the City Council in the August/September timeframe for further action. As stated the evening of June 26, the analysis had not been conducted relative to the impacts and disruption to convention and visitor services and that implementing City Council's direction would surface issues that staff would need to address. As background, the Santa Clara Chamber of Commerce/Convention-Visitors Bureau (Chamber) had two separate agreements with the City of Santa Clara related to convention and visitor services:

(1) **Management Agreement for the Santa Clara Convention Center** (Management Agreement) -- The Management Agreement provides the Chamber with oversight and implementation responsibilities for all services necessary to direct, manage all Convention Center operations including marketing, advertising and promoting the center; booking of events; hiring of staff; and, daily operations of the center including accounting, catering, security, janitorial, and maintenance.

(2) **Convention-Visitors Bureau Agreement** (CVB Agreement) -- The CVB Agreement was an annual agreement with the Chamber that provided convention and visitor services through the Chamber's Convention-Visitors Bureau operation. These services included marketing and sales of the Convention Center and Santa Clara to large groups and citywide events; visitor marketing and communication; and, operation of a City Store.

The City Council has taken two recent actions on both agreements that require more clarity on the governance structure for and legal authority of oversight of the Convention Center, which are:

a) Allowed the continuation of the Management Agreement, without compensation, placing all convention center operational responsibilities above under the legal authority of the Chamber;

b) Allowed the CVB Agreement to expire and directed staff to retain Jones Lang LaSalle (JLL) to assist the City in the development of options for the provision of convention and visitor services for the purpose of supporting current and potential bookings at the Convention Center.

The first action maintained the Chamber's legal authority to direct, manage, and operate the Convention Center, specifically on the booking of events. The second direction to City staff to use a third-party consultant leaves the direction of these services under the legal management of the

Chamber, which limits how City staff can implement interim services. Meaning that, in order to put into place the City Council direction, the authority rests with the Chamber since it is legally required to direct, manage all Convention Center operations including the marketing, promoting, booking, and day-to-day operations of the Convention Center. However, the Auditor's preliminary observations and staff's review, give rise to valid concerns about moving forward with new a management agreement and establishing new performance measures in absence of the final Audit Report and staff's review.

BACKGROUND

The two Council actions (May 22 and June 26) have had an impact on the governance structure originally in place and the options available to implement City Council direction. Without the final formal findings of the audit currently in progress, setting key performance objectives and outlining the terms of a new Management Agreement would be premature. In addition, the City's desire to seek independent third-party consultant services still provides legal authority for the Chamber for the Convention Center. While the Chamber continues to fulfill obligations under the terms of the Management Agreement to operate and management the Convention Center, they have done so without additional compensation. As a result of the above, it is unlikely that interim services will be fully implemented until further action is taken by the City Council and/or Chamber.

Management Agreement -- On March 27, 1984, the City of Santa Clara executed a Management Agreement with the Chamber for the management and operation of the Santa Clara Convention Center (attached). Through the Agreement, the Chamber is charged with performing all services necessary to direct, manage all Convention Center operations including marketing and promoting the center; booking of events; hiring of staff; and daily operations of the center including accounting, catering, security, janitorial, and, maintenance.

Following the February 27, 2018 Study Session on overall Convention Center issues, on May 22, 2018 Council directed the City Manager and City Attorney to: 1) begin process of exploring a term sheet for a new agreement with the Chamber for their management of the Convention Center; 2) begin process to execute a financial and performance audit; and 3) suspend management fee until such time as completed. Per Council direction, the payment of a management fee has been suspended and an audit of the Convention Center is underway. Staff expects the audit to be complete in the September/October timeframe.

CVB Agreement -- On June 26, 2018, Council did not fund a $1.5 million request from the Chamber for convention and visitor service activity and directed staff to retain Jones Lang LaSalle (JLL) to assist the City in the development of options for the provision of convention and visitor services. Further at the June 26 Council meeting, City staff presented valid concerns with 1) the absence of information to extend the CVB Agreement and 2) the observations that had been made by either City staff or the Auditor charged with implementing City Council's direction. The Auditor provided preliminary observations and maintained her professional practice of "*when there is preliminary evidence of potential fraud, waste or abuse, it is an audit requirement to immediately report it to the client (the City). The Chamber/CVB and CC providing discounts to Chamber members at the Convention Center, including full discounts to the Chamber and other entities that use Convention Center facilities triggered this requirement.*" These preliminary observations also contribute to the concern of not prematurely implementing Council direction that may not cure the issues requiring corrective action, e.g., given that the Chamber would maintain legal authority of the management and oversight.

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Options to Move Forward -- The Management Agreement provides each party with the right to terminate the Agreement with a 180-day notice. At the May 22 Council meeting, there was testimony expressing concern about requiring the Chamber to provide service without compensation. As such, and in combination with staff's inability to set audit-recommended performance objectives for several more months, staff will be seeking direction from the Council in regard to the termination provision of the Management Agreement and the potential termination of the contract. Accordingly, during the City Council recess, City staff will approach the Chambers to determine whether it has a preference on how it would like to proceed.

Upon this information, and receipt of information from the Chamber, staff will be requesting the Council to provide direction on the following options to resolve governance and legal authority over the Convention Center, which are:

Option 1: Resend a 180 day notice of the termination of the Management Agreement, given that the Council has already determined that a new Management Agreement is necessary in its May 22 City Council direction.

Option 2: Pursue discussion with the Chambers that would allow for the early termination of the Management Agreement, with interim services provided by JLL and Convention Center staff while a competitive procurement process is completed.

180-day Notice
Significant time has passed since the transmittal of the June 4, 2015 letter terminating the Management Agreement. As the active negotiations on significant changes to the Management Agreement cannot occur until after the audit is complete and presented to Council for policy direction, to provide the City with as much flexibility as possible while giving the Chamber with as much notice as possible, Council may consider authorizing the delivery of a 180-day notice of the termination of the 1984 Management Agreement. Even if after the audit is complete and the City and Chamber determine that it is in their mutual best interest to continue its contractual relationship regarding the management of the Convention Center, a new agreement will be necessary.

Allow for the early termination of the Management Agreement by the Chamber
The 1984 Management Agreement provides for a requisite 180 day notice for either party to terminate the Agreement. As the Council has directed the suspension of the Management Fee until the audit is complete, the Chamber may determine that it is not financially feasible for it to continue to provide services. The City Council may also determine that it is in the best interest of the Convention Center to be managed by another party until the audit findings are determined and to restructure the existing governance and legal authority. Staff is seeking Council direction and authority to accept a notice from the Chamber to terminate the Management Agreement with less than a 180-day notice (with a minimum of 30 days) if the Chamber delivers such a notice to the City.

CONCLUSION
The Chamber has continued to provide management and operational services at the Convention Center and is assisting City staff as the City becomes increasingly active in the financial activity of the Convention Center and the contract management of the Management Agreement. While staff began to pursue implementation of the June 26 City Council direction, it became clearer that the legal authority of Convention Center oversight sill rests with the Chamber and that it would be premature to

pursue the May 22 direction because of the absence of the audit findings and given the serious nature of the preliminary observations, along with staff's disclosures regarding conflicts of interest and other issues recently presented. In advance of the final audit report, staff will reach out to the Chamber during the Council recess to discuss the Chamber's interests and potential options. Staff will bring forward to the City Council the above options and information from the Chamber for the City Council consideration, an audit update and a status report on interim services.

After the completion of the audit in September/October, staff will present findings to the Council and seek direction on the establishment of key performance objectives for future Management Agreement contracts. At that time, staff would also seek direction from the Council regarding a procurement process for permanent delivery of services. In either event, a new Management Agreement is required to implement the City Council's directions and, based on the audit findings, it may be that additional City Council action is required.

COORDINATION

This report has been coordinated with the City Attorney's Office.

Reviewed by: Ruth Shikada, Assistant City Manager
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Convention Center Management Agreement
2. April 22, 2015 letter to Chamber
3. June 4, 2015 letter to Chamber

SANTA CLARA CALIFORNIA

Santa Clara
All-America City
2001

Julio J. Fuentes
City Manager

April 22, 2015

Mr. Roy Truitt
Interim President/CEO
Santa Clara Chamber of Commerce
Santa Clara Convention & Visitors Bureau
1850 Warburton Ave.
Santa Clara, CA 95050

Re: Termination of Conference and Convention Center Management Agreement

Dear Roy:

The City of Santa Clara and the Santa Clara Chamber of Commerce and Convention/Visitors Bureau ("Chamber") has enjoyed a long relationship with regards to the management and operations of the Santa Clara Convention Center in accordance with the Conference and Convention Center Management Agreement that was originally entered into in March 1984. As you are aware the City's continued ownership of the Convention Center and thus its ability to continue to direct the management of the Convention Center is the subject of litigation and currently the City is facing a court order that requires that the City turn over the Convention Center to the Successor Agency to the Santa Clara Redevelopment Agency. Therefore, pursuant to the terms of the Conference and Convention Center Management Agreement, the City is giving the Santa Clara Chamber of Commerce and Convention/Visitors Bureau notice of termination. This notice of termination shall be effective on the earlier of (1) 180 days from the date of this notice or (2) the date that the Chamber enters into a management agreement with the Successor Agency.

The City regrets having to take this action, but has no choice given the situation with the litigation. Please feel free to call me if you would like to discuss this matter.

Sincerely,

Julio J. Fuentes
City Manager

cc: Mayor and City Council Members
City Attorney

City Manager's Office
1500 Warburton Avenue
Santa Clara, CA 95050
(408) 615-2210
FAX (408) 241-6771
www.santaclaraca.gov

SANTA CLARA CALIFORNIA

Santa Clara
All-America City
2001

Julio J. Fuentes
City Manager

June 4, 2015

Mr. Roy Truitt
Interim President/CEO
Santa Clara Chamber of Commerce
Santa Clara Convention & Visitors Bureau
1850 Warburton Avenue
Santa Clara, CA 95050

Re: Event Bookings – Conference and Convention Center Management Agreement

Dear Roy:

This letter is to advise you that the City is extending the termination date on the April 22, 2015 termination notice delivered to the Chamber as provided under the March 27, 1984 Management Agreement between the City of Santa Clara and the Santa Clara Chamber of Commerce and Convention/Visitors Bureau. The termination of the Management Agreement will be effective as of June 30, 2016, unless the City is able to maintain ownership of the Santa Clara Convention Center and the City approves an extension of the Agreement by the City. Notwithstanding the above, in the event the City is required to transfer ownership of the Center, the City will provide the Chamber a 30-day notice of termination which under any circumstance would not be effective prior to October 19, 2015.

Further, the City is authorizing the Chamber to enter into contracts for events to be held at the Santa Clara Convention Center from April 22, 2015 through June 30, 2016. This authorization recognizes that the City shall indemnify the Chamber for any claims or damages resulting from any bookings made impossible due to 1) the termination notice delivered to the Chamber on April 22, 2015 and 2) a termination of the Management Agreement prior to June 30, 2016.

Please do not hesitate to call me if you have any questions.

Sincerely,

Julio J. Fuentes
City Manager

cc: Mayor and City Council
City Attorney

City Manager's Office
1500 Warburton Avenue
Santa Clara, CA 95050
(408) 615-2210
FAX (408) 241-6771
www.santaclaraca.gov

CITY OF SANTA CLARA, CALIFORNIA

ROUTING SHEET

SUBJECT: MANAGEMENT CONTRACT FOR OPERATION OF CONVENTION CENTER - CHAMBER OF COMMERCE

CERTIFICATION

The proposed Management Contract regarding Operation of Convention Center by the Chamber of Commerce

has been reviewed and is hereby certified as follows:

1. As to City functions, by _____ Department Head
2. As to legality, by _____ City Attorney *
3. As to environmental impact requirements, by _____ Director of Planning and Inspection
4. As to substance, by _____ City Manager

Department Head's summary of costs:

1.	Manpower	Budget to be submitted	$
2.	Supervision		$
3.	Supplies and Equipment		$
4.	Revenue		$
		Total--	$

Council Authorization _____, 19____ (date)

Introduced _____, 19____ (date)

Adopted _____, 19____ (date)

* with attachments of Exhibits B, C and D. Policy Exhibit A was deleted in negotiations.

3-19-84

FILE
CITY CLERK
3/29/84

CONFERENCE AND CONVENTION CENTER

MANAGEMENT AGREEMENT

PARTIES AND PURPOSE

Parties. This Agreement is entered into this 27th day of March, 1984, between the City of Santa Clara, a municipal corporation (the "City"), and the Santa Clara Chamber of Commerce and Convention/Visitors Bureau, Inc., a California nonprofit corporation (the "Chamber").

Administration of Agreement. Administration of this agreement shall be by the City's City Manager or the City Manager's designee and by the President/General Manager of the Chamber.

Purpose. This Agreement establishes an arrangement for the financing, management and operation of the Santa Clara Conference and Convention Center (the "Convention Center") in an efficient, businesslike manner. The Convention Center, located at Tasman Drive and Great America Parkway in Santa Clara, California, is to be owned by the Redevelopment Agency of the City of Santa Clara (the "Agency") and leased to the City of Santa Clara.

TERM

Term. Unless sooner terminated by giving written notice as provided herein, the initial Term of this Agreement shall be for the construction period (Spring, 1984) through fiscal year June 30, 1986, for the three years following June 30, 1986 through fiscal year June 30, 1989 and shall automatically be extended for

an additional year at the conclusion of the June 30, 1989 initial Term of this Agreement, and at the conclusion of each year thereafter. At any time during the Term of this Agreement either party may terminate the Agreement, with or without cause, by giving the other party written notice of one hundred eighty (180) or more days, of such intention to terminate.

Bookings Upon Termination. If this Agreement is terminated with or without cause by either party, the City agrees that it will honor any and every booking of the Convention Center made in good faith by the Chamber prior to the time that notice of intention to terminate is received by Chamber.

Contracts and Subcontracts. Contracts and subcontracts entered into by Chamber shall be subject to the Agency lease to City of Convention Center and this Agreement. They shall all be terminated with the termination of this Agreement except as provided herein as to bookings, or unless approved by City Council for a longer period and then in accordance with that City approval in writing. A clause will be in all Chamber contracts and subcontracts stating that they are not binding on the City, with the exception of bookings, if this Agreement is terminated.

Property. All property, both real and personal, shall be held in the name of the Agency unless otherwise directed in writing by City.

CHAMBER DUTIES AND POWERS

Chamber Duties. The Chamber shall perform all services necessary to direct, manage, and supervise the activities and operations of the Convention Center, including the employment of a full-time general manager, in a businesslike and efficient manner. The Chamber shall operate and maintain the Convention Center in a first class manner. Services performed by the Chamber shall include, but are not limited to, the following:

(a) Market, advertise and promote the Convention Center through its own efforts as well as by subcontracts which the Chamber may enter into with others, which will include subcontracting with the Convention & Visitors Bureau to avoid duplication of budgets;

(b) Be responsible for coordinating the use of the Convention Center in accordance with agreements between the City, the Agency, and others as they now exist or may hereafter exist;

(c) Book events, theatre performances, shows, conventions, exhibitions and meetings, and with the provisions for Ballroom booking as outlined in the Ballroom License Agreement described in Exhibit B attached; and maintain and control the Master Book for the Convention Center;

(d) Schedule and administer the daily operation and provide services required by users of the Convention Center, including

but not limited to:

(i) event coordination, parking arrangements, set up and take down, clean up, security, provision of labor, sound equipment operations, equipment rental, housekeeping and box office operations;

(ii) direct, manage, supervise, operate or contract for the operation of the catering, food and beverage, gift, novelty, concession stands and other facilities at the Convention Center;

(iii) collect all rents, fees, charges and other sums which may become due for the use of the Convention Center and deposit these receipts in a revenue account (the "Revenue Account") as more fully set forth below;

(iv) pay from an annual operating account (the "Annual Operating Account"), all operating expenses of the Convention Center, including costs of all contracts, subcontracts, utilities, trash collection, etc., as outlined in the annual budget;

(v) account for all money received and disbursed as prescribed below;

(vi) maintain the Convention Center, the equipment and furniture situated therein, and related facilities in good order and repair, and replace as necessary such equipment and furniture as defined in the hereinafter described City Council approved annual budget or as approved by separate City Council action.

Powers. The Chamber is authorized to exercise all powers

granted by its Articles of Incorporation and within the parameters of this Agreement and reasonably useful in the performance of its duties. These powers shall include, but are not limited to, the following:

(a) sub-contract to perform various services related to the operations of the Convention Center under the Chamber's direct supervision;

(b) hire and maintain a permanent and temporary staff, to include a full-time general manager, and establish appropriate personnel policies, and employment of a general manager will be subject to mutual approval by the City Manager and the Chamber President/General Manager;

(c) purchase, subject to annual budget approval by City Council, equipment and supplies for the Convention Center;

(d) perform other functions as mutually agreed to by the City and the Chamber.

City Duties. The City shall:

(a) be responsible for all structural or significant non-structural modifications to the Convention Center and Chamber shall not make nor authorize the making of nor agree to make such modifications, or change colors, or structural materials without prior written approval of the City;

(b) provide for the structural integrity of the physical plant, exclusive of ordinary wear and tear, which will consist of:

(i) heating and cooling system;

(ii) fire prevention and control system;

(iii) security alarm system, and

(iv) elevator/escalator service and maintenance.

(c) be responsible, through the Redevelopment Agency, for parking and landscaping.

City's Right to Inspect. The City shall have the right to inspect the premises and operations of the Convention Center in a reasonable manner to ensure that the Convention Center is being maintained and operated at the level required by this Agreement.

FINANCING CONVENTION CENTER OPERATIONS

Approval of the Annual Convention Center Management Budget. The Chamber shall yearly prepare a proposed annual budget for the operation and maintenance of the Convention Center. This proposed annual budget, during the construction period Spring, 1984 through fiscal year June 30, 1986, shall include projected expenses identified by category, including initial start-up costs, and shall be in concert with, but not duplicate, the Chamber's contractual agreement budget for the Convention & Visitors Bureau. The proposed annual budget for the balance of the Term of this Agreement, shall include projected expenses identified by category, and for informational purposes, projected income identified by source. The proposed annual budget shall be submitted to the City for approval with appropriate detail, to include:

(a) joint Convention Center/Bureau marketing plans;

(b) statement of booking policies and proper fee schedules;

(c) copies of rules and regulations governing the operations,

on or before May 1 of each year for modification and approval by the City Council. No such proposed budget shall be effective for any purpose until approved by the City Council. No monies will be transferred to the Chamber for operation of the Chamber, except for services received as identified in the budget as approved by the City Council of City.

Contract Payments. Upon request of the Chamber, the City will provide the funds needed to fund the operations and maintenance of the Convention Center to the Chamber each quarter in accordance with an appropriate City Council approved annual budget. In no event shall the total amount advanced for the year exceed the amount of the City Council approved annual budget.

Chamber Accounts. The Chamber shall establish and maintain the following accounts to finance the operation of the Convention Center:

(a) Annual Operating Account. The Annual Operating Account shall be established on a fiscal year basis in conformance to the fiscal year of the City. Expenses for the Annual Operating Account shall be accounted for by the accrual method. The Chamber shall pay all operating expenses and contract services for the Convention Center, as outlined in the City Council approved annual budget, incurred during a given fiscal year from the Annual Operating Account for that year. At the end of each fiscal year, the Annual Operating Account balance shall be determined and certified by the Chamber's Chief Financial Officer. The Annual Operating Account balance shall be delivered and returned to the City.

(b) Revenue Account. The following revenues shall be accounted for in the Revenue Account by the accrual method:

(i) all rents, fees, charges, receipts from food and beverage, equipment rentals, interest on the Revenue Account and other sums which accrue during the year from use of the Convention Center excluding monies from hotel reservation and use under Exhibit B Ballroom License agreement as from time to time amended; and

(ii) cash in excess of $10,000 in the Revenue Account at the end of each quarter of City's fiscal year shall be submitted to the City. The City may apply said cash to the operation expenses of the Convention Center.

Return of Funds at End of Term. At the end of the Term or upon the termination of this Agreement, the Chamber shall close all accounts, determine and certify the balance of each account, and deliver and return the balance of each account to the City. Final return shall be completed within one hundred twenty (120) days after such termination.

Accounting Procedures. The Chamber shall maintain a full set of accounting records on a double-entry basis using generally accepted accounting principles and procedures for the Convention Center. These accounting records shall be maintained by Chamber for the term of this Agreement and for three (3) years beyond, and they shall be made accessible to the City Finance Director or the City Council's independent auditor during that entire time period at all reasonable times, upon request.

Annual Financial Statement. Within one hundred twenty (120)

days after the end of each fiscal year of City, the Chamber shall submit to the City financial statements reflecting the condition of the Annual Operating Account and Revenue Account for the preceding year accompanied by an opinion of an independent Certified Public Accountant on the financial statements. The City may request its independent auditor to prepare the opinion, in lieu of an independent Certified Public Accountant contracted for by the Chamber to perform that function, paid for from Center budget or by City.

Financial and Operation Reports. Within thirty (30) days after the end of each quarter during the fiscal year of City, the Chamber shall provide the City with a quarterly activity and operations report. An annual financial statement will be reported for as outlined under Annual Financial Statement above.

INDEMNITY AND INSURANCE

Indemnity of City. Chamber shall protect, defend, indemnify and hold the City, its Council, the Agency, its board, and the officers, employees and agents of the City and Agency free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character in connection with or arising directly or indirectly out of the use, operation or maintenance of the Convention Center. Chamber further agrees to investigate, handle, respond to, provide defense for and defend any such claim, etc. and to

bear all other costs and expenses related thereto from the Chamber Annual Operating Account.

Indemnity of Chamber. The City shall protect, defend, indemnify and hold harmless Chamber, its Board of Directors, officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character in connection with or arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of the design or construction of the Convention Center. The City further agrees to investigate, handle, respond to, provide defense for and defend any such claim, etc. and to bear all other costs and expenses related thereto at its sole expense.

Fidelity Bond. Within 30 days of the execution of this Agreement, Chamber shall purchase, maintain and provide a Fidelity Bond in the amount of $250,000.00 covering all employees and directors who will handle cash receipts or who have authority to sign checks for Chamber.

Insurance Maintained by Chamber. Within 30 days of the execution of this Agreement, Chamber shall purchase, maintain and provide the following insurance coverage through insurance companies licensed in California. The insurance shall be evidenced by certificate and/or policies as determined by the City. Each certificate or policy shall require that sixty days prior to cancellation or material change in the policies, notice

shall be given to City by registered mail, return receipt requested. The types of coverage to be maintained are:

(a) Comprehensive General Liability and Public Liability Insurance with a single combined liability limit of $20,000,000, covering the terms set forth in Exhibit C.

(b) Comprehensive Automobile Liability Insurance covering all vehicles whether owned, non-owned or hired with limits not less than the following: $10,000,000 combined single limit including bodily injury and property damage.

(c) Worker's Compensation and Employer's Liability Insurance related to all permanent and part-time employees of Chamber as required by law and Employer's Liability Insurance, Coverage B, with a limit of not less than $1,000,000. In addition, Chamber and City shall explore the most prudent method for protecting against liability arising from injury suffered by volunteers working on behalf of Chamber. Chamber shall then implement the recommended method of protection for volunteers.

The City, its Council, the Agency, its board and the officers, employees, and agents of the City and the Agency shall have no responsibility to Chamber with respect to any insurance coverage as stated above, its procurement or absence thereof. The policies of insurance procured and maintained hereunder shall not affect Chamber's liability to the City, its Council, the Agency, its board and their officers, employees and agents for the performance of any obligations assumed by Chamber under this Agreement.

Under the insurance policies described above, the City, its

Council, the Agency, its board and the officers, agents and employees of the City and Agency shall be included as additional insureds with respect to Chamber's performance of obligations pursuant to this Agreement and shall be primary coverage.

Vendor's Insurance. Chamber shall impose upon all vendors at the Convention Center the requirements concerning insurance and indemnification set forth in detail in Exhibit D, attached to this Agreement and incorporated herein by this reference. The City and Chamber reserve the right to increase the insurance limits required for vendors to the limits required for the Chamber as specified in this agreement under section entitled "Insurance Maintained by Chamber". As to the Comprehensive General Liability Insurance requirement, Chamber shall initially require insurance for the following amounts:

(a) For any catering or other concessionaire conducting business at the Convention Center on a continuous or regular basis; $1,000,000.

(b) For any subcontractor providing maintenance, security or other services to Chamber in fulfillment of Chamber's obligations under this Agreement: $1,000,000.

(c) For any lessee of space under contract with Chamber: $1,000,000.

Convention Center Property Damage Insurance. City shall provide, or cause to be provided, Property Damage Insurance (including any Business Interruption Insurance deemed necessary) on the Convention Center building. City shall also provide, or cause to be provided, Property Insurance on all furniture,

fixtures and equipment in the Convention Center that will be held in the City's name.

Special Event Insurance. Special Event Insurance may be made available for convention groups.

MISCELLANEOUS PROVISIONS

Assignment. This agreement is not assignable without the written approval of the City Council of City.

Notice. All notices and other communications required or permitted to be given or delivered hereunder shall be in writing and shall be considered and received either when delivered in person to the recipient named below, or forty-eight (48) hours after deposit in the United States mail in a sealed envelope, either registered or certified mail, return receipt requested, postage prepaid, addressed to the party at the following address:

Santa Clara Chamber of Commerce & Convention/Visitors Bureau, Inc.
1515 El Camino Real, P. O. Box 387
Santa Clara, California 95052
Attention: President/General Manager

Notice to City:

City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050
Attention: City Manager

Amendments. Any amendment to this Agreement shall be approved by the City Council and the Chamber and executed in writing.

Titles. The titles of sections and subsections of this Agreement are intend for convenience of reference only and shall be disregarded in construing or interpreting any part of its

provisions.

Applicable Law. This Agreement shall be interpreted pursuant to the laws of the State of California.

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 remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Hold Harmless. The City, its Council, the Agency, its board, and their officers, agents and employees of the City and Agency, shall be held harmless for any acts of omissions in contracts or subcontracts of the Chamber.

Complete Agreement. This Agreement constitutes the entire understanding and agreement of the parties.

WHEREFORE, the parties have executed this Agreement on and as of the date first above written.

SANTA CLARA CHAMBER OF COMMERCE AND CONVENTION/VISITORS BUREAU, INC., a nonprofit corporation

By: _____
President & General Manager

CITY OF SANTA CLARA

By: _____
Mayor

By: _____
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

ATTACHMENT NO. 7

EXHIBIT B
(Doubletree
Ballroom Lease)

BALLROOM LICENSE AGREEMENT

by and between

THE REDEVELOPMENT AGENCY OF THE CITY OF
SANTA CLARA

Agency

and

SCCC ASSOCIATES

Hotel Lessee

TABLE OF CONTENTS

					PAGE
I.	[§ 100]	DEFINITIONS			2
II.	[§ 200]	DESIGN, DEVELOPMENT AND CONSTRUCTION OF THE BALLROOM; GRANT OF LICENSE IN BALLROOM FACILITY			3
	A.	[§ 201]	Design, Development and Construction of the Ballroom		3
	B.	[§ 202]	Grant of License in Ballroom Facility		3
III.	[§ 300]	LICENSE FEE			3
	A.	[§ 301]	Basic License Fee		3
		1.	[§ 302]	Amount	3
		2.	[§ 303]	Adjusted Amount	4
		3.	[§ 304]	Payment of Basic License Fee	5
	B.	[§ 305]	Percentage License Fee		5
		1.	[§ 306]	Amount	5
		2.	[§ 307]	Payment of Percentage License Fee	5
		a.	[§ 308]	Payment of Estimated Percentage License Fee	5
		b.	[§ 309]	Adjustment of Percentage License Fee	6
		c.	[§ 310]	Certified Annual Statement	6
	G.	[§ 311]	Delinquency in License Fee Payment; Collection of License Fee		6
	H.	[§ 312]	Right to Inspection and Audit of Records		6
IV.	[§ 400]	MAINTENANCE AND OPERATION OF BALLROOM FACILITY			7
	A.	[§ 401]	Maintenance of the Ballroom Facility		7
		1.	[§ 402]	Furniture, Fixtures and Equipment	7
		2.	[§ 403]	Preparation and Cleanup	7
	B.	[§ 404]	Operation of the Ballroom Facility		8

PAGE

C. [§ 405] Impositions (Including Taxes and Assessments) 8

V. [§ 500] PROCEDURES FOR OPERATION OF THE BALLROOM FACILITY 8

VI. [§ 600] OPTION TO IMPROVE EXPANSION AREA 9

A. [§ 601] Hotel Lessee 9

B. [§ 602] Agency 10

VII. [§ 700] ADVERTISING 10

VIII. [§ 800] INDEMNIFICATION 11

IX. [§ 900] DAMAGE OR DESTRUCTION 11

X. [§ 1000] EMINENT DOMAIN 12

XI. [§ 1100] ASSIGNMENT AND TRANSFER 13

A. [§ 1101] Hotel Lessee 13

B. [§ 1102] Agency 13

XII. [§ 1200] MORTGAGES 13

A. [§ 1201] Hotel Lessee 13

B. [§ 1202] Agency 13

XIII. [§ 1300] TERM 14

A. [§ 1301] Generally 14

B. [§ 1302] Early Termination 14

1. [§ 1303] Default 14

2. [§ 1304] Cessation of Conference Center 15

3. [§ 1305] Mutual Agreement 15

C. [§ 1306] Hotel Lessee Rights After Expiration or Early Termination of This License 15

D. [§ 1307] Ownership of Dinner Settings 16

XIV. [§ 1400] DEFAULTS AND REMEDIES 16

A. [§ 1401] Defaults - General 16

PAGE

B. [§ 1402] Legal Actions 16

1. [§ 1403] Institution of Legal Actions 16

2. [§ 1404] Applicable Law 16

3. [§ 1405] Acceptance of Service of Process 16

4. [§ 1406] Attorneys' Fees and Court Costs 17

C. [§ 1407] Rights and Remedies are Cumulative 17

D. [§ 1408] Damages 17

E. [§ 1409] Specific Performance 17

F. [§ 1410] Enforced Delay in Performance for Causes Beyond Control of Party 17

XV. [§ 1500] GENERAL PROVISIONS 18

A. [§ 1501] Notices 18

B. [§ 1502] Exhibits 18

C. [§ 1503] Headings 18

D. [§ 1504] Severability 18

E. [§ 1505] Capacity to Execute Agreement 19

F. [§ 1506] Counterparts 19

G. [§ 1507] Execution and Recordation 19

H. [§ 1508] Successors, Mutuality, Running With Land 19

I. [§ 1509] Entire Agreement 19

J. [§ 1510] Rights Reserved 20

EXHIBITS

Exhibit A	-	DESCRIPTION OF PARCEL 1
Exhibit B	-	DESCRIPTION OF PARCEL 3
Exhibit C	-	FLOOR PLAN OF BALLROOM
Exhibit D	-	BOOKING PRIORITIES

BALLROOM LICENSE AGREEMENT

This Ballroom License Agreement (the "License") is made by and between the REDEVELOPMENT AGENCY OF THE CITY OF SANTA CLARA ("Agency"), and SCCC ASSOCIATES, a California general partnership ("Hotel Lessee").

WITNESSETH

WHEREAS, concurrently with the execution of this License, Agency and Hotel Lessee have entered into a Ground Lease (the "Lease") pursuant to which Agency has leased to Hotel Lessee certain real property consisting of approximately _____ (___) acres, more or less, as more particularly described on Exhibit "A" attached hereto (referred to herein as "Parcel 1") and Hotel Lessee has agreed to construct, operate and maintain a first class hotel with related facilities and amenities (the "Hotel") on Parcel 1; and

WHEREAS, under the terms of the Lease, Agency has agreed to construct, operate and maintain a first class conference and exhibit center (the "Conference Center") including a grand ballroom (the "Ballroom") with related facilities and amenities, on certain real property consisting of approximately _____ (___) acres, more or less, as more particularly described on Exhibit "B" attached hereto (referred to herein as "Parcel 3"); and

WHEREAS, Agency and Hotel Lessee intend that construction, operation and maintenance of the Conference Center, Ballroom and Hotel in a complementary manner will enhance land utilization and values in the area, will draw visitors, conferences, conventions, trade exhibits, and group meetings to the City of Santa Clara ("City") and will result in increased tax revenue to City, and room rent, sublease fees and other revenues to Hotel Lessee; and

WHEREAS, Hotel Lessee recognizes that the Ballroom must also be available to provide the facilities necessary to draw visitors, conferences, conventions, trade exhibits and group meetings which will generate business for all hotels supporting the Conference Center through increased tax revenues; and

WHEREAS, the Ballroom is intended to be used by Hotel Lessee and Agency (or its designee) for assembly purposes in connection with conferences and conventions and generally for purposes in which ballrooms are intended; and

WHEREAS, as an inducement to Hotel Lessee, to construct, operate and maintain the Hotel on Parcel 1, Agency desires to grant Hotel Lessee a license to priority use of twelve thousand (12,000) square feet of the Ballroom, and the right to expand into an additional six thousand (6,000) square feet of the Ballroom subject to the terms, conditions and limitations contained in this License.

NOW, THEREFORE, in consideration of their mutual covenants and promises hereinafter set forth, and subject to all terms, conditions, limitations and other provisions of this License, the parties hereto agree as follows:

I. [§ 100] DEFINITIONS

The following definitions are to be applied in the interpretation of this License:

A. "Ballroom," "Agency Ballroom" "Ballroom Facility" and "Expansion Area" shall mean the following:

1. "Ballroom" shall mean an approximately twenty-four thousand (24,000) square foot room to be constructed by Agency under the terms of the Lease to accommodate the Agency Ballroom, the Ballroom Facility, the Expansion Area, together with a pantry, prefunction and service and storage areas which is more particularly described on Exhibit C attached hereto. The Ballroom shall be a first class facility containing facilities and amenities generally found in a first class ballroom.

2. "Agency Ballroom" shall mean approximately six thousand (6,000) square feet of the Ballroom which shall be adjacent to the Ballroom Facility and the Expansion Area (as hereinafter defined), and more particularly described on Exhibit C.

3. "Ballroom Facility" shall mean approximately twelve thousand (12,000) square feet of the Ballroom, which shall be closest to the Hotel, including access to the pantry, prefunction and service and storage areas and more particularly described on Exhibit C. Wherever used herein, the term "Ballroom Facility" shall mean and include the pantry, prefunction and service and storage areas, as shown on the Floor Plan of Ballroom attached hereto as Exhibit C. The Ballroom Facility shall also contain facilities and amenities generally found in a first class ballroom.

4. "Expansion Area" shall mean approximately six thousand (6,000) square feet of the Ballroom, which shall initially remain unfinished, but which shall be available to permit expansion of the Ballroom Facility by Hotel Lessee, or expansion of the Agency Ballroom by Agency, or available for another use determined by Agency as provided in this License, and more particularly described on Exhibit C.

B. "Basic License Fee" shall have the meaning ascribed to it in Section 301.

C. "Conference Center" shall mean the structure which shall contain the Ballroom, (including the Agency Ballroom, the Ballroom Facility and Expansion Area), meeting rooms, exhibit facilities, and other conference and convention center facilities to be constructed by Agency, and located on Parcel 3 as described in the Lease and Exhibit B hereto, or the operator thereof as the context may require.

D. "Gross Receipts" shall mean the gross receipts in any Lease Year, including credit charges, received by or on behalf of Hotel Lessee or by whomsoever received through or under Hotel Lessee's right to use the Ballroom Facility from (i) the sales of all foods and non-alcoholic and alcoholic beverages (whether such sales be made by the drink, by the bottle or any basis) served in the Ballroom Facility (including but not limited to banquets, conventions and other events), but excluding (a) the value of meals furnished Lessee's employees as an incident to their employment, (b) gratuities to employees, and (c) any federal, state and municipal sales, excise, use or similar

taxes collected from patrons or guests; and (ii) the rent or use of the Ballroom Facility, but excluding Pass-through Revenue (as hereinafter defined).

E. "Hotel" shall mean the hotel located and operated on Parcel 1 as described in the Lease and Exhibit A hereto, or the operator thereof as the context may require.

F. "Pass-through Revenue" shall mean charges for entertainment, services, decorations, audio-visual presentations, or other non-food or non-beverage items paid to Hotel Lessee, and paid out by Hotel Lessee to the vendor(s) of such services on behalf of authorized users of the Ballroom Facility, provided that any such charges paid by such authorized users in excess of the amount actually paid to such vendors shall be deemed charges for the rental or use of the Ballroom Facility.

G. "Percentage License Fee" shall have the meaning ascribed to it in Section 305.

H. "Lease" shall mean that lease of property entered into concurrently herewith between Agency and Hotel Lessee, pursuant to which Agency has leased to Hotel Lessee Parcel 1 and Hotel Lessee has agreed to construct, operate and maintain the Hotel thereon.

I. "Lease Year" shall have the same meaning as "Lease Year" under the terms of the Lease beginning with Sub Term B, so that, for example, the first Lease Year of this License shall be the same as the first Lease Year of Sub Term B under the Lease.

II. [§ 200] DESIGN, DEVELOPMENT AND CONSTRUCTION OF THE BALLROOM; GRANT OF LICENSE IN BALLROOM FACILITY

A. [§ 201] Design, Development and Construction of the Ballroom

Agency agrees to design, develop and construct a first class Ballroom (including the Ballroom Facility) as provided in Section 1402 of the Lease.

B. [§ 202] Grant of License in Ballroom Facility

Hotel Lessee shall have the right to use the Ballroom Facility as provided in this License, subject to the terms, covenants and conditions of this License and the Lease.

III. [§ 300] LICENSE FEE

A. [§ 301] Basic License Fee

1. [§ 302] Amount

Hotel Lessee agrees to pay to Agency each Lease Year an annual license fee for the rights granted to it hereunder as a basic license fee (the "Basic License Fee") the amount of One Hundred Thousand Dollars ($100,000) or an adjusted amount determined pursuant to Section 303 hereinbelow. The Basic License Fee shall be paid as provided in Section 304 hereinbelow.

2. [§ 303] Adjusted Amount

For the purpose of adjusting the Basic License Fee the following definitions shall apply:

1. "Index" means the U.S. Consumer Price Index for all Urban Consumers (CPI-U) (all items) for the San Francisco/Oakland Metropolitan Area, Index 1967=100, published by the Bureau of Labor Statistics of the U.S. Department of Labor, or its successor.

2. "Initial Index" means the Index published for the calendar month nearest but prior to the first Lease Year of this License.

3. "New Index" means the Index published for the calendar month nearest but prior to the applicable Adjustment Date.

4. "Adjustment Date" means the date on which the Basic License Fee is adjusted. The first Adjustment Date is the first day of the sixth (6th) Lease Year. The second Adjustment Date is the first day of the eleventh (11th) Lease Year and an Adjustment Date occurs on the first day of the fourteenth (14th) Lease Year and every third Lease Year thereafter.

5. "Utility Index" means the quotient of a fraction the numerator of which is the PG&E G-2 Gas Rate (3500 Therms) for Commercial Users in effect on the applicable Adjustment Date and the denominator is the PG&E G-2 Gas Rate (3500 Therms) for Commercial Users in effect on the first day of the first Lease Year of this License.

If the Consumer Price Index of the U.S. Bureau of Labor Statistics is discontinued, the parties shall accept comparable statistics on the purchasing power of the consumer's dollar as published at the time of said discontinuation by a responsible periodical of recognized authority to be mutually selected by the parties.

If the PG&E G-2 Gas Rate (3500 Therms) for Commercial Users is discontinued, or redefined, then the parties shall accept comparable rates on the cost of utility service to the Conference Center as charged by the applicable utility, as mutually selected by the parties.

The Basic License Fee shall be adjusted on each Adjustment Date to an amount for each Lease Year, until the next Adjustment Date, equal to the sum of the CPI Component and the Utility Component of the Basic License Fee for the applicable Lease Year, where the CPI Component and the Utility Component for each Lease Year are determined as follows:

(a) The CPI Component of the Basic License Fee shall equal Seventy-Eight Thousand Dollars ($78,000) for Lease Years one (1) through ten (10). The CPI Component for Lease Years eleven (11) through thirteen (13) shall equal $78,000 multiplied by a fraction, the numerator of which is the New Index as of the applicable Adjustment Date (the first day of the eleventh (11th) Lease Year) and the denominator of which is the Initial Index, provided that such CPI Component shall not exceed $78,000 increased for ten (10) years at

six percent (6%) per annum compounded annually. The CPI Component shall be adjusted on each Adjustment Date thereafter to be an amount equal to Seventy-Eight Thousand Dollars ($78,000) multiplied by a fraction, the numerator of which is the New Index as of the applicable Adjustment Date and the denominator of which is the Initial Index, provided that each such CPI Component shall not exceed an amount equal to Seventy-Eight Thousand Dollars ($78,000) increased for the number of years since the first Lease Year as defined in Section 100.I. at six percent (6%) per annum compounded annually.

(b) The Utility Component of the Basic License Fee shall equal Twenty-Two Thousand Dollars ($22,000) for Lease Years one (1) through five (5). The Utility Component for Lease Years six (6) through ten (10) shall equal $22,000 multiplied by the Utility Index as of the first Adjustment Date (the first day of the sixth (6th) Lease Year). The Utility Component shall be adjusted on each Adjustment date thereafter to be an amount equal to $22,000 multiplied by the Utility Index for the applicable Adjustment Date.

3. [§ 304] Payment of Basic License Fee

The annual Basic License Fee shall be paid each Lease Year, commencing with the first Lease Year of this License, in equal monthly installments on the fifteenth (15th) day of each calendar month for and in respect of such calendar month. Provided, however that if the Ballroom Facility, the Hotel Common Area improvements and the Main Drive are not substantially completed for any reason whatsoever (except a default by Hotel Lessee), including an enforced delay as provided in Section 1212 of the Lease, on or before the beginning of the first Lease Year of this License as defined in Section 100.I., then the Basic License Fee to be paid by Hotel Lessee shall be totally abated until such time as said facilities and improvements are substantially complete. Substantial completion shall have the same meaning as set forth in Section 302 of the Lease.

B. [§ 305] Percentage License Fee

1. [§ 306] Amount

In addition to the Basic License Fee, Hotel Lessee agrees to pay to Agency each Lease Year a percentage license fee (the "Percentage License Fee") equal to the amount by which five percent (5%) of the annual Gross Receipts for the applicable Lease Year exceeds the Basic License Fee for the applicable Lease Year, if any.

The Basic License Fee and the Percentage License Fee shall be the only fees charged by Agency for Hotel Lessee's use of the Ballroom Facility.

2. [§ 307] Payment of Percentage License Fee

a. [§ 308] Payment of Estimated Percentage License Fee

The Percentage License Fee shall be payable in monthly installments of the respective amounts hereinafter provided, which estimated monthly installments of

Percentage License Fee shall be paid by Hotel Lessee to Agency on the fifteenth (15th) day of each calendar month with the payment of the Additional Rent as provided in Section 307 of the Lease.

The estimated monthly installment of the Percentage License Fee shall be computed under the same conditions and in the same manner as the estimated monthly installment of Additional Rent is computed pursuant to Section 307 of the Lease, as applicable.

b. [§ 309] Adjustment of Percentage License Fee

If, for any Lease Year, the aggregate amount of the estimated monthly installments paid to Agency on account of the Percentage License Fee pursuant to Section 308 shall be more or less than the Percentage License Fee payable for such Lease Year based upon the final determination of Percentage License Fee for such Lease Year as reflected in the certified financial statement for such Lease Year referred to in Section 310 hereof, then, a year-end adjustment shall be made under the same conditions and in the same manner as the adjustment of Additional Rent is made pursuant to Section 308 of the Lease, as applicable.

c. [§ 310] Certified Annual Statement

Within one hundred twenty (120) days after the end of each Lease Year, Hotel Lessee shall submit to Agency a detailed statement of Gross Receipts for the applicable Lease Year as a part of the detailed statement required by Section 309 of the Lease, together with the certificate of Hotel Lessee's independent certified public accountant certifying the accountant is also familiar with the definition of Gross Receipts, as defined in this License.

G. [§ 311] Delinquency in License Fee Payment; Collection of License Fee

The failure of Hotel Lessee to pay the applicable license fee by the due date, shall constitute a default. In the event Hotel Lessee fails to pay the applicable license fee on or before the due date, in addition to any other remedy provided by this License, Hotel Lessee shall pay Agency the delinquent license fee and interest on the total delinquent license fee under the same conditions (and interest rates) and in the same manner as the delinquency in rental payment as set forth in Section 312 of the Lease, as applicable.

H. [§ 312] Right to Inspection and Audit of Records

Hotel Lessee shall keep full and accurate books and accounts, records, cash receipts, and other pertinent data showing its financial operations with respect to the Ballroom Facility as a part of the same books, accounts and other data showing the financial operation of the Hotel as provided in Section 313 of the Lease. Agency shall have the same rights to inspect, examine, copy, audit the books and to collect deficiencies with interest charges within the same times, under the same conditions, and in the same manner as set forth in Section 313 of the Lease, as applicable.

IV. [§ 400] MAINTENANCE AND OPERATION OF BALLROOM FACILITY

A. [§ 401] Maintenance of the Ballroom Facility

The parties recognize and agree that a program of continuing maintenance will be required to insure that the Ballroom Facility will remain in first class condition. As used in this paragraph "first class condition" shall mean that the Ballroom Facility shall be kept in decent, safe and sanitary condition, in compliance with applicable laws, and equal in value, quality and use to the condition of the Ballroom Facility as originally constructed, reasonable wear and tear excepted. Agency covenants and agrees to maintain or cause to be maintained (and, subject to the limitations set forth herein with respect to damage or destruction and eminent domain, to repair or replace as necessary) the Ballroom Facility in a first class condition at all times throughout the term of this License, and to make all repairs and replacements to the furniture (except tables and chairs as provided for in Section 402 hereinbelow), fixtures and equipment contained thereon or therein necessary to maintain such furniture, fixtures and equipment in first class condition. As between Agency and Hotel Lessee, Agency shall bear the costs and expenses for maintenance of the Ballroom Facility, except that Hotel Lessee agrees to pay for the repair or replacement of all damage to the Ballroom Facility, and the furniture, fixtures and equipment therein, other than ordinary wear and tear, resulting from the use of the Ballroom Facility by Hotel Lessee, or its guests or invitees, and also as provided in Sections 402 and 403 hereinbelow.

1. [§ 402] Furniture, Fixtures and Equipment

Agency shall provide furniture (except for matching tables and chairs to be provided by Hotel Lessee), fixtures, and equipment (including all necessary replacements thereof), for the Agency Ballroom, Ballroom Facility and the Expansion Area (if and when it is put in use as part of the Agency Ballroom or the Ballroom Facility), necessary for the operation of a first class Ballroom. Hotel Lessee shall provide, at its cost and expense, dinner settings as reasonably approved by Agency for the Ballroom Facility, Agency Ballroom and the Expansion Area (if and when the Agency Ballroom is put in use as part of the Ballroom Facility) including all necessary replacements thereof. Such dinner settings shall only consist of one hundred forty-four (144) tables and one thousand four hundred and forty (1,440) chairs for the Ballroom (excluding the Expansion Area) and one hundred ninety-two (192) tables and one thousand nine hundred and twenty (1,920) chairs for the entire Ballroom only upon expansion by Hotel Lessee into the Agency Ballroom (which shall become part of the Ballroom Facility) pursuant to the terms of Section 601 hereof; provided, however, that if Agency first improves or uses the Expansion Area as provided in Section 602 hereof and purchases the tables and chairs therefor, then Hotel Lessee shall reimburse Agency for the cost of such tables and chairs upon expansion of the Ballroom Facility in an amount equal to the greater of their original cost or the then-current cost of comparable tables and chairs.

2. [§ 403] Preparation and Cleanup

All set-up, take down, and return to storage of the furniture and equipment shall be the responsibility of the party to this License which Booked the Ballroom Facility, at the cost and expense of such party.

Service and support staff necessary to operate the Ballroom Facility for specific events shall be the responsibility of the party which Booked the Ballroom Facility, at its cost and expense, except that Agency shall provide general maintenance for the Ballroom Facility not related to a particular Booking.

B. [§ 404] Operation of the Ballroom Facility

Agency shall operate or cause the Ballroom Facility to be operated in such first class manner as is consistent with the physical condition in which it is required to be maintained. Agency may in its discretion, operate the Ballroom Facility with its own forces, or lease or enter into a contract for the operation of the Ballroom Facility to a third party operator or operators who shall be required to operate the Ballroom Facility as required by this License. If Agency elects to lease or enter into a contract for the operation of the Ballroom Facility, Hotel Lessee shall be entitled to submit a proposal, along with other third parties, to lease or operate the Ballroom Facility in accordance with established terms and conditions as offered by Agency.

As between Agency and Hotel Lessee, Agency shall bear the costs and expenses for the general operation (including provision of utilities) of the Ballroom Facility but each party shall pay its own costs and expenses with respect to a particular Booking, as set forth in Section 403 above.

C. [§ 405] Impositions (Including Taxes and Assessments)

Hotel Lessee shall pay or cause to be paid such Impositions (and only such Impositions) with respect to the Ballroom Facility required to be paid by Hotel Lessee, and in the manner and subject to the terms and conditions, as referred to in Section 609 of the Lease. In accordance with California Revenue and Taxation Code Section 107.6(a), Agency states that by entering into this Ballroom License Agreement, a possessory interst subject to property taxes may be created. Hotel Lessee or other party in whom the possessory interest is vested may be subject to the payment of property taxes levied on such interest; provided, however, that Hotel Lessee shall have no obligation to pay any possessory interest tax, levy or imposition assessed, levied, confirmed, imposed upon or growing or becoming due and payable out of or in respect of becoming a lien on Parcel 3 and/or the Ballroom Facility except as expressly provided in Section 609 of the Lease.

V. [§ 500] PROCEDURES FOR OPERATION OF THE BALLROOM FACILITY

Agency may establish procedures for the operation of the Ballroom Facility to assure such operation in a coordinated manner, taking into account its use by guests of the respective parties to this License.

Agency shall adopt procedures for priority use of the Ballroom Facility. Such procedures shall incorporate the "Booking Priorities" set forth in Exhibit "D" attached hereto. Such Booking Priorities may be amended only with the prior written consent of Hotel Lessee, which shall not be withheld if such amendments do not impair the utility or economic benefit of the Ballroom Facility to the Hotel. In the event of any dispute as to whether such proposed amendment will so impair the utility or economic benefit of the Ballroom Facility to the Hotel, the dispute shall be submitted to arbitration according to the procedures described in Section 1214 of the Lease.

VI. [§ 600] OPTION TO IMPROVE EXPANSION AREA

A. [§ 601] Hotel Lessee

Hotel Lessee may elect, at its option, within the first twelve (12) Lease Years of this License to require Agency to improve the six thousand (6,000) square foot Expansion Area and use it as the Agency Ballroom and make the existing Agency Ballroom a part of the Ballroom Facility resulting in an eighteen thousand (18,000) square foot contiguous Ballroom Facility. If Hotel Lessee fails to exercise its option within the time set forth hereinabove, it shall have no further right to do so. Hotel Lessee may elect to require Agency to improve the Expansion Area and make the Agency Ballroom, which shall be in the condition in which it is required to be maintained pursuant to the terms of Section 401 hereof at the time it is added, as part of the Ballroom Facility, subject to the conditions that:

(1) Within the first twelve (12) Lease Years of this License, Hotel Lessee shall give written notice to Agency of its exercise of such option specifying the date one year from such notice as the date upon which the Agency Ballroom will be added as part of the Ballroom Facility. Hotel Lessee shall have the right immediately upon giving such notice to Book the Agency Ballroom as part of the Ballroom Facility for any times after the date specified in such notice (which have not previously been Booked) in accordance with the Booking Priorities as set forth in Exhibit D. Agency will use its best efforts to move previously Booked events to the Expansion Area to the extent feasible.

(2) Hotel Lessee shall reimburse Agency for the costs and expenses, of improving the Expansion Area, if the Expansion Area is improved as part of the Ballroom, within thirty (30) days after written demand therefor by Agency specifying the amount of such costs and certifying the accuracy thereof. Such costs and expenses shall include the cost of design and permits, floor, ceiling and wall coverings, panelings, plumbing and electric and other mechanical components, fixtures, window coverings and similar components integral to the basic room. The amount which Hotel Lessee shall be required to pay shall be the cost of improving the Expansion Area, assuming its original condition as shell space, and not taking into account any changes or improvements already made to the shell space by Agency, whether for interim use or otherwise. If Agency has already improved the Expansion Area for the use and to the standards of the Ballroom at the time Hotel Lessee elects to make the Agency Ballroom part of the Ballroom Facility, then Hotel Lessee shall reimburse Agency the amount of Agency's actual costs and expenses for such improvement of the Expansion Area. Agency may require Hotel Lessee to provide reasonable security for the payment of the amount to be reimbursed prior to the commencement of construction, such as a cash deposit or a letter of credit covering Agency's reasonable estimate of the cost of the improvement of the Expansion Area.

(3) Hotel Lessee shall not be in default of its obligations to pay the Basic License Fee and the Percentage License Fee, under the provisions of this License at the time notice of intent to expand is given or on the date construction of the improvements is commenced by Agency. Upon a cure of such default the rights of Hotel Lessee hereunder shall immediately be reinstated.

(4) Commencing with the date the Agency Ballroom is added as part of the Ballroom Facility, as specified in Hotel Lessee's notice given pursuant to paragraph (1) above, the Basic License Fee for each Lease Year shall equal the Basic License Fee calculated as provided in Sections 302 or 303 as applicable of this License, multiplied by one hundred and fifty percent (150%). Such increase for any initial partial Lease Year shall be prorated.

(5) Once the Ballroom Facility is expanded to include the previous Agency Ballroom space, all the terms and conditions of this License apply to the expanded area, including without limitation the Booking Priorities set forth in Exhibit D and the inclusion of Gross Receipts therefrom in calculating the Percentage License Fee beginning concurrently with the increase in the Basic Licensee Fee referred to in paragraph (4) above.

B. [§ 602] Agency

Agency shall have the right at any time before Hotel Lessee makes its election pursuant to Section 601, to improve and/or use the Expansion Area, either as part of the Agency Ballroom or for any interim use consistent with the Conference Center. The costs and expenses of any such improvements shall be borne by Agency, subject to reimbursement by Hotel Lessee in accordance with the terms and conditions set forth in paragraph (2) of Section 601.

After Hotel Lessee's option period has expired, Agency shall have the right to improve the Expansion Area for any use consistent with the Conference Center. If Agency improves the Expansion Area then the expanded area shall become a part of the Agency Ballroom or the Conference Center, as the case may be, and all costs and expenses of improving the Expansion Area shall be borne by Agency.

If Agency improves the Expansion Area for use as part of the Agency Ballroom, whether on an interim basis prior to Hotel Lessee's election pursuant to Section 601, or after Hotel Lessee's option period has expired, all terms and conditions of this License applicable to the Agency Ballroom shall apply to the Expansion Area except that if Hotel Lessee's option period has expired without exercise, Hotel Lessee shall not be required to provide dinner settings therefor.

VII. [§ 700] ADVERTISING

Hotel Lessee shall have the right to advertise, promote and market the Ballroom Facility as an amenity available to Hotel guests, consistent with the preferences for use set forth in this License.

VIII. [§ 800] INDEMNIFICATION

Agency and Hotel Lessee hereby mutually agree to indemnify and hold the other and their respective contractors, agents, servants, officers and employees harmless for loss or damage, including property damage, personal injury, or wrongful death, arising out of or in connection with their respective wrongful willful or negligent acts or omissions or the wrongful willful or negligent acts or omissions of their respective contractors, agents, servants, officers or employees in the use or occupancy of the Ballroom Facility or the Agency Ballroom.

Agency and Hotel Lessee also agree to indemnify and hold the other and their respective contractors, agents, servants, officers and employees harmless for loss or damage, including property damage, personal injury, or wrongful death, arising out of or in connection with the wrongful willful or negligent acts or omissions of their respective guests or invitees in the use and occupancy of the Ballroom Facility and the Agency Ballroom during the periods of their possession after Booked by or on behalf of either such party or its guests or invitees.

IX. [§ 900] DAMAGE OR DESTRUCTION

Agency covenants and agrees that, in the event the Ballroom Facility is damaged or destroyed by any casualty and Agency is required or elects to rebuild or restore the Conference Center as a result of such casualty pursuant to the terms of Section 1412 of the Lease, then Agency shall make full repair of the damage and destruction and restore the Ballroom Facility to the condition and operation which existed prior to said damage with such alterations or changes thereto as are required by then current building codes; provided, that if such casualty occurs within the first twelve (12) Lease Years of this License and Hotel Lessee has not yet elected to expand the Ballroom Facility, then Agency covenants and agrees to restore the Agency Ballroom as part of the Ballroom Facility to the condition stated in this paragraph upon notice to Agency that Hotel Lessee exercises its option to expand as provided in Section 601(1) above.

In the event the Ballroom Facility is damaged or destroyed as a result of a casualty which is of a type which Agency is not required to rebuild or restore pursuant to the preceding paragraph, Agency shall notify Hotel Lessee whether Agency elects to restore within forty-five (45) days after settlement of insurance proceeds, if any, but in any event within one hundred and eighty (180) days after the event causing such damage or destruction, and if Agency does not elect to restore the Ballroom Facility, then, at Hotel Lessee's election, Agency shall transfer the Ballroom Facility in its damaged condition and all furniture, fixtures and equipment used or usable in connection therewith in their "as is" condition, to Hotel Lessee in the manner and under the terms and conditions provided in Section 1306 of this License, except that Hotel Lessee, at its sole cost and expense, shall rebuild or restore the Ballroom Facility and all applicable revenues thereafter attributable to the Ballroom Facility (but beginning one (1) year after completion of the restoration if the Ballroom Facility was in damaged condition at the time of transfer) shall constitute Gross Food and Beverage Revenues under Section 305 of the Lease.

If the damage or destruction occurs within the first twelve (12) Lease Years of this License and Hotel Lessee elects to restore the Ballroom Facility as provided above, it may restore it as an eighteen thousand (18,000) or twelve thousand (12,000) square foot facility if it has not exercised its option to expand the Ballroom Facility

pursuant to Section 601 of this License. If the damage or destruction occurs after the twelfth (12th) Lease Year and Hotel Lessee has not exercised it option to expand, Hotel Lessee may only restore the Ballroom Facility to a twelve thousand (12,000) square foot facility. Hotel Lessee shall give written notice to Agency of its exercise of the option to restore the damaged or destroyed Ballroom Facility within ninety (90) days after receipt of Agency's notice of termination of this License and the parties shall execute, acknowledge and record a supplement to the Lease in the manner set forth in Section 1306 of this License. If Hotel Lessee fails to exercise its option within said ninety (90) day period, it shall have no further right to do so.

If Agency is required or elects to restore the Ballroom Facility as required or permitted by the provisions above, Agency agrees that preliminary steps toward performing repairs, restoration or replacement of the Ballroom Facility shall be commenced within forty-five (45) days after settlement of insurance proceeds, if any, but in any event within one hundred and eighty (180) days after the event causing such damage or destruction and the required repairs, restoration or replacement shall be completed within a reasonable time thereafter. Until the Ballroom Facility is restored, the Basic License Fee shall be abated.

Agency acknowledges that Lessee may (but shall not be obligated to), at its cost and expense, obtain or procure a casualty insurance policy or policies insuring against loss or damage to the Ballroom Facility (including the Agency Ballroom within the first twelve (12) Lease Years) as a result of any casualties Hotel Lessee desires to insure against with such limits and such coverages as Hotel Lessee may desire. In the event the Ballroom Facility is damaged or destroyed by any casualty and Agency is not required and does not elect to rebuild or restore the Ballroom Facility and Hotel Lessee elects to rebuild the Ballroom Facility as provided above, then all insurance proceeds, if any, from policies carried by Agency or Hotel Lessee covering loss or damage to the Ballroom Facility shall be assigned and made available to Hotel Lessee to rebuild or restore the Ballroom Facility as provided above. If Hotel Lessee elects to restore or rebuild the Ballroom Facility as provided above, Agency agrees not to unreasonably withhold its approval of plans and specifications submitted by Hotel Lessee for the rebuilding or restoring of the Ballroom Facility as a more functional ballroom for use by the Hotel.

X. [§ 1000] EMINENT DOMAIN

In the event of the taking by eminent domain of the entire Ballroom Facility, or any part thereof, or a taking of the Agency Ballroom within the first twelve (12) Lease Years of this License provided Hotel Lessee has not yet elected to expand Ballroom Facility as described in Section 601 hereof, Section 1100 of the Lease shall apply (provided that the term "Ballroom Facility" referred to in Section 1100 of the Lease shall be construed to include Hotel Lessee's right to expand into the Agency Ballroom as provided in Section 601 hereof in the event of a taking of the Agency Ballroom as provided herein). In the event of such taking, the Basic License Fee shall be equitably reduced.

XI. [§ 1100] ASSIGNMENT AND TRANSFER

A. [§ 1101] Hotel Lessee

Hotel Lessee shall not, except as expressly permitted by Article 800 of the Lease, and subject to the limitations and conditions therein contained, assign this License, nor make any total or partial conveyance, assignment or transfer (including sublease) in any other mode or form of the whole or any part of its rights in the Ballroom Facility. Nothing herein shall prevent Hotel Lessee from entering into an operating lease, management contract, license agreement, franchise or other similar arrangement with an operator and/or franchisor of the Hotel as provided in Section 502 of the Lease. The approved operator under the Lease may operate under this License provided that Hotel Lessee shall remain liable for its obligations under this License.

B. [§ 1102] Agency

In the event Agency conveys, assigns or transfers (including lease) in any other mode or form the whole or any part of Parcel 3 containing the Ballroom Facility or the Ballroom Facility itself, which Agency shall have the right to do from time to time and at any time without any consent of Hotel Lessee being required (subject to Hotel Lessee's right of first refusal as provided in Section 1314 of the Lease with respect to the property specified therein), then any such conveyance, assignment or transfer shall be subject to the terms of this License and Hotel Lessee's rights under the Lease pertaining to the portion of Parcel 3 containing the Ballroom Facility and the Ballroom Facility. In the event Agency enters into a sublease or an operating agreement for the operation of the Ballroom Facility, Agency shall remain liable for its obligation under this License. For purposes of this Section 1102, the term "Ballroom Facility" shall be construed or interpreted to include, the Agency Ballroom within the first twelve (12) Lease Years of this License if Hotel Lessee has not yet elected to expand the Ballroom Facility.

This Section 1102 shall not apply to assignments, conveyances or transfers for financing which shall be governed by Section 1202 of this License.

XII. [§ 1200] MORTGAGES

A. [§ 1201] Hotel Lessee

Hotel Lessee shall have the right, but only as expressly permitted by Article 900 of the Lease, and subject to the limitations and conditions therein contained, to mortgage, pledge, deed in trust and/or collaterally assign its interest in this License or the Ballroom Facility, or assign or pledge assignment of the same as security for debt. Leasehold mortgagees (as defined in the Lease), if any, shall have the same rights with respect to this License as set forth in Section 902 of the Lease as applicable. Any action taken by a leasehold mortgagee under Section 902 of the Lease which operates to preserve its rights under the Lease (including obtaining a new Lease) shall operate to preserve such leasehold mortgagee's rights under this License.

B. [§ 1202] Agency

In the event Agency shall mortgage, pledge, deed in trust, assign rents, issues and profits and/or collaterally assigns part of Parcel 3 containing the Ballroom

Facility or the Ballroom Facility itself, which Agency shall have the right to do from time to time and at any time without any consent of Hotel Lessee being required, then any such encumbrance, as it pertains to such part of Parcel 3 and the Ballroom Facility, shall be subject and subordinate to the terms of this License. For purposes of this Section 1202, the term "Ballroom Facility" shall be construed or interpreted to include, the Agency Ballroom within the first twelve (12) Lease Years of this License if Hotel Lessee has not yet elected to expand the Ballroom Facility.

XIII. [§ 1300] TERM

A. [§ 1301] Generally

The term of this License shall be the period commencing on the Effective Date of the Lease as provided in Section 202 of the Lease, and terminating fifty (50) years thereafter, (except that, if Lessee exercises its option to extend the initial fifty (50) year term of the Hotel Lease, this License shall automatically extend for a period coterminous with said Hotel Lease unless and until Agency ceases operating the Conference Center) or on the date resulting from an earlier termination as hereinafter set forth, except that this License shall terminate upon expiration or earlier termination of the Lease, it being understood however that payment of the Basic License Fee and the Percentage License Fee commence during the first Lease Year as defined in Section 100.I. of this License.

B. [§ 1302] Early Termination

1. [§ 1303] Default

Notwithstanding Section 1301, in the event Hotel Lessee shall be in default of any material provision of this License or any material provision of the Lease applicable to the Ballroom Facility, and such default shall not be cured within thirty (30) days after written demand by Agency, or commenced to be cured within thirty (30) days and cured promptly in a continuous and diligent manner within a reasonable period of time after commencement, then Agency at its option, may terminate this License, upon thirty (30) days prior written notice to Hotel Lessee specifying the condition or conditions upon which the termination is based. In the event of any dispute as to whether such condition or conditions exists, the dispute shall be submitted to arbitration according to the procedures described in Section 1214 of the Lease. In the case of a dispute arbitrated over the payment of the Percentage License Fee, Hotel Lessee shall not be in default unless it failed to pay the fee after a resolution by the arbitrator that payment was due. Upon any such termination, neither Hotel Lessee, Agency or any other persons (including leasehold mortgagees, if any, except for the right of any such leasehold mortgagee, to cure a default as provided in the Lease) shall have any further rights, obligations or liabilities to each other with respect to the Ballroom Facility under this License or the Lease. The provisions of this Section 1303 notwithstanding, nothing stated herein shall be construed or interpreted as giving Agency the right to terminate the Lease in the event Hotel Lessee is in default of any material provision of this License and fails or refuses to cure such default as provided herein.

2. [§ 1304] Cessation of Conference Center

Notwithstanding Section 1301, in the event that Agency shall cease to maintain and operate the Conference Center pursuant to Section 1417 of the Lease, but not prior to 35 years following the Effective Date of the Lease, then this License shall terminate upon the date specified in a written notice sent by Agency to Hotel Lessee notifying Hotel Lessee of the date upon which operation of the Conference Center will cease, which notice shall be served by Agency at least sixty (60) days prior to such cessation. In such event, the provisions of Section 1306 shall apply and the termination of this License shall not occur until the Ballroom Facility has been transferred to Hotel Lessee as therein provided.

3. [§ 1305] Mutual Agreement

Hotel Lessee and Agency, with the written consent of any leasehold mortgagees under the Lease, may also terminate this License at any time by mutual agreement.

C. [§ 1306] Hotel Lessee Rights After Expiration or Early Termination of This License

In the event this License is terminated as provided in Section 1304, or at such time as this License expires by its terms, then concurrently with such termination or expiration, Agency and Hotel Lessee shall execute, acknowledge and record a supplement to the Lease adding the Ballroom Facility as part of the premises leased to Hotel Lessee under the Lease, and all terms, covenants and conditions of the Lease shall apply in like manner to the Ballroom Facility as to Parcel 1 and the Improvements. At the time the Ballroom Facility is added to the Lease it shall be in the condition required to be maintained by Agency pursuant to the terms of Section 401 hereof, and architecturally complete and functional with HVAC and other utilities necessary to operate the Ballroom Facility, free and clear of all liens and encumbrances except liens and encumbrances which are subject and subordinate to the Lease and Hotel Lessee's and leasehold mortgagee's rights thereunder with respect to which Hotel Lessee and leasehold mortgagees shall have no obligations. Said Ballroom Facility shall also contain all equipment, furniture, furnishings and fixtures located thereon or used or usable in connection therewith prior to expiration or termination of the License and necessary to operate said Ballroom Facility. In the event the Ballroom Facility is added to the Lease at or prior to the expiration of the initial fifty (50) year term of the Lease, then the readjustment of Minimum Annual Rent for Parcel 1 as provided for in paragraph (d) of Section 203 of the Lease, shall be based upon the market value of Parcel 1 as therein defined, but including consideration of the availability, and the benefits and burdens, including, but not limited to, the costs and expenses of maintaining, repairing, replacing, operating and using the Ballroom Facility and its equipment and amenities as part of the Hotel, specifically limited to use as a Ballroom Facility. Upon the execution of the supplement to the Lease, applicable amounts of revenue attributable to the Ballroom Facility shall be included in the definition of Gross Food and Beverage Revenues in Section 305 of the Lease. In such event, Hotel Lessee shall have no further obligation to pay the Basic License Fee or the Percentage License Fee from and after the effective date of any such lease supplement.

D. [§ 1307] Ownership of Dinner Settings

Upon termination of this License pursuant to the terms of Section 1303 hereof, or upon termination of the Lease, the ownership of the dinner settings required to be provided by Hotel Lessee pursuant to Section 402 of this License shall be deemed to be in Agency free and clear of all liens or claims thereto by Hotel Lessee or any third person or entity.

XIV. [§ 1400] DEFAULTS AND REMEDIES

A. [§ 1401] Defaults - General

Subject to the extensions of time set forth in Section 1410, failure or delay by either party to perform any term or provision of this License constitutes a default under this License. The party who fails or delays must immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence, and during any period of curing shall not be in default.

The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this License, any failures or delays by either party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by either party in asserting any of its rights and remedies shall not deprive either party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

B. [§ 1402] Legal Actions

1. [§ 1403] Institution of Legal Actions

In addition to any other rights or remedies, including the right to terminate this License, either party may institute legal action to cure, correct or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this License. Such legal actions must be instituted in the Superior Court of the County of Santa Clara, State of California, in any other appropriate court of that county, or in the Federal District Court in the Northern District of California.

2. [§ 1404] Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this License.

3. [§ 1405] Acceptance of Service of Process

In the event that any legal action is commenced by Hotel Lessee against Agency, service of process on Agency shall be made by personal service upon the Executive Director of Agency, or in such other manner as may be provided by law.

In the event that any legal action is commenced by Agency against Hotel Lessee, service of process on Hotel Lessee shall be made by personal service upon one of the general partners of Hotel Lessee or in such manner as may be provided by law.

4. [§ 1406] Attorneys' Fees and Court Costs

In the event that either Agency or Hotel Lessee shall bring or commence an action or legal proceeding or arbitration to interpret this License, enforce the terms and conditions of this License or to obtain damages against the other party arising from any default under or violation of this License, then the prevailing party shall be entitled to and shall be paid reasonable attorneys' fees and court costs as may be fixed by the court or jury therefor or the arbitrators.

C. [§ 1407] Rights and Remedies are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this License, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

D. [§ 1408] Damages

If either party defaults with regard to any of the provisions of this License, the nondefaulting party shall serve written notice of such default upon the defaulting party. If the default is not commenced to be cured within thirty (30) days after service of the notice of default and is not cured promptly in a continuous and diligent manner within a reasonable period of time after commencement, the defaulting party shall be liable to the nondefaulting party for any damages caused by such default, and the nondefaulting party may thereafter (but not before) commence an action for damages against the defaulting party with respect to such default.

E. [§ 1409] Specific Performance

If either party defaults with regard to any of the provisions of this License, the nondefaulting party shall serve written notice of such default upon the defaulting party. If the default is not commenced to be cured within thirty (30) days after service of the notice of default and is not cured promptly in a continuous and diligent manner within a reasonable period of time after commencement the nondefaulting party, at its option, may thereafter (but not before) commence an action for specific performance of the terms of this License pertaining to such default.

F. [§ 1410] Enforced Delay in Performance for Causes Beyond Control of Party

For the purposes of any of the provisions of this License, neither Agency nor Hotel Lessee, as the case may be, nor any successor in interest, shall be considered in breach of, or default in, its obligations under this License (exclusive of the obligation to pay money) as a result of the enforced delay in the performance of such obligations due to causes beyond its reasonable control and without its fault or negligence, including, but not limited to any law, regulation, ordinance or order of any public agency, acts of public agencies, acts of God, acts of the public enemy, acts of the

Federal Government, acts of the other party (including but not limited to delays in performing such other party's obligations pursuant to this License), fires, floods, epidemics, quarantine restrictions, strikes, labor disputes, freight embargos, inability to obtain materials or supplies or unusually severe weather or delays of contractors or subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of Agency or Hotel Lessee, as the case may be, shall be extended for the period of such enforced delay: Provided, That the party seeking the benefit of the provision of this Section shall, within ten (10) days after the beginning of any such enforced delay, have first notified the other party thereof in writing, and of the cause or causes thereof, and informed the other party that it was electing to take an extention for up to the period of the enforced delay.

XV. [§ 1500] GENERAL PROVISIONS

A. [§ 1501] Notices

All notices provided for in this License shall be in writing and shall be deemed delivered on the day of delivery if in person to the Redevelopment Agency Director or to one of the general partners of Hotel Lessee, or on the second business day following its deposit in the United States mail, if dispatched by registered or certified mail, postage prepaid, addressed as follows:

To Agency:	Redevelopment Agency of the City of Santa Clara 1500 Warburton Avenue Santa Clara, CA 95050
To Hotel Lessee:	SCCC Associates 305 Montague Expressway Santa Clara, CA 95054

Either party may give to the other written notice of change of address, in which event, any notice or request shall thereafter be given to it as above provided at such address.

B. [§ 1502] Exhibits

All exhibits attached to this License shall be deemed to be incorporated herein by the individual reference to each such exhibit, and all such exhibits shall be deemed to be a part of this License as though set forth in full in the body of the License.

C. [§ 1503] Headings

The section and subsection headings used in this License are for convenience of reference only. They shall not be construed to limit or extend the meaning of any part of this License, and shall not be deemed relevant in resolving any question of interpretation or construction of any section of this License.

D. [§ 1504] Severability

In case any one or more of the provisions contained herein, shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provision of this License.

E. [§ 1505] Capacity to Execute Agreement

Agency and Hotel Lessee each warrant that neither the execution of this License nor the consummation of the transactions contemplated hereby shall violate any provision of law or judgment, writ, injunction, order or decree of any court or governmental authority having jurisdiction over Agency or Hotel Lessee; result in or constitute a breach or default under any material indenture, contract, other commitment or restriction to which either is a party or by which either is bound; or require any consent, vote or approval which has not been taken, or at the time of the transaction involved shall not have been given or taken. Each party covenants that it has and will continue to have throughout the term of this License and any extension thereof, the full right to enter into this License and perform its obligations hereunder.

F. [§ 1506] Counterparts

This License may be executed in several counterparts each of which is an original, and all of which together constitute but one and the same document.

G. [§ 1507] Execution and Recordation

The parties shall execute and record this License concurrently with the execution and recordation of the Lease by Agency and Hotel Lessee.

H. [§ 1508] Successors, Mutuality, Running With Land

Subject to the provisions of this License which limit or terminate the provisions hereof, or any of them, including but not limited to Articles 600, 1100, 1200 and 1300, the covenants and agreements contained in this License are made for the direct mutual and reciprocal benefit of Hotel Lessee, its legal representatives, successors and assigns, and Parcel 1, and of Agency, its legal representatives, successors and assigns, and Parcel 3 and each such covenant and agreement shall create mutual equitable servitudes upon the respective real properties and shall create reciprocal rights and obligations between the owners, lessors, lessees and any other permissive users of such real properties and privity of contract and estate between the parties hereto and their respective successors and assigns; and shall, as to the owners, lessors, lessees and other permissive users of each parcel of real property and their respective successors and assigns, operate as covenants running with the land.

I. [§ 1509] Entire Agreement

Any agreements, warranties, or representations concerning the subject matter of this License not expressly contained herein or in the Lease or the Disposition and Development Agreement (the "Development Agreement") shall in no way bind either Hotel Lessee or Agency, and Hotel Lessee and Agency expressly waive all claims for damages by reason of any statement, representation, warranty, promise or agreement, if any, not contained in this License or in the Lease or the Development Agreement. This License supersedes and cancels any and all previous negotiations, arrangements, brochures, agreements and understandings, whether written or oral, between Hotel Lessee and its agents and Agency and its agents with respect to the Ballroom Facility or this License. This License (together with provisions of the Lease and the Development Agreement applicable to the Ballroom Facility) constitutes the entire agreement between the parties hereto and no addition to, or modifications of, any

term or provision of this License shall be effective until and unless set forth in a written instrument signed by both Hotel Lessee and Agency.

J. [§ 1510] Rights Reserved

This License and the Lease constitute the entire agreement between Agency and Hotel Lessee with respect to the portion of Parcel 3 containing the Ballroom Facility and the Ballroom Facility itself. Hotel Lessee does not have any other rights with respect to the portion of Parcel 3 containing the Ballroom Facility and the Ballroom Facility itself other than as expressly set forth in this License and the Lease.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this License as of the day and year first above written.

REDEVELOPMENT AGENCY OF THE
CITY OF SANTA CLARA
(Agency)

By: _____

SCCC ASSOCIATES
(Hotel Lessee)

By: _____

Its: _____

By: _____

Its: _____

APPROVED AS TO FORM:

_____
Counsel to the Agency

Exhibit "A"

DESCRIPTION OF PARCEL 1

[To be added prior to execution of this License after final boundaries have been delineated in precise terms pursuant to Section 104 of the Development Agreement]

Exhibit "B"

DESCRIPTION OF PARCEL 3

[To be added prior to execution of this License after final boundaries have been delineated in precise terms pursuant to Section 104 of the Development Agreement]

Exhibit "C"

FLOOR PLAN OF BALLROOM

[To be prepared pursuant to the Development Agreement and added hereto prior to execution of this License]

Exhibit "D"

BOOKING PRIORITIES

I. Definitions

As used in Sections I. through III., inclusive, the following terms shall have the following respective meanings:

A. "Conference Center" shall have the meaning ascribed to it in Section 100.

B. "SC Hotels" shall mean hotels and motels and other facilities providing transient lodging located within the city limits of the City of Santa Clara, including the Hotel.

C. "Hotel" shall have the meaning ascribed to it in Section 100.

D. "Group" shall mean a collection of persons who desire the common and the concurrent use of the Ballroom Facility.

E. "Ballroom" shall have the meaning ascribed to it in Section 100.

F. "Ballroom Facility" shall have the meaning ascribed to it in Section 100.

G. "Booking" or "Booked" shall mean the act of recording the reservation of the Ballroom Facility, or portion thereof, in the ledger or function book described in Section II, hereinbelow.

II. Administration of Bookings

The Conference Center shall administer the Booking of the Ballroom Facility and maintain a function book for the purpose of recording all Bookings made by the Conference Center or Hotel Lessee, and it shall promptly confirm all of Hotel Lessee's Bookings in writing. Any conflicts or disputes as to Bookings shall be resolved by Conference Center in accordance with the provisions contained in these Booking Priorities. Said function book shall be open to inspection by Hotel Lessee at all times during normal business hours. All Bookings of the Ballroom Facility shall be promptly recorded in said function book and each Booking shall indicate the reservation date, the name of the meeting planner (and his/her organization, group, etc.) making the Booking, the prospective number of rooms to be rented, and the confirmation date with respect to tentative Bookings.

III. Use of the Ballroom Facility

The following provisions shall govern the Booking of times in the Ballroom Facility:

A. Conference Center

Conference Center may Book the Ballroom Facility at any time or times at least six (6) months prior to the event, which time or times have not previously been

EXHIBIT C

COMPREHENSIVE GENERAL LIABILITY INSURANCE

The Comprehensive General Liability Insurance shall be written with a limit of liability of not less than $20 Million for combined single limit Bodily Injury and Property Damage coverage.

Such coverage shall include the following items:

Personal Injury, Bodily Injury and Property Damage on an occurrence basis.

Products Liability including Completed Operations coverage

Automatic Blanket Contractual Liability

Personal Injury Liability coverage - ABC with the Employee Exclusion and Contractual Exclusion deleted.

Employees as additional insureds

Liquor Law (common or statutory) Liability

Water and Fire Damage Legal Liability

Owners and Contractors Protective Liability

Incidental Medical Malpractice

Broad Form Property Damage including Completed Operations

Cross Liability or Severability Clause

Delete the XCU exclusion

EXHIBIT D

CONVENTION CENTER VENDORS STANDARD INSURANCE REQUIREMENTS AND INDEMNIFICATION CLAUSE

Chamber shall impose the following insurance requirements on each vendor:

A. VENDOR'S INSURANCE. Prior to commencing work or occupying the Convention Center, the Vendor shall purchase, maintain and provide to the Chamber the following forms of insurance coverage:

1. Comprehensive General Liability Insurance. The Comprehensive General Liability Insurance shall be written with a limit of liability of not less than the amounts specified in the section entitled "Vendors Insurance". Such coverage shall include the following items:

Bodily Injury and Property Damage on an occurrence basis;

Products Liability including Completed Operations coverage;

Automatic Blanket Contractual Liability;

Personal Injury Liability coverage - ABC with the Employee Exclusion and Contractual Exclusion deleted;

Employees as additional insureds;

Liquor Law (common or statutory) Liability;

Water Damage Legal Liability;

Owners and Contractors Protective Liability;

Incidental Medical Malpractice;

Broad Form Property Damage including Completed Operations;

Cross Liability or Severability Clause.

2. Comprehensive Automobile Liability Insurance. A combined Automobile Bodily Injury and Property Damage Liability insurance policy covering all automobiles whether owned, non-owned or hired with limits not less than the following shall be obtained by the Contractor;

Bodily Injury - $1,000,000 per person/$2,000,000 per occurrence

Property Damage - $1,000,000 per accident

3. Workers' Compensation and Employers' Liability. State Workers' Compensation coverage as required by law including Employers' Liability insurance with a limit of not less than $1,000,000.

All required forms of insurance coverage shall be provided through insurance companies licensed in the State of California. The insurance shall be evidenced by certificates and/or policies as determined by the City and Chamber. Each certificate or policy shall require that, sixty (60) days prior to cancellation or material change in the policies, notice shall be given to Chamber by registered mail, return receipt requested.

All such notices shall name the Vendor and identify the contract number.

The City, its Council, the Agency, its board, the Chamber, its Board of Directors, and the officers, representatives, agents and employees of the City, Agency, and Chamber shall have no responsibility whatsoever to the Vendor with respect to any insurance coverage as stated above, its procurement or absence thereof. The policies of insurance procured and maintained hereunder shall not affect the Vendor's Liability to the City, its Council, the Agency, its board, the Chamber, its Board of Directors and the representatives, agents and employees of the City, Agency, and Chamber for the performance of any obligations assumed by the Vendor under its contracts with the City and/or Chamber.

The City, its Council, the Agency, its Board, the Chamber, its Board of Directors, and the officers, representatives, agents and employees of the City, Agency and Chamber shall be included as additional insureds with respect to work, operations or occupancy of the Vendor.

Under policies of insurance described above, it is required that an endorsement be added which provides that such insurance shall not contain any exclusion regarding loss or damage caused by explosion or resulting from collapse of buildings or structures or damages to property underground, commonly referred to by insurers as the "XCU" hazards.

Additional coverages and limits may be required based upon the particular services contracted. If such additional coverages and limits are required for a specific contract, those requirements will be described in the "Special Conditions" of the contract specifications.

B. SUBCONTRACTORS' INSURANCE. The Comprehensive General Liability insurance obtained by the Vendor shall protect the City, Agency, Chamber, their officers and employees and the Vendor from contingent liability which may arise from operation of the Vendor's subcontractors. Also, the Vendor shall secure certificates of insurance as evidence that each subcontractor has in force and will maintain in effect at all times during the performance of work for the Vendor not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policies satisfactory to the Vendor, the City and Chamber. The City and Chamber reserve the right to increase the insurance limits required for subcontractors to the limits required for the Chamber as specified in this Agreement under section entitled "Insurance Maintained by Chamber".

1. Comprehensive General Liability Insurance.

   $1,000,000 each person, $1,000,000 each accident
   $1,000,000 each occurrence for Combined Single
   Limit Bodily Injury - Property Damage Insurance

2. Comprehensive Automobile Liability Insurance, covering all vehicles whether owned, non-owned, or hired with limits not less than the following:

Bodily Injury - $1,000,000 each person;
$1,000,000 each occurrence

Property Damage - $1,000,000 each accident

3. Workers' Compensation and Employer's Liability.

State Workers' Compensation - coverage as required by law including Employers Liability Insurance with a limit of not less than $1,000,000.

All subcontractors' policies shall contain an endorsement providing that written notice shall be given to the Vendor and Chamber at least sixty (60) days prior to termination, cancellation or reduction of coverage in the policy.

The Comprehensive General Liability and Comprehensive Automobile Liability Insurance policies shall contain the following provisions:

1. A provision or endorsement naming the Vendor, the City, and its Council, the Redevelopment Agency of the City of Santa Clara, its board, the Chamber, its Board of Directors, and the representatives, officers, agents and employees of the City, Agency and Chamber as additional insured with respect to work or operations for the Vendor and providing that such insurance is primary insurance with respect to the interests of the Vendor, the City, Agency and Chamber.

2. A "Cross Liability" or "Severability of Interest" clause.

3. Elimination of any exclusion regarding loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to by insurers as the "XCU" hazards.

4. A provision or endorsement stating that such insurance subject to all of its other terms and conditions, applies to the liability assured by the subcontractor under its contract with the Vendor.

5. Products liability (including completed operation) coverage.

6. Personal injury liability coverage - ABC with the employee exclusion deleted.

7. Broad form property damage coverage.

Promptly on execution of a contract with the Vendor and prior to commencement of work, the subcontractor shall return to the Vendor insurance certificates properly executed and signed by an authorized representative on behalf of the insurer(s) evidencing the above coverages and conditions. Upon written request by the Vendor, the subcontractor shall also be required to furnish copies of such policies, certified by an authorized representative of the insurer(s).

C. INDEMNIFICATION. The following Indemnification Agreement shall be a provision of any insurance coverage required to be obtained by the Vendor and its subcontractors and shall be endorsed on the reverse sides of all certificates of insurance:

"The Vendor agrees to protect, defend, indemnify, and hold the City of Santa Clara ("City") and its Council, the Redevelopment Agency of the City of Santa Clara and its board, the Chamber and its Board of Directors, and the officers, representatives, agents and employees of the City, the Agency and Chamber free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character in connection with or arising directly or indirectly out of this agreement and/or the performance hereof. Without limiting the generality of the foregoing, any and all such claims, etc., relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright (or application of any thereof) or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity here-

under. The Vendor further agrees to investigate, handle, respond to, provide defense for and defend any such claim, etc., at his sole expense and agrees to bear all other costs and expenses related thereto, even if it (claim, etc.) is groundless, false or fraudulent."