

DECISION OF CHIEF OF POLICE TO APPROVE THE CARDROOM PERMIT AMENDMENT APPLICATION OF GARDEN CITY, INC. DBA GARDEN CITY CARDROOM TO RELOCATE ITS CARDROOM PREMISES FROM 360 SOUTH SARATOGA AVENUE, SAN JOSE, CA TO 1887 MATRIX BOULEVARD, SAN JOSE, CA; AND TO CHANGE ITS NAME FROM GARDEN CITY INC. DBA GARDEN CITY CARDROOM TO GARDEN CITY INC. DBA CASINO M8TRIX

Hearing Date: July 23, 2012
Time: 10:00 A.M.
Place: San José City Council Chambers
San José City Hall
200 E. Santa Clara Street
San José, California 95113
Hearing Officer: Christopher M. Moore
Chief of Police

By letter (attached hereto as Exhibit A) dated March 30, 2011 Garden City, Inc. dba Garden City Cardroom ("Cardroom Permittee") applied for an amendment to its Cardroom Permit pursuant to San José Municipal Code ("SJMC") Section 16.30.200 seeking approval to relocate its cardroom premises from its current location at 360 South Saratoga Avenue, San José, CA to 1887 Matrix Boulevard, San José, CA; and to change its name from Garden City Inc. dba Garden City Cardroom to Garden City Inc. dba Casino M8trix. Pursuant to SJMC Section 16.30.220, a public hearing was publicly noticed at the San José City Clerk's Office on July 18, 2012 (attached hereto as Exhibit B).

The Hearing Officer, Chief of Police Christopher M. Moore presiding, opened the public hearing at 10:02 A.M. on Monday, July 23, 2012 at the San José City Council Chambers at San José City Hall. The public hearing was video recorded. Among those present at the public hearing were Richard Teng, Administrator of the Division of Gaming Control, San José Police Department; Carl B. Mitchell, Senior Deputy City Attorney, San José City Attorney's Office and the Cardroom Permittee was represented by various individuals in the City Council Chambers. Other members of the public were also present in the City Council Chambers during the public hearing as well as reporters from several media outlets.

Mr. Mitchell, on behalf of the Gaming Administrator, provided a brief summary of the Gaming Administrator's Report and Recommendation dated July 20, 2012 (attached hereto as Exhibit C). The Gaming Administrator recommended that the Cardroom Permit Amendment Application for relocation and change in name be approved with certain conditions outlined in his report. The representatives of the Cardroom Permittee were asked if they wish to comment or make a

statement for the hearing, but declined the offer. The Hearing Officer then invited any member of the public to come forward to speak on the permit amendment. No one accepted the invitation to speak on the matter.

The Hearing Officer acknowledged receiving a letter dated July 16, 2012 from the McManis Faulkner law firm on behalf of Sutter's Place, Inc. dba Bay 101 making certain objections to the application for the Cardroom Permit Amendment under consideration. The letter was entered into the hearing record and subsequently made available to the public.

With no other request for public comment, the public hearing was closed at 10:15 A.M.

FINDINGS OF FACT.

The Hearing Officer has carefully read and reviewed the Gaming Administrator's Report and Recommendation. The Hearing Officer accepts the Gaming Administrator's Report and Recommendation, and hereby adopts the Report and Recommendations in its entirety. The Hearing Officer also adopts as its findings of fact in support of the decision to approve the Application the sections of the Report and Recommendation titled FINDINGS & RECOMMENDATIONS.

FINDINGS AND DETERMINATION.

As required in SJMC Section 16.30.230(B), based upon the forgoing findings of fact, the Hearing Officer finds that the approval of the Application for (i) relocation of the Cardroom premises from its current location at 360 South Saratoga Avenue, San José, CA to 1887 Matrix Boulevard, San José, CA, and (ii) changes in name from Garden City, Inc. dba Garden City Cardroom to Garden City, Inc. dba Casino M8trix, with all of the conditions set forth in the Gaming Administrator's Report and Recommendation, will not:

1. Have an adverse effect on public health, safety, or welfare; or
2. Have an adverse effect on the ability of the Administrator and the Chief of Police to effectively administer and enforce the requirements and policies of this Title; or
3. Result in the violation of any City, State, or Federal law; or
4. Be inconsistent with the policies, purposes and provisions of this Title or be contrary to the public interest.

As required in SJMC Section 16.30.230(C), the Hearing Officer further finds that the Cardroom Permittee and stockholder ownership licensees have fully cooperated with the Gaming Administrator and the Chief of Police and have

provided all information required by the Gaming Administrator and the Chief of Police.

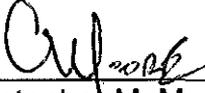
The approval of this Cardroom Permit Amendment is subject to the all of the terms and conditions set forth in the Gaming Administrator's Report and Recommendation, including certain conditions precedent that must be approved by the Gaming Administrator. The Cardroom Permittee and Gaming Administrator are both directed to work cooperatively and in good faith to facilitate any of the required actions (e.g. training, testing, evaluation, public notice) necessary to meet the imposed conditions. Additionally, the Cardroom Permittee shall continue to comply with the requirements of Title 16 of the SJMC and applicable local, state, and federal laws and regulations.

This approval is limited to and allows for operations only on the ground floor at 1887 Matrix Boulevard, San José, CA and specifically does not allow for any gaming or other regulated activity on any floor other than the ground floor. Any activities contemplated by the Cardroom Permittee on floors other than the ground floor will be the subject of further consideration and approval. It is contemplated that a Supplemental Report and Recommendation from the Gaming Administrator addressing gaming and other regulated activities on floors other than the ground floor will be published no later than sixty (60) days from the date of this report and that a public hearing will be held related to that report.

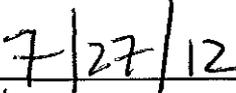
CONCLUSION.

In conclusion, the application of the Cardroom Permittee to amend their Cardroom Permit to (i) relocate the Cardroom premises from its current location at 360 South Saratoga Avenue, San José, CA to 1887 Matrix Boulevard, San José, CA, and (ii) change its name from Garden City, Inc. dba Garden City Cardroom to Garden City, Inc. dba Casino M8trix, is hereby approved with all of the conditions set forth in the Gaming Administrator's Report and Recommendation. This decision is final. This decision is governed by San José Municipal Code Section 1.16.010. San José Municipal Code Section 1.16.010 provides that Code of Civil Procedure Section 1094.6 is applicable to this decision. In turn, Code of Civil Procedure Section 1094.6 provides that any appeal from this decision to the Superior Court must be filed "not later than the 90th day following the date on which the decision becomes final."

IT IS SO ORDERED.



Christopher M. Moore
Chief of Police



Date

EXHIBIT A



360 S. SARATOGA AVE.
SAN JOSE, CA 95129

PH: 408 244-8888
FAX: 408 244-7251

GARDEN CITY, INC.

March 30, 2011

Richard Teng, Administrator
Division of Gaming Control
675 N. First St., Ste. 1000
San Jose, CA 95112

RE: Cardroom Permit Amendment Application

Dear Mr. Teng,

On behalf of Cardroom Permittee Garden City Casino, I am applying for an amendment to the current Cardroom Permit. Garden City Casino requests an amendment to allow Garden City Casino to relocate from 360 South Saratoga Ave., San Jose, CA to 50 Airport Parkway, San Jose, CA (the southeast corner of Airport Parkway and Old Bayshore Highway) and change the name from Garden City Inc., dba Garden City Cardroom to Casino M8trix Inc, dba Casino M8trix.

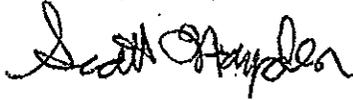
Garden City's current owners bought the club about five years ago and want to break with Garden City Cardroom's past and rebrand the cardroom in its future location at 50 Airport Parkway as Casino M8trix. The present building is old, cramped, and does not have the space for any future development. Plans call for a larger casino complex with an eight-story tower featuring approx. 20,000-square-foot for the gaming area, up from the current 12,000 square feet. The owners envision a top-floor restaurant with a celebrity chef, live entertainment and a hotel with up to 600 rooms. The hotel, however, is part of a second phase and plans have yet to be submitted. This development will help in making San Jose a destination for entertainment. The project will provide 1,100 design and construction jobs, provide permanent employment for 800, and increase revenue for the city.

In May of 2010, the San Jose City Council unanimously approved zoning changes to allow Garden City Casino to move to the six-acre site on Airport Parkway, across the freeway from San Jose's other card room, Bay 101. A planned development permit was issued for the project on December 17, 2010. The project conforms with a master environmental study for North San Jose development that already has undergone extensive review and litigation with neighboring jurisdictions.

This amendment is consistent with the policies, purposes and provisions of Title 16 and the public interest. Further, this amendment will not result in the violation of any City, State or Federal law, nor have any adverse effect on public health, safety or welfare.

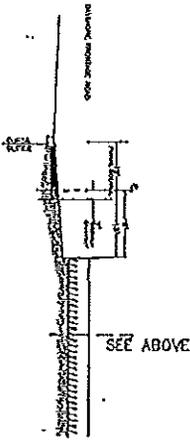
I have enclosed a check for \$5000.00 to pay the amendment fee and copies of the building plans as requested.

If you have any questions, please call me at (408) 244-3333 x. 226 or my cell: (714) 928-9573. Thank you for your consideration.

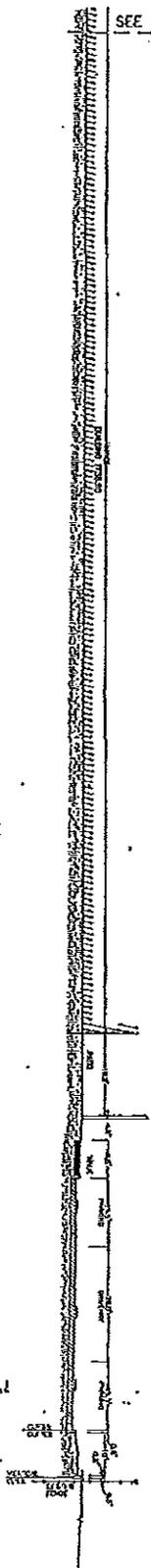
A handwritten signature in black ink that reads "Scott Hayden". The signature is written in a cursive style with a large, stylized "S" and "H".

Scott Hayden
General Manager
Garden City Casino

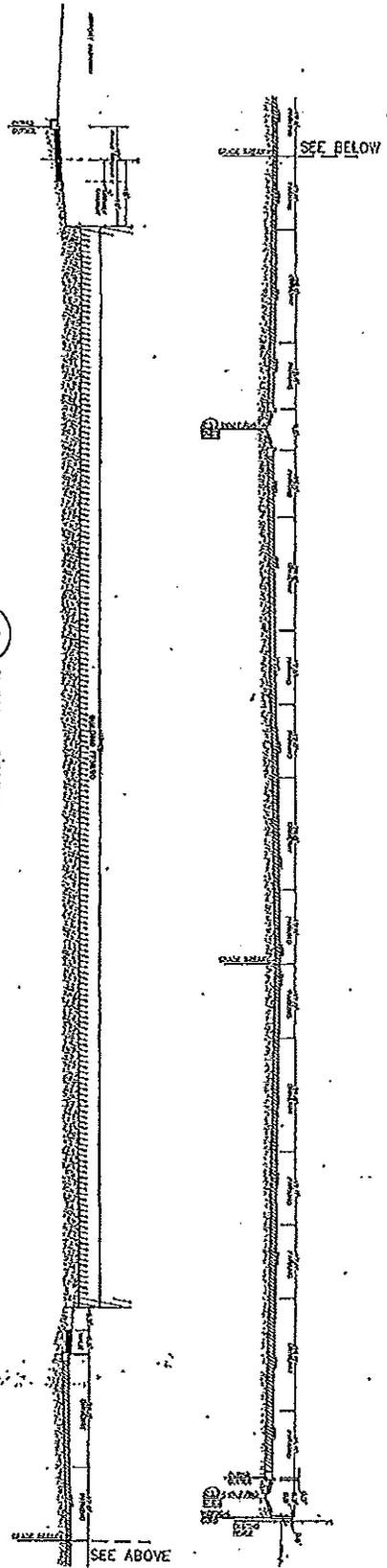
B
TYPICAL SECTION
SCALE: 1"=10'



SEE BELOW



A
TYPICAL SECTION
SCALE: 1"=10'



CROSS SECTIONS
CL1

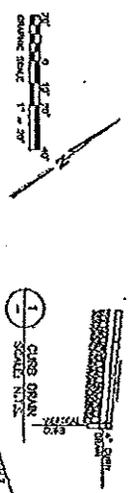
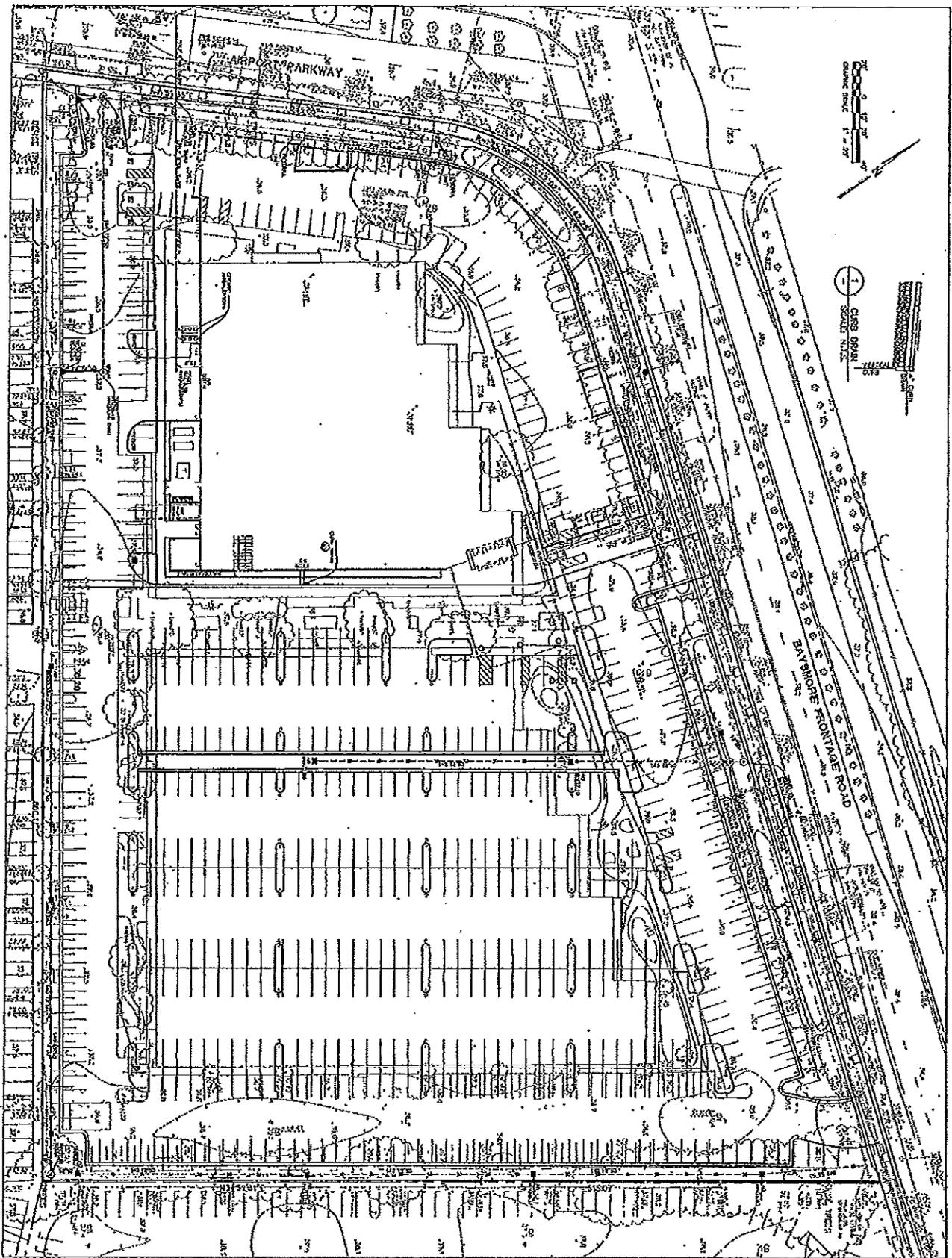
A Planned Development Submittal Package for
AIRPORT PARKWAY TWO, LLC
Airport Parkway and Old Bayshore Freeway
San Jose, California

MCG
CONSTRUCTION

R+G
RUBIN AND GROSS, INC.

ARC TEC
ARCHITECTURAL RECORDS & CONSTRUCTION





A Planned Development Submittal Package for
AIRPORT PARKWAY TWO, LLC
 Airport Parkway and Old Bayshore Freeway
 San Jose, California

IMG
 CONSULTING

R+G
 ENGINEERS AND ARCHITECTS

ARC TEC
 ARCHITECTURAL ENGINEERS

C2.0
 UTILITY PLAN

A FILTERRA DETAILS AND SAMPLE CALCULATION

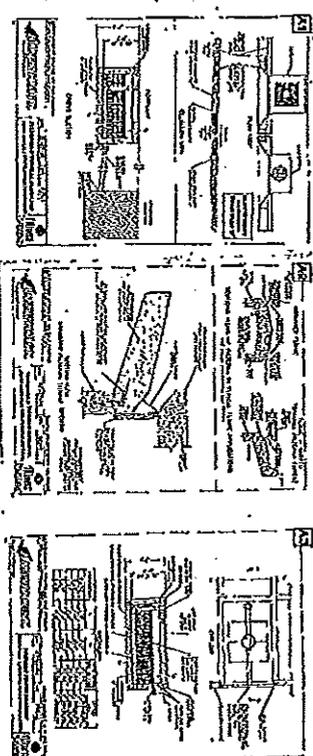


TABLE 1: FILTERRA UNIT DATA

Filterra Unit	Flow Rate (GPM)	Area (sq ft)	Volume (cu ft)	Weight (lb)
1	10	10	10	10
2	10	10	10	10
3	10	10	10	10
4	10	10	10	10
5	10	10	10	10
6	10	10	10	10
7	10	10	10	10
8	10	10	10	10
9	10	10	10	10
10	10	10	10	10

TABLE 2: SAMPLE CALCULATION

Item	Description	Quantity	Unit Price	Total Price
1	Filterra Unit	10	\$100	\$1000
2	Filter Media	10	\$50	\$500
3	Installation	10	\$20	\$200
4	Maintenance	10	\$10	\$100
5	Accessories	10	\$5	\$50
6	Shipping	10	\$10	\$100
7	Subtotal			\$1950
8	Tax			\$195
9	Total			\$2145

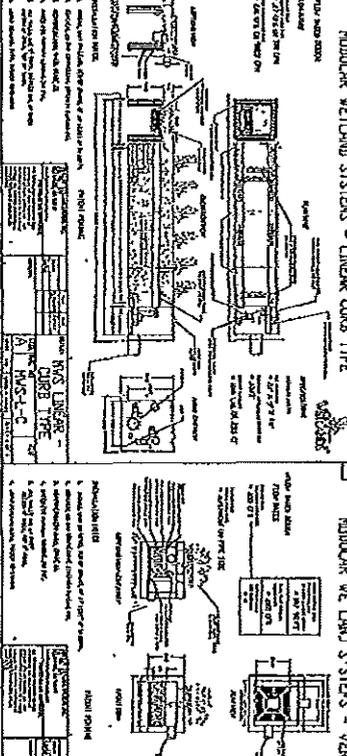
CONSTRUCTION & INSTALLATION NOTES

1. The filterra unit shall be installed in a concrete foundation...
2. The filter media shall be installed in the filterra unit...
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MAINTENANCE PROCEDURES

1. The filterra unit shall be inspected regularly...
2. The filter media shall be replaced regularly...
3. The filterra unit shall be inspected regularly...
4. The filter media shall be replaced regularly...
5. The filterra unit shall be inspected regularly...
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9. The filterra unit shall be inspected regularly...
10. The filter media shall be replaced regularly...

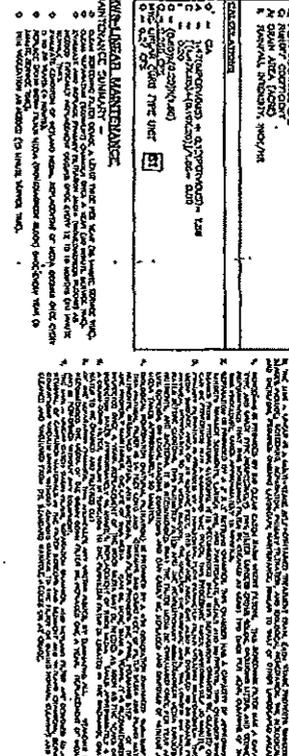
B) MODULAR WETLAND SYSTEMS - LINEAR CUBE TYPE



CONSTRUCTION & INSTALLATION NOTES

1. The modular wetland system shall be installed in a concrete foundation...
2. The filter media shall be installed in the modular wetland system...
3. The modular wetland system shall be installed in a concrete foundation...
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9. The modular wetland system shall be installed in a concrete foundation...
10. The filter media shall be installed in the modular wetland system...

C) MODULAR WETLAND SYSTEMS - VERTICAL GRID FILTER



CONSTRUCTION & INSTALLATION NOTES

1. The modular wetland system shall be installed in a concrete foundation...
2. The filter media shall be installed in the modular wetland system...
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STORMWATER NOTES-DETAILS

C3.1

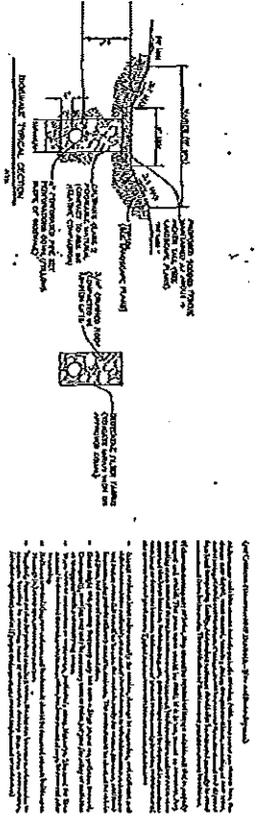
MJR CONSULTING

R+G

ARC TEC

A Planned Development Submittal Package for AIRPORT PARKWAY TWO, LLC
 Airport Parkway and Old Bayshore Freeway
 San Jose, California

C BIOSWALE DETAILS AND SAMPLE CALCULATION

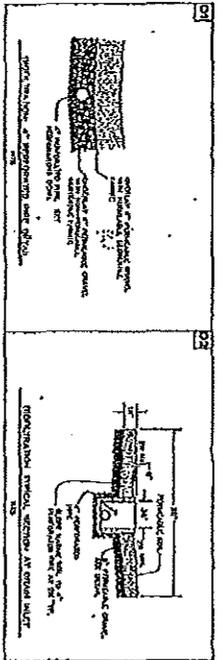


MANUFACTURE ACTIVITIES	UNDESIRABLE PRECIPITATION	MANUFACTURE ACTIVITIES	UNDESIRABLE PRECIPITATION
<ul style="list-style-type: none"> • 18\"/> 			

BIOFILTRATION SAMPLE CALCULATION
 -BIOSWALE CAPACITY FOR CURRENT PRECIPITATION RATE (DESIGN FLOW)
 -BIOSWALE CAPACITY FOR CURRENT PRECIPITATION RATE (DESIGN FLOW)
 -BIOSWALE CAPACITY FOR CURRENT PRECIPITATION RATE (DESIGN FLOW)

DESIGNATION	PROVIDED	DESIGNATION	PROVIDED
<ul style="list-style-type: none"> • 18\"/> 			

D BIOFILTRATION DETAILS AND SAMPLE CALCULATION



MANUFACTURE ACTIVITIES	UNDESIRABLE PRECIPITATION	MANUFACTURE ACTIVITIES	UNDESIRABLE PRECIPITATION
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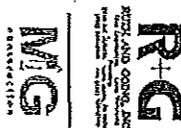
BIOFILTRATION SAMPLE CALCULATION
 -BIOSWALE CAPACITY FOR CURRENT PRECIPITATION RATE (DESIGN FLOW)
 -BIOSWALE CAPACITY FOR CURRENT PRECIPITATION RATE (DESIGN FLOW)
 -BIOSWALE CAPACITY FOR CURRENT PRECIPITATION RATE (DESIGN FLOW)

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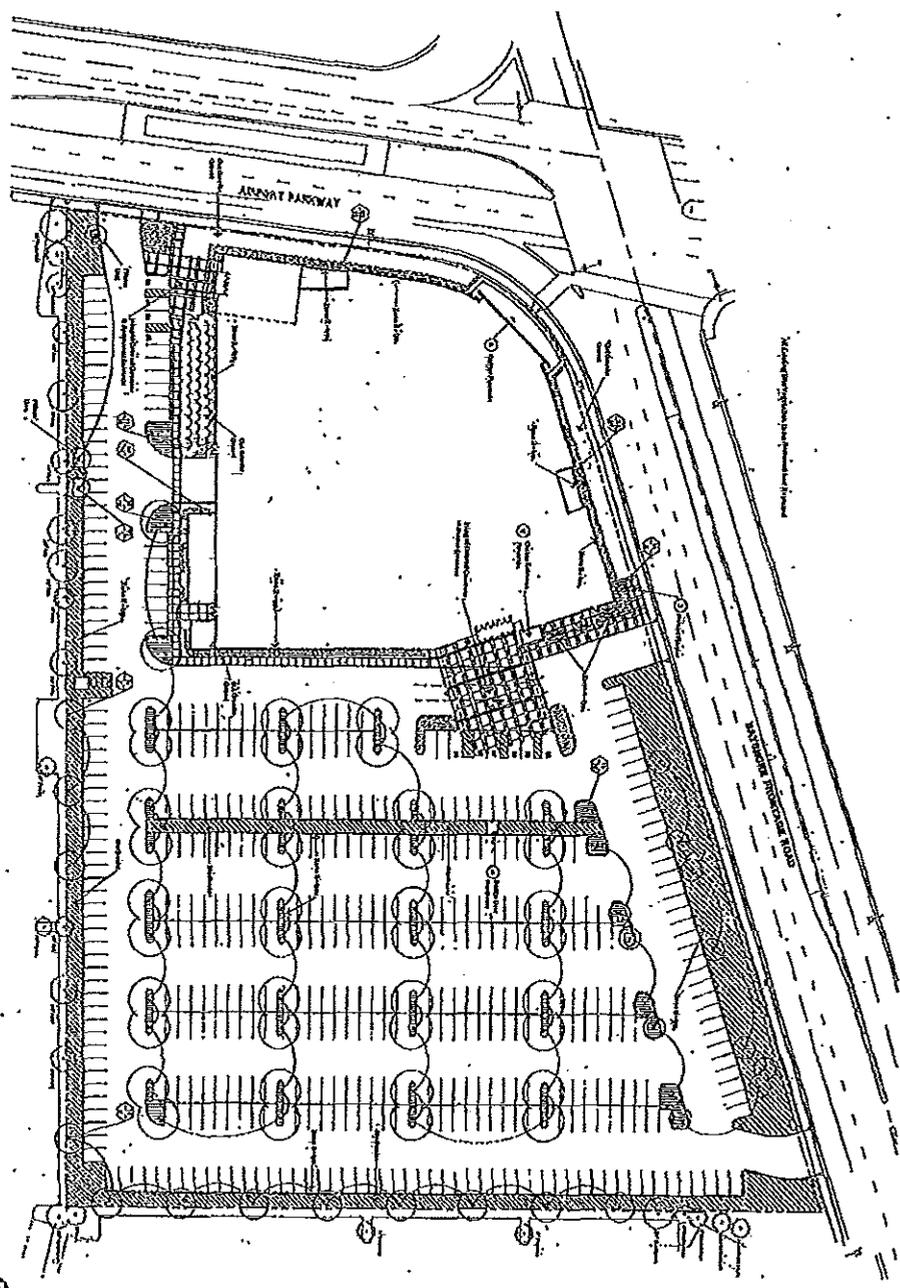
DESIGNATION	PROVIDED
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STORMWATER NOTICES/DETAILS
 C3.2
 1/18

A Planned Development Submittal Package for
AIRPORT PARKWAY TWO, LLC
 Airport Parkway and Old Bayshore Freeway
 San Jose, California



1 LANDSCAPE & IRRIGATION PLAN



Plant Legend

Plant Name	Quantity	Notes
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A Planned Development Submittal Package for
AIRPORT PARKWAY TWO, LLC
 Airport Parkway and Old Bayshore Freeway
 San Jose, California



ARC TEC



110

EXHIBIT B



Office of the City Attorney
RICHARD DOYLE, CITY ATTORNEY

B

**AMENDED NOTICE OF TENTATIVE HEARING DATE PURSUANT TO
TITLE 16 OF THE SAN JOSÉ MUNICIPAL CODE**

The hearing to address the matter below and originally scheduled for July 19, 2012 has been moved to Monday, July 23, 2012, as more fully set forth below.

Please note that the hearing date, time and location is subject to change.

Place: Council Chambers
San Jose City Hall
200 East Santa Clara Street
San Jose, CA 95113

Time: 10:00 a.m.

Item to be heard:

Name of Party Involved: GARDEN CITY, INC. dba Garden City Casino

Amendment Sought: Notice of Cardroom Permit Amendment Hearing on Application by Garden City, Inc. to Amend its Cardroom Permit to Relocate from 360 South Saratoga Avenue, San Jose, CA to 50 Airport Parkway, San Jose, CA, and to change its name from GARDEN CITY, INC. dba Garden City Casino to GARDEN CITY, INC. dba Casino M8trix. The application under consideration will only allow for the playing of controlled games on the ground floor level of Casino M8trix.

The Report and Recommendation of the Administrator is not yet available. However, when it is available, it will be made available at the San Jose Police Department Division of Gaming Control and the City Clerk's Office.

EXHIBIT C



Memorandum

TO: Christopher Moore
Chief of Police

FROM: Richard Teng, Administrator
Division of Gaming Control

SUBJECT: Report and Recommendation to Request from Garden City, Inc. dba Garden City Cardroom to Amend its Cardroom Permit to Allow the Relocation of the Cardroom Premises to a New Location; to Allow the Name Change from Garden City, Inc. dba Garden City Cardroom to Garden City, Inc. dba Casino M8trix

DATE: July 20, 2012

INTRODUCTION

By letter dated March 30, 2011, Garden City, Inc. dba Garden City Cardroom (Garden City) initially applied for an amendment to its Cardroom Permit seeking approval to relocate its Cardroom Premises from its current location at 360 South Saratoga Avenue, San Jose, CA to 1887 Matrix Boulevard, San Jose, CA; and, to change its name from Garden City, Inc. dba Garden City Cardroom to Casino M8trix, Inc. dba Casino M8trix.

On April 6, 2011, the Division of Gaming Control ("Division") received a Landowner License application dated March 31, 2011 from Eric Swallow and the Lunardi Family Trust through their attorney, along with other documents showing the leasehold interests, landownership and a schematic showing the relationship between Airport Parkway Two LLC (the business entity used for the purchase of the property on which the proposed casino was built), which, in turn, is owned by Airport Opportunity Fund LLC. Both Limited Liability Companies are owned and controlled by Eric Swallow and the Lunardi Family Trust. Because the March 31, 2011 application for the Landowner License was not executed by the Airport Opportunity Fund LLC but rather by the representing attorney and this thirty-page application was essentially left blank with an "N/A" noted in virtually all areas except for information relating to cash in bank, real

estate interests, and mortgage information, on April 26, 2011, the Division sent another Landowner License application along with a document request to the representing attorney, Eric Swallow, Peter Lunardi and Jeanine Lunardi requesting Eric Swallow and the Lunardi Family Trust each file a separate Landowner License application as each owns 50% of Airport Opportunity Fund LLC.

On August 30, 2011, the Division learned of Garden City's desire to offer additional gambling space on the 8th floor of the proposed Casino M8trix location. On December 15, 2011, Garden City submitted an addendum to the application to amend the Cardroom Permit to include gaming on the 8th floor, in addition to the ground floor. On April 4, 2012, Garden City submitted a letter indicating that Casino M8trix would conduct business as Garden City, Inc. dba Casino M8trix and Garden City, Inc. would remain as the Cardroom Permittee.

Consideration of the Cardroom Permit Amendment Application included the following:

- A. The proposed name change from Garden City, Inc. dba Garden City Cardroom to Garden City, Inc. dba Casino M8trix;
- B. The proposed relocation of the Cardroom Premises from 360 South Saratoga Avenue in San Jose to 1887 Matrix Boulevard in San Jose;
- C. Compliance of the Organization Structure;
- D. The proposed use of the 8th floor for gambling purposes at the proposed Casino M8trix;
and
- E. Other Regulatory Concerns

LEGISLATIVE BACKGROUND

Title 16 of the San Jose Municipal Code ("SJMC") was first enacted in 1999 and subsequently revised in 2010. The purpose of Title 16 and the regulatory program authorized by this Title is to maintain public confidence in the integrity of Cardroom operations by requiring strict regulatory controls and enforcement practices to carefully monitor gaming activity at Permitted

Cardrooms. The Gaming Control Regulatory Program is further designed to regulate the persons, locations and practices of permitted San Jose Cardrooms and Funding Sources.

FINDINGS & RECOMMENDATIONS

FINDING #1: The Changing of the Name From Garden City, Inc. dba Garden City Cardroom to Garden City, Inc. dba Casino M8trix

Garden City, Inc. ("Garden City") dba Garden City Cardroom is a Permitted Cardroom in San Jose and has been licensed by the City of San Jose to conduct gaming operations at the 360 South Saratoga Avenue location since December 1976. The current stockowners, Eric Swallow, Peter Lunardi and Jeanine Lunardi purchased Garden City out of bankruptcy in 2007 and have since been operating at the 360 South Saratoga Avenue location under the same corporate name as well as the dba.

The stockowners filed an application that proposed to change the Cardroom's name from Garden City, Inc. dba Garden City Cardroom to Casino M8trix, Inc. dba Casino M8trix. However, this proposed change in business name would have changed the business entity thereby effectuating a voluntary surrender of the Cardroom Permit under SJMC Title 16, Section 16.30.030(A). On March 29, 2012, the City Attorney's Office informed Garden City that a Cardroom Permit cannot be sold, transferred or assigned by the Cardroom Permittee, or by operation of law, to any other person, or persons. Any such sale, transfer or assignment, or attempted sale or assignment, of the Cardroom Permit shall be deemed to constitute a voluntary surrender of such Permit, which shall thereafter be deemed terminated and void. On April 4, 2012, Garden City stockowners, through their attorney, sent a letter to the City Attorney's Office indicating that Garden City would continue to be the Cardroom Permittee and the proposed change in name for purposes of the within application is actually Garden City, Inc. dba Casino M8trix.

RECOMMENDATION #1

The Administrator has determined that there is no regulatory concern over the changing of the name of the gambling establishment from Garden City, Inc. dba Garden City

Cardroom to Garden City, Inc. dba Casino M8trix; and, that this change would not be deemed to constitute a voluntary surrender of the Cardroom Permit. The Administrator recommends that the Chief of Police find that the proposed name change, as modified by Garden City meets the requirements of SJMC Section 16.30.230(B).

FINDING #2: Dolchee's Involvement in the Purchase and Construction of Casino M8trix

In connection with the Landowner License investigation, the Administrator noted a substantial amount of money being paid by Garden City to Dolchee, LLC (Dolchee). This money was ultimately used by Dolchee towards the purchase of the land upon which Casino M8trix was built and towards the construction of the Casino M8trix building. Although Dolchee was determined to be a business that provides gambling games and support services to gaming establishments, in this instance it acted as a financial source for the Casino M8trix project.

RECOMMENDATION #2

In light of the substantial contributions paid by Dolchee towards the Casino M8trix project, the Administrator reserves his authority to call forward Dolchee as a financial source requiring licensure by the Division.

FINDING #3: The Proposed Change in Cardroom Location From 360 South Saratoga Avenue in San Jose to 1887 Matrix Boulevard in San Jose

Issue/Concern #3A - The location of Team View's Office:

With respect to the proposed relocation of the Cardroom from the current location of 360 South Saratoga Avenue, San Jose, CA to 1887 Matrix Boulevard, San Jose, CA ("new location"), the Administrator and staff of the Division have inspected the new location and toured the ground gaming floor, including the surveillance room and the restricted area where the casino cage, count room, employee cage, and an office dedicated for use by TeamView, Inc. ("TeamView") are located. TeamView is a Third Party Provider of Proposition Player Services or Funding Source as defined under SJMC Title 16, Section 16.02.350, which has a contractual relationship with Garden City (on file at the Division) to provide Funded Player services (as defined under

SJMC Title 16, Section 16.02.340). Upon inspection and review, the Administrator has concluded that the close proximity of the count room to other management offices, including Team View's office, represents a weakness in the design of the proposed Casino M8trix floorplan and system of internal controls in that fraudulent activities related to drop boxes could occur behind closed doors and would be difficult to detect during the normal course of business.

On March 14, 2012, the Administrator sent an email to Bob Lytle, Compliance Director for Garden City, and indicated his regulatory concerns with regard to the floorplan and attendant internal controls and requested Mr. Lytle address his concerns. In a series of e-mails commencing in March 2012, Mr. Lytle identified security based controls that he represented should ameliorate the Administrator's concerns. The Administrator provided his assessment of the proposed controls and the dialogue culminated in a meeting on June 20, 2012 with Garden City Controller Deven Kumar and Mr. Lytle. Both Mr. Kumar and Mr. Lytle acknowledged the legitimacy of the Administrator's concerns and Casino M8trix's inability to fully resolve them at the subject location and, on that basis, agreed that Team View's office would be relocated to an area by the "back office," outside of the restricted casino cage area. In preparation of this report, the Administrator sent an email to Mr. Kumar on July 13, 2012, asking whether or not the relocation of the Team View office had been completed and informing him that the Division would send someone to verify the move. The same date, Mr. Kumar responded that work to move Team View to a back of the house location without access to restricted areas was in progress and in a July 16, 2012 e-mail he represented that Team View would be in this location prior to commencement of Cardroom operations at Casino M8trix.

RECOMMENDATION #3A

Team View shall be moved to a location that meets the approval of the Gaming Administrator prior to the issuance of the Cardroom Permit Amendment.

Issue/Concern #3B – Unrestricted Access of Gaming Area(s):

An inspection of the high limit area on the ground floor of Casino M8trix indicates that it appears to be open and accessible to the public; however, a potential exists for Casino M8trix to

restrict this area to high rollers by further restricting and limiting access to the area and to the tables contained therein; thereby, further restricting this area to general members of the public.

RECOMMENDATION #3B

In order to ensure that access to gambling activity is not restricted in any manner at the relocated Cardroom Premises and pursuant to California Business & Professions Code § 19801(j), which provides, in relevant part:

“To ensure that gambling is conducted honestly, competitively, and free of criminal and corruptive elements, all licensed gambling establishments in this state must remain open to the general public and the access of the general public to licensed gambling activities must not be restricted in any manner, except as provided by the Legislature. However, subject to state and federal prohibitions against discrimination, nothing herein shall be construed to preclude exclusion of unsuitable persons from licensed gambling establishments in the exercise of reasonable business judgment.”

Casino M8trix shall have all card tables freely accessible by the general public and shall not utilize any form of restriction (i.e., partition, rope, security screening, etc.) on any card table, including those in the high limit areas on the ground floor. In addition, Casino M8trix shall have no card tables reserved for any one person and all card tables shall be available for play by the general public as long as there is an available player position(s) and/or betting square(s)/circle(s). Casino M8trix may place minimum wagering requirements on card tables and as long as a person has the ability to meet the minimum wagering requirement, the table must be offered to that person.

Issue/Concern #3C - Surveillance System Compliance, Including Remote Surveillance System at the Division of Gaming Control:

The Administrator has concerns relative to Casino Matrix's surveillance system compliance. This includes Casino M8trix's inability or unwillingness to provide a compliant remote surveillance system at the offices of the Division. San Jose Municipal Code Section 16.08.010(C) states as follows:

“Each Cardroom Permittee shall, at its own expense, provide the Administrator with the use of a dual closed circuit television monitoring station in the surveillance room of the Cardroom. In addition, each Cardroom Permittee shall, at its own expense, provide the Administrator with such other off-site or remote closed circuit television monitoring station or system for surveillance purposes as the Administrator may require by Regulation.”

This has been a condition of the stockowner's stockownership license for operation at Garden City's 360 South Saratoga Avenue location since 2007. Subsequently the City adopted Minimum Internal Control Standards Regulations (Chapter 7) promulgated by the Administrator on February 11, 2010 (with a compliance date of May 11, 2010) which revised the Division's original Surveillance Standards and Requirements, and added a specific provision dealing with the remote surveillance system dedicated for the Division at the offices of the Division. (*See*, Section L of Chapter 7 of the Minimum Internal Control Standards Regulations). Unfortunately, compliance by Garden City has been problematic at best. Persistent and on-going deficiencies with respect to the clarity of the camera views, system failures, and an insufficient number of pan-tilt-zoom cameras have detracted from Garden City's ability to comply at its current location. Notwithstanding Project Manager Brian Turpin's repeated representation that a “state of the art” system would be installed at the Division for the operations at Casino M8trix, no new monitoring equipment specific to the Casino M8trix installation has been delivered to the Division to date. Also, the sharing of camera equipment between the current Garden City location and new location at Casino M8trix has frustrated the Administrator's ability to evaluate and sign off on the system that will operate at Casino M8trix. During a recent inspection of the system at Casino M8trix for camera clarity via the remote surveillance system at the Division, it appeared that the clarity of the images was sufficient. However, since that inspection, Garden City has removed at least ten (10) high definition cameras from the proposed Casino M8trix location to be returned to and re-installed at the current Garden City Cardroom, from where these cameras were apparently removed. The Division also learned that these cameras in question were originally installed in the high limit room at Garden City Cardroom and that spare cameras, which were previously deemed unsatisfactory, were put in their place while the high definition cameras were installed at the proposed Casino M8trix for the above inspection. Therefore,

Garden City violated Chapter 7, Section D3a of the Minimum Internal Control Standards Regulations, which requires constant camera surveillance at, "Each table game area, with sufficient clarity to view and identify patrons, dealers, proposition players, funded players, floor supervisors and chip runners."

RECOMMENDATION #3C

Given the foregoing problems with the surveillance system, the Division has been unable to establish that Casino M8trix's surveillance system meets the requirements of Title 16 and all of Chapter 7 of the Minimum Internal Control Standards Regulations, including a Remote Surveillance System that fully complies with Section L of Chapter 7. Therefore, a final inspection of the surveillance system for Casino M8trix must be undertaken before the proposed Casino M8trix can open its doors to the public. Casino M8trix must also provide the Division with a compliant Remote Surveillance System, including one (1) color and one (1) black and white image printer(s) with which to take still photographs of individuals and activity occurring on the Cardroom Premises in order to facilitate the Division's capacity to engage in real time investigations of the Cardroom Premises. Casino M8trix shall also provide to the Division of Gaming Control a supply of thermal paper or printer paper and ink cartridges.

Issue/Concern #3D - Internal Control Document Deficiencies:

The Administrator has identified numerous weaknesses in the proposed Casino M8trix's Internal Control Document submitted on March 12, 2012. Although the Administrator has met with Mr. Kumar and Mr. Lytle on at least two occasions in June 2012 and the Administrator and Messrs. Kumar and Lytle, have conceptually agreed to a number of revisions, notwithstanding these meetings and additional numerous telephonic and email communications with Messrs. Kumar and Lytle, a document revised to eliminate the weaknesses cited has not been submitted as of this writing.

RECOMMENDATION #3D:

The Cardroom Permit Amendment shall not be issued until the Administrator receives and approves an amended Internal Control Document from Casino M8trix that

satisfactorily corrects the deficiencies the Administrator has communicated to Casino M8trix representatives.

FINDING #4: The Proposed Use of the 8th Floor For Gambling Purposes at the Proposed Casino M8trix

The Division is not in a position to address the proposed use of the 8th floor for gambling purposes at the Casino M8trix due to numerous outstanding and unresolved health, safety and regulatory concerns. As such, this item will not be addressed and will be deferred for consideration in a later report to the Chief of Police.

RECOMMENDATION #4

Casino M8trix shall offer controlled gambling only on the ground floor at the Cardroom Premises and shall not offer or allow controlled gambling to occur on any floor(s), office space(s), room(s) and any other location(s). In addition, Casino M8trix shall remove all card tables currently located on the 8th floor or any other floor(s) of the Cardroom Premises, except for those card tables which are located in a designated training room(s) approved for use by the Administrator for gambling training purposes, and at designated warehouse/location(s) as approved by the Administrator.

FINDING #5: Other Regulatory Concerns - Compliance with Title 16 Outsourcing

The organizational structure for Garden City Inc., dba Garden City Cardroom has been problematic since 2007 because a number of departments that have a direct role in the conduct of gaming operations are directed and operated by independent contractors. The security department, for example, is directed by Mr. Harold Furtado, a principal of Imperium Security and all departmental functions are to be performed by Imperium employees. Mr. Furtado is the holder of a Temporary Key Employee License. The food and beverage department is directed by Mr. Brian Turpin¹, a principal of NYC Food and Beverage and all Food and Beverage

¹ While a food and beverage department is not always construed as a gaming related department, the unique limitations on stimulation of play found in SJMC Section 16.18.090, which strictly prohibits stimulation of play, including complimentary services, and the prominence of the food and beverage department in ensuring compliance

department functions are to be performed by NYC Food and Beverage employees. Mr. Turpin is the holder of a Temporary Key Employee License. The proposed Internal Control Document for Casino M8trix reflects the same organizational structure. As of this writing, the Administrator is examining whether, and/or to what extent, the direction of these departments by holders of Temporary Key Licenses or Key Licenses that are not employees of Garden City complies with SJMC Section 16.20.020. That Section provides, in pertinent part, without an express waiver by the Administrator under Subsection B of that provision (which has not been requested):

“A cardroom permittee shall only use persons who are employees to perform worked related to *its gaming operation*, including without limitation, surveillance personnel, casino cage personnel, compliance personnel, dealers, floor persons, game attendants, chip runners, *internal security*, internal accounting, any person supervising those individuals, and *any key employees.*” See SJMC Section 16.20.020(A). (*Emphasis added.*)

The Administrator is likewise examining whether, and to what extent, entities including, but not limited to, Imperium Security and NYC Food and Beverage, are subject to licensing under SJMC Section 16.20.010 on the basis of their performance, as independent contractors, of duties requiring a Key Employee License or Work Permit.

The Applicant is advised and noticed that while it will be the Administrator's recommendation that the resolution of the regulatory concerns regarding the organization structure need not be a condition precedent to the granting of the Cardroom Permit Amendment, the staffing approach elected by Casino M8trix, which relies heavily on outsourcing of departments directly related to

with its limitations on complimentary services, warrant the treatment of food and beverage as gaming related for regulatory purposes in San Jose. The Administrator met with Garden City representatives on August 30, 2011 to discuss the Casino M8trix project at the City Manager's Office, and it was at this meeting as well as other meetings (i.e., surveillance inspections, proposed karaoke room inspection, etc.), that it became clear that Garden City Cardroom's Food and Beverage operator, Mr. Turpin, appeared to possess the most knowledge with respect to not only marketing, surveillance system, backup power generator, etc., but the entire Casino M8trix project. The Administrator asked Mr. Turpin about his role in the project as it seemed unusual for a food and beverage operator to be intimately involved in the entire casino and office tower project. It was at this meeting Mr. Turpin confirmed that he was also the developer of the entire Casino M8trix project. The issue of Mr. Turpin's multiple roles, including incompatible functions (i.e., food and beverage, surveillance, casino design, etc.) was discussed in the Administrator's Final Report and Recommendation on Landowner License Investigation and categorized as a regulatory concern.

the conduct of gaming, is of concern to the Administrator as apparently inconsistent with Title 16 of the SJMC. The Applicant is further advised that gaming related independent contractors including, but not limited to, Imperium and NYC Food and Beverage may, at the Administrator's direction, be required in the near term to request a waiver to remain an independent contractor under SJMC Section 16.20.020(B) or may be called forward for licensing under Title 16.

RECOMMENDATION #5

The Administrator reserves his authority to call forward Imperium, NYC Food and Beverage, and any other independent contractors currently, or in the future, retained and/or employed by Casino M8trix for licensing as deemed appropriate by the Administrator and consistent with public policy. The Administrator also advises that it will in the near term require compliance with the outsourcing restrictions in SJMC Section 16.20.020 for all independent contractors currently performing work related to the gaming operation or to request a waiver in order to remain an independent contractor under Subsection (B).

FINDING #6 – Timing of Cardroom Permit Amendment Issuance

Pursuant to Title 16, Chapter 16.32, the Administrator, on July 13, 2012, served Mr. Swallow and Mr. Pete Lunardi (as Trustee of The Lunardi Family Trust) a copy of the Administrator's Final Report and Recommendation on the Landowner License; a copy of the Landowner Background Report for Airport Opportunity Fund LLC, Eric Swallow and the Lunardi Family Trust prepared by the Consultants (Conroy & Associates), and three waiver forms. The waiver forms were provided in the event the Applicants for the Landowner Licenses prefer to waive the Licensing hearing and accept the limitations and conditions placed on the Licenses, in which case, the forms need to be executed by said Applicants. The Administrator's final report and recommendation will become a final decision effective twenty-one (21) days after the service of the final report and recommendation (July 13, 2012) unless the above Applicants file a written request for a Licensing hearing with the Administrator before the close of business on the twentieth (20th) day (August 3, 2012). As of the date of this Cardroom Permit Amendment

Report, said Applicants have neither executed the waiver forms nor submitted a written Licensing hearing request to the Division.

RECOMMENDATION #6

Per the conditions in the Landowner Licenses, this Cardroom Permit Amendment shall not be issued unless and until the issues surrounding the conditions and limitations placed on the Landowner Licenses are resolved; in particular, the proposed lease between Garden City, Inc., dba Casino M8trix and the Landowner Licensees with Casino M8trix as the tenant has been reviewed and approved by the Administrator.

FINDING #7 – Card Games Activity Tracking Device

As part of an observation of the casino operation at Garden City, the Division learned that certain electronic tracking devices are installed on most card tables and that these devices will also be installed on card tables at the proposed Casino M8trix. The Division also learned that these devices are used to track activities such as the number of hands being dealt per hour; identity of the employee and length of time at the table; player and/or funding source win/loss information; payroll information; etc. The Division believes these devices and the related software program/web based reporting system are provided to Garden City under agreement by Profitable Casino LLC, a technology company owned by Garden City stockowner, Eric Swallow. The Administrator believes that having access to this system and its reports is needed in order to assist the Division in more effectively and efficiently conducting its required financial oversight of Casino M8trix as set out in the Administrator's functions, powers and duties in SJMC Section 16.06.030(A)(4). It will also allow the Administrator to more effectively monitor the proposed Casino M8trix, consistent with the policies, purposes and provisions of Title 16 and the public interest.

RECOMMENDATION #7

The Administrator recommends that Casino M8trix shall be required to provide full disclosure of the nature and purpose of the aforementioned system. Casino M8trix shall

also be required to provide initial and ongoing training to the Division with respect to the operations of the system and provide any and all reports generated by the system. In addition, Casino M8trix shall provide the Administrator with any and all information (i.e., player activities, employee schedule, number of hands per hour, fees collected, fees paid, etc.) generated from any tracking device (whether or not from Profitable Casinos) installed on the card tables and anywhere in the Cardroom Premises within three (3) business days from approval of the Cardroom Permit Amendment. Thereafter, Casino M8trix shall provide the Administrator with bi-monthly reports on the 1st and the 15th of each month on any and all information (i.e., player activities, employee schedule, number of hands per hour, fees collected, fees paid, etc.) generated from any tracking device installed on the card tables and anywhere in the Cardroom Premises. The report due on the 1st day of the month shall consist of information from the 15th day of the month to the last day of the preceding month; and the report due on the 15th day of the month shall consist of information from the 1st day of the month to the 14th day of the month.

FINDING #8 -- Outstanding Gaming Chip Liability

Garden City, Inc., dba Garden City Cardroom will change its name to Garden City, Inc., dba Casino M8trix and new casino chips have been ordered and approved for use by the Division. It is the understanding of the Administrator that once Casino M8trix opens for business, the existing Garden City Cardroom gaming chips will be retired. This situation creates a potential for outstanding liability on the part of Garden City.

RECOMMENDATION #8

Consistent with public policy as well as proposed Gaming Chip Regulation - Regulation 4, Cardroom Gaming Chips and Lammer Buttons, Casino M8trix shall redeem all outstanding Garden City Cardroom chips for a period not less than one hundred and eighty (180) days from the date Garden City is issued a Cardroom Permit Amendment. Additionally, Garden City shall post a public notice to redeem Garden City gaming chips consistent with the proposed Gaming Chips Regulation. Garden City shall provide publication of notice of the discontinuance

of the Garden City gaming chips and of the redemption and the pertinent times and locations in at least one newspaper of general circulation in Northern California at least once per week during the next one hundred eighty (180) calendar days from date of the approval of the Cardroom Permit Amendment, subject to the Administrator's approval of the form of the notice, the newspapers selected for publication, and the specific days of publication.

SUMMARY OF RECOMMENDED CONDITIONS

Based on all of the facts and circumstances as described under the Findings and Recommendations Section of this report, I recommend that the Cardroom Permit Amendment Application of Garden City, Inc., for the relocation of the Cardroom Premises from 360 South Saratoga Avenue, San Jose, CA to 1887 Matrix Boulevard, San Jose, CA; and a change in the name from Garden City, Inc. dba Garden City Cardroom to Garden City, Inc. dba Casino M8trix, be approved with the conditions herein and summarized below. The 8th floor gaming request will not be considered at this time.

Recommendation # 1

The proposed name change from Garden City, Inc. dba Garden City Cardroom to Garden City, Inc. dba Casino M8trix be approved.

Recommendation # 2.

The Administrator reserves his authority to call forward Dolchee LLC as a financial source requiring licensure by the Division of Gaming Control.

Recommendation # 3A

Team View's office shall be moved to a location that meets the approval of the Administrator prior to the issuance of the Cardroom Permit Amendment.

Recommendation # 3B

Casino M8trix shall have all card tables freely accessible by the general public and shall not utilize any form of restriction (i.e., partition, rope, security screening, etc.) on any card table, including those in the high limit areas on the ground floor. In addition, Casino M8trix shall have no card tables reserved for any one person and all card tables shall be available for play by the general public as long as there is an available player position(s) and/or betting square(s)/circle(s). Casino M8trix may place minimum wagering requirements on card tables and as long as a person has the ability to meet the minimum wagering requirement, the table must be offered to that person.

Recommendation # 3C

A final inspection of the surveillance system must be undertaken before the proposed Casino M8trix can open its doors to the public. Casino M8trix shall also provide the Division with a compliant Remote Surveillance System, including one (1) color and one (1) black and white image printer(s) and a supply of thermal paper or printer paper and ink cartridges with which to take still photographs of individuals and activity occurring on the Cardroom Premises.

Recommendation #3D

The Cardroom Permit Amendment shall not be issued until the Administrator receives and approves an amended Internal Control Document from Casino M8trix that satisfactorily corrects the deficiencies the Administrator has communicated to Casino M8trix representatives.

Recommendation # 4

Casino M8trix shall offer controlled gambling only on the ground floor at the Cardroom Premises and shall not offer or allow controlled gambling to occur on any floor(s), office space(s), room(s) and any other location(s) other than the ground floor of the Cardroom Premises at 1887 Matrix Boulevard in San Jose. In addition, Casino M8trix shall remove all card tables currently located on the eighth (8) floor or any other floor(s) of the Cardroom Premises, except those card tables in a designated training room(s) approved for use by the Administrator for gambling training purposes, and at designated warehouse/location(s) as approved by the Administrator.

Recommendation # 5

The Administrator reserves his authority to call forward Imperium, NYC Food and Beverage, and any other independent contractors currently, or in the future, retained and/or employed by Casino M8trix for licensing as deemed appropriate by the Administrator and consistent with public policy. The Administrator also advises that it will in the near term require compliance with the outsourcing restrictions in SJMC Section 16.20.020 for all independent contractors currently performing work related to the gaming operation or to request a waiver in order to remain an independent contractor under Subsection (B).

Recommendation # 6

This Cardroom Permit Amendment shall not be issued unless and until the issues surrounding the conditions and limitations placed on the Landowner Licenses are resolved; in particular, the proposed lease between Garden City, Inc. dba Casino M8trix and the Landowner Licensees with Casino M8trix as the tenant has been reviewed and approved by the Administrator.

Recommendation # 7

Casino M8trix be required to provide full disclosure of the nature and purpose of the card table activities tracking system. Casino M8trix shall also be required to provide initial and ongoing training to the Division with respect to the operations of the system and provide any and all reports generated by the system. In addition, Casino M8trix shall provide the Administrator with any and all information (i.e., player activities, employee schedule, number of hands per hour, fees collected, fees paid, etc.) generated from any tracking device (whether or not from Profitable Casinos) installed on the card tables and anywhere in the Cardroom Premises within three (3) business days from approval of the Cardroom Permit Amendment. Thereafter, Casino M8trix shall provide the Administrator with bi-monthly reports on the 1st and the 15th of each month on any and all information (i.e., player activities, employee schedule, number of hands per hour, fees collected, fees paid, etc.) generated from any tracking device installed on the card tables and anywhere in the Cardroom Premises. The report due on the 1st day of the month shall

consist of information from the 15th day of the month to the last day of the preceding month; and the report due on the 15th day of the month shall consist of information from the 1st day of the month to the 14th day of the month.

Recommendation # 8

Casino M8trix shall redeem all outstanding Garden City Cardroom chips for a period not less than one hundred and eighty (180) days from the date Garden City is issued a Cardroom Permit Amendment. Additionally, Garden City shall post a public notice to redeem Garden City gaming chips consistent with the proposed Gaming Chips Regulation. Garden City shall provide publication of notice of the discontinuance of the Garden City gaming chips and of the redemption and the pertinent times and locations in at least one newspaper of general circulation in Northern California at least once per week during the next one hundred eighty (180) calendar days from date of the approval of the Cardroom Permit Amendment, subject to the Administrator's approval of the form of the notice, the newspapers selected for publication, and the specific days of publication.

As required pursuant to SJMC Section 16.30.230(B), the conditions herein are necessary in order to find that the proposed amendment will not:

1. Have an adverse effect on public health, safety, or welfare;
2. Have an adverse effect on the ability of the Administrator and the Chief of Police to effectively administer and enforce the requirements and policies of this Title;
3. Result in the violation of any City, State, or Federal law; and
4. Be inconsistent with the policies, purposes and provisions of this Title or be contrary to the public interest.

Moreover, the Administrator recommends that if aforementioned conditions are approved, then the Chief of Police can find that the Cardroom Permittee and the stock owner licensees have

cooperated fully with the Administrator and the Chief of Police and have provided all information required by the Administrator and the Chief of Police.


Richard Teng, Administrator
Division of Gaming Control



1 **PROOF OF SERVICE**

2 **RE: Cardroom Permit Amendment**

3 I, the undersigned declare as follows:

4 I am a citizen of the United States, over 18 years of age, employed in Santa Clara
5 County, and not a party to the within action. My business address is 201 W. Mission
6 Street, San José, California 95110, and is located in the county where the service
described below occurred.

7 On July 27, 2012, I caused to be served the within:

8 **DECISION OF CHIEF OF POLICE TO APPROVE THE CARDROOM PERMIT
9 AMENDMENT APPLICATION OF GARDEN CITY, INC. DBA GARDEN CITY
10 CARDROOM TO RELOCATE ITS CARDROOM PREMISES FROM 360 SOUTH
11 SARATOGA AVENUE, SAN JOSE, CA TO 1887 MATRIX BOULEVARD, SAN JOSE,
12 CA; AND TO CHANGE ITS NAME FROM GARDEN CITY INC. DBA GARDEN CITY
13 CARDROOM TO GARDEN CITY INC. DBA CASINO M8TRIX**

14 by MAIL, with a copy of this declaration, by depositing them into a sealed envelope,
15 with postage fully prepaid, and causing the envelope to be deposited for collection
16 and mailing on the date indicated above.

17 I further declare that I am readily familiar with the business' practice for collection
18 and processing of correspondence for mailing with the United States Postal
19 Service. Said correspondence would be deposited with the United States Postal
20 Service that same day in the ordinary course of business.

21 by ELECTRONIC TRANSMISSION, with a copy of this declaration, to an electronic
22 address listed below.

23 Addressed as follows:

24 Scott Hayden
25 General Manager
26 Garden City, Inc.
27 360 S. Saratoga Ave
28 San Jose, CA 95129
shayden@gardencitycasino.com

Eric Swallow
Garden City, Inc.
360 S. Saratoga Ave
San Jose, CA 95129
erics@casinom8trix.com

Pete Lunardi
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Jeanine Lunardi
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jeaninel@casinom8trix.com

PROOF OF SERVICE

1 Antoinette McGill, Esq.
2 Law Offices of Antoinette McGill
3 P.O. Box 591313
4 San Francisco, CA 94159
5 amcgill@gardencitycasino.com

6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct. Executed on July 27, 2012, at San José, California.

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9 Dana Sasscer

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