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DEVELOPMENT AGREEMENT
BY AND AMONG THE CITY OF VACAVILLE,
THE REDEVELOPMENT AGENCY OF THE CITY OF VACAVILLE
AND GENENTECH, INC.

May 23, 1995

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DEVELOPMENT AGREEMENT
BY AND AMONG THE CITY OF VACAVILLE,
THE REDEVELOPMENT AGENCY OF THE CITY OF VACAVILLE
AND GENENTECH, INC.

THIS DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of May 23, 1995 by and among GENENTECH, INC., a Delaware corporation, ("Developer"), the CITY OF VACAVILLE, a municipal corporation ("City"), and the CITY OF VACAVILLE REDEVELOPMENT AGENCY, a public agency created pursuant to the California Community Redevelopment Law ("Agency").

RECITALS

A. In order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs of development, the Legislature of the State of California enacted Sections 65864 et seq. of the California Government Code (the "Development Agreement Legislation"). The Development Agreement Legislation authorizes City to enter into a development agreement for the development of real property with any person having a legal or equitable interest in such property. City has authorized the undertaking of Development Agreements within the City of Vacaville and established procedures for entering into Development Agreements through the adoption of Chapter 15.60 of the Vacaville Municipal Code (the "Development Agreement Ordinance").

B. In order to provide greater flexibility for governments to support economic development, the State of California enacted Sections 33300 et seq. of the California Health and Safety Code (the "Community Redevelopment Law"). Pursuant to the Community Redevelopment Law and the "Redevelopment Plan" (defined below), Agency was created and authorized to enter into agreements with owners of real property to provide for the development of such real property.

C. Developer has a legal or equitable interest in certain real property consisting of approximately 100 acres located in the City of Vacaville, as generally diagrammed in Exhibit A attached hereto and more particularly described in Exhibit A-1 attached hereto (the "Project Site"). The Project Site is located within that certain 360-acre business and industrial park commonly known as the "Vaca Valley Business Park." As more fully set forth below, the Project Site is included in a redevelopment project area known as the I-505/80 Redevelopment Project Area.

D. Developer has proposed to develop and operate on the Project Site biopharmaceutical manufacturing and related facilities (as more fully described below, the "Project").

E. On November 7, 1994, Developer, City and Agency entered into a memorandum of understanding outlining certain terms and conditions pursuant to which Developer would consider developing the Project on the Project Site (the "MOU"). As set forth in the MOU, Developer, City and Agency anticipated that the terms set forth in the MOU would be included and merged into a binding agreement between them pursuant to the authority of the Development Agreement Legislation and the Community Redevelopment Law. This Agreement supersedes and replaces in its entirety the MOU, which is hereby terminated.

F. City and Agency recognize the need to expand the long-term employment opportunities of the citizens of Vacaville, including opportunities for high-technology employment. They further acknowledge that this Agreement will facilitate development of the Project on the Project Site and, therefore, will provide increased employment opportunities and other public benefits that might not otherwise be obtained including, without limitation, increased tax revenues, coordinated planning of development, installation of necessary public infrastructure and a stronger relationship with nearby education and research facilities such as the University of California at Davis. These represent special benefits to City and Agency, as Developer is proposing an anticipated $150 million capital investment in "Phase I" of the Project (defined below) and the creation of an anticipated 300 jobs upon full operation of Phase I, a significant portion of which jobs will be for highly-skilled individuals. In exchange for these and other public benefits specified below, City and Agency desire to enter into this Agreement.

G. In exchange for the benefits to City and Agency described above, Developer will receive by this Agreement certain financial commitments from City and Agency and certain assurances that it may proceed with the Project in accordance with "Applicable Law," the "Project Approvals" and the "Subsequent Approvals" (all as defined below) and, therefore, desires to enter into this Agreement.

H. City or Agency has adopted the following policy-level planning documents, all of which apply to the development and use of the Project Site:

(1) On August 21, 1990, the City approved a comprehensive update to its general plan (as amended, the "General Plan"). The General Plan designates the Project Site as "Business Park," which designation permits several types of land uses including, among others, research and development and industrial facilities. In connection with its update of the General Plan, City prepared and certified an Environmental Impact Report pursuant to the provisions of the California Environmental Quality Act, Cal. Pub. Res. Code § 21000 et seq., and the CEQA Guidelines adopted by the Governor's Office of Planning and Research (collectively, "CEQA").

(2) During April, 1983, the Agency approved the I-505/80 Redevelopment Project Plan (as amended, the "Redevelopment Plan"). The Redevelopment Plan established the I-505/80 Redevelopment Project Area and provides for the redevelopment, rehabilitation and revitalization of Project Site. In connection with its

adoption of the Redevelopment Plan, Agency prepared and certified an Environmental Impact Report pursuant to CEQA.

(3) During July, 1979, City approved the Vaca Valley Business Park Policy Plan (as amended, the "Policy Plan"). The Policy Plan is consistent with and implements the "Industrial Park Policy Plan Overlay District" zoning of the Project Site. Uses permitted in this zoning district and under the Policy Plan include, among other things, the manufacture of pharmaceuticals.

(4) On April 3, 1995, acting in its capacity as lead agency under CEQA, City circulated for public review a mitigated negative declaration (the "Mitigated Negative Declaration") evaluating the Project and concluding that, subject to the imposition of certain mitigation measures described therein, the Project would have no significant environmental impacts. On May 9, 1995, after reviewing the Mitigated Negative Declaration and comments received thereon from the public and other governmental agencies, City adopted the Mitigated Negative Declaration and City and Agency each made appropriate findings as required by CEQA.

(5) On May 8, 1995, in compliance with CEQA and the California Subdivision Map Act, Cal. Gov't Code §§ 66400 et seq. (the "Subdivision Map Act"), City approved a tentative parcel map (the "Tentative Parcel Map") to, among other things, establish the Project Site as a separate legal parcel. The potential environmental impacts of the Tentative Parcel Map were evaluated in a mitigated negative declaration adopted by City on May 8, 1995, in connection with its approval of the Tentative Parcel Map.

(6) On May 23, 1995 (the "Approval Date"), after a duly noticed public hearing, City made the findings required by Chapter 15.60 of the Vacaville Municipal Code, that the provisions of this Agreement are consistent with the General Plan and the Policy Plan, and adopted Ordinance 1539 approving this Agreement.

(7) On the Approval Date, after a duly noticed public hearing, Agency made the findings required by law and adopted Ordinance 1539 approving this Agreement.

(8) On May 24, 1995, City and Agency filed a notice of determination as required by CEQA and such notice of determination was duly posted in the office of the County Clerk.

NOW, THEREFORE, in consideration of the premises, covenants and provisions set forth herein, the parties agree as follows:

AGREEMENT

ARTICLE I. EFFECTIVE DATE AND TERM

Section 1.1 Effective Date. This Agreement shall become effective on the later to occur of June 23, 1995 (the thirty-first (31st) day following the Approval Date), or the date upon which this Agreement is executed by the parties hereto, or the date of receipt of the certified results of a referendum election (the "Effective Date").

Section 1.2 Term.

(a) Except as otherwise specifically provided herein or agreed to in writing by the parties hereto, this Agreement shall commence upon the Effective Date and continue for a period of thirty (30) years or, if Developer fails to construct "Phase I" (defined below) of the Project within ten (10) years following the Effective Date (or such longer period as is necessary to account for any occurrence of a "Permitted Delay" under Section 11.6 below), for a period of twenty (20) years (the "Term").

(b) This Agreement shall be of no further force and effect following the expiration or termination of the Term; provided, however, that in no event shall the expiration or termination of this Agreement affect or limit, without further action of City and Agency, any right then held by Developer under any Project Approval or Subsequent Approval.

(c) If the Term of this Agreement is reduced to twenty (20) years as set forth above, City and Developer shall execute a certificate in recordable form stating that the Term has been so reduced, and such certificate shall be recorded in the Official Records of Solano County.

ARTICLE II. DESCRIPTION OF PROJECT

Section 2.1 Phase I and Future Proposed Buildout. The Project includes (i) approximately 280,000 square feet of manufacturing, office, laboratory and warehouse space to be located on approximately 35 acres of the Project Site ("Phase I") and (ii) approximately 381,000 square feet of additional development generally consistent with the pattern of uses established in Phase I (such as additional manufacturing, laboratory, office and other production support space) to be located on approximately 10 additional acres of the Project Site ("Future Proposed Buildout"). General descriptions of the development anticipated for Phase I and Future Proposed Buildout are included in Exhibit B, attached hereto. A schematic illustration of potential designs of the Project at Phase I and Future Proposed Buildout is included in Exhibit C, attached hereto.

Section 2.2 Development Beyond Phase I and Future Proposed Buildout. As set forth above, Phase I and Future Proposed Buildout will occupy a total of approximately 45 acres of the approximately 100-acre Project Site. As of the Approval Date, any development on the remaining acres of the Project Site is speculative. However, as more fully

set forth below, in order not to preclude the City's future consideration and approval of any such development, this Agreement will vest Developer's right to proceed with any such development (subject to receipt of appropriate approvals and completion of appropriate environmental review) in accordance with the "Project Approvals," "Subsequent Approvals" (if and when issued) and "Applicable Law" (all as defined below), and will provide for certain financial incentives and commitments applicable to such future development. Utilities serving the Project Site have been planned to accommodate "Phase I" and "Future Proposed Buildout" of the Project (defined below). Therefore, this Agreement generally does not contemplate utilities for development other than Phase I and Future Proposed Buildout which may, if later developed, require additional on-site and off-site infrastructure improvements for sewer, water and roads and other necessary improvements.

Section 2.3 Project Approvals. For the purposes of this Agreement, the term "Project Approvals" shall mean the following approvals previously issued or adopted by City: (i) the General Plan designation of, and General Plan provisions applicable to, the Project Site as of the Approval Date, (ii) the provisions of City's zoning ordinance, Vacaville Municipal Code Title 17 (the "Zoning Ordinance"), applicable to the Project Site as of the Approval Date, (iii) the provisions of the Policy Plan applicable to the Project Site as of the Approval Date, (iv) the Tentative Parcel Map, (v) the Mitigated Negative Declaration and (vi) any other minor permits or approvals received as of the Effective Date.

Section 2.4 Subsequent Approvals. Applications for certain land use permits and approvals other than the Project Approvals may be necessary or desirable for the development of the Project in accordance with the provisions of this Agreement, including (i) design review of Phase I and Future Proposed Buildout pursuant to the Zoning Ordinance, (ii) a final parcel map covering the Project Site and based on the Tentative Parcel Map, (iii) certain ministerial permits and approvals such as landscape plans, grading plans and building permits, (iv) any amendments to any of the foregoing, or to the Project Approvals, that may be necessary or appropriate for the development of the Project Site and (v) permits and approvals that may be needed for any Future Proposed Buildout or any other buildout of the Project (collectively, the "Subsequent Approvals").

ARTICLE III. ESTABLISHMENT OF VESTED RIGHTS

Section 3.1 In General. Developer shall, throughout the Term of this Agreement, have a vested right to develop the Project and the Project Site in a manner consistent with the provisions of this Agreement, "Applicable Law" (defined below), the Project Approvals and any Subsequent Approvals required by Applicable Law and issued or approved by City or Agency. Notwithstanding the foregoing, Developer's right to develop any portion of the Project or the Project Site is subject to issuance by City of any Subsequent Approvals required by Applicable Law for such development.

Section 3.2 Parameters of Project. The permitted uses of the Project Site, the density and intensity of use and the maximum height, size, bulk and floor area ratio ("FAR")

of buildings included in the Project shall be as specified in the Policy Plan as of the Approval Date.

Section 3.3 Dedications and Reservations of Land and Other Requirements for Public Improvements.

(a) In connection with the development of Phase I and Future Proposed Buildout, Developer shall be required to dedicate or reserve portions of the Project Site, or to contribute to or participate in the financing of public infrastructure, facilities and services, only as and to the extent specifically required by (i) this Agreement, (ii) applicable state laws or (iii) the conditions of approval imposed by City in connection with its approval of the Tentative Parcel Map. The Tentative Parcel Map anticipates buildout of Phase I and Future Proposed Buildout, and thus no additional conditions shall be imposed on the Project during the Term with respect to such development. Notwithstanding the foregoing, City may require Developer to dedicate portions of the Project Site for public improvements if the need for such dedication is demonstrated in connection with City's consideration of Developer's design review applications and such dedication requirements bear a strict nexus, and are roughly proportional, to specific aspects of the design review application under consideration. Nothing in this Section 3.3(a) shall limit City's and Agency's obligation to afford Developer all applicable substantive and procedural rights and protections available under state and federal law and constitutions with respect to the imposition of development conditions and exactions.

(b) In connection with City's consideration of development of the Project beyond Phase I and Future Proposed Buildout, Developer shall be afforded all applicable substantive and procedural rights and protections available under state and federal law and constitutions with respect to the imposition of development conditions and exactions.

ARTICLE IV. APPLICABLE LAW

Section 4.1 In General.

(a) Except as otherwise set forth in this Agreement, the rules, regulations and official policies applicable to the Project and the Project Site (the "Applicable Law") shall be those rules, regulations and official policies of City and Agency (including the plans, codes, ordinances, resolutions and other local laws and regulations of City and Agency) in force and effect on the Approval Date.

(b) Not in limitation of the foregoing, Applicable Law shall include, without limitation, (i) all of the terms and provisions of the General Plan, the Zoning Ordinance in force and effect on the Approval Date, (ii) the provisions of the Redevelopment Plan (and any rules of Agency implementing the Redevelopment Plan) in force and effect on the Approval Date; (iii) the provisions of the Policy Plan in force and effect on the Approval Date and (iv) the terms and conditions of the Project Approvals in force and effect on the Approval Date. Applicable Law also shall include City's subdivision ordinance as it existed on the Approval Date and as it may be amended from time to time to the extent necessary to

comply with the Subdivision Map Act, provided that City shall not apply to the Project any provision of such amended subdivision ordinance that materially is more burdensome than the requirements of the Subdivision Map Act.

(c) Applicable Law shall apply to the entire Project and the Project Site during the Term of this Agreement, including any portions of the Project or the Project Site not anticipated for development, or actually developed, as a part of Phase I or Future Proposed Buildout.

Section 4.2 No Conflicting Enactments.

(a) Except as otherwise specifically agreed to by Developer (or as set forth in Section 4.3 or Section 4.4 below), City shall not apply to or impose against the Project or the Project Site in any manner (including any application or imposition by initiative, referendum, consideration or issuance of a Subsequent Approval or otherwise) any rule, regulation, official policy or other measure that is in conflict with Applicable Law (including, without limitation, any "Conflicting Enactment" as defined below) or reduces the development rights provided by this Agreement.

(b) Without limiting the generality of the foregoing, any rule, regulation, official policy or other measure of City shall be deemed to conflict with Applicable Law, and shall therefore be considered a "Conflicting Enactment" for the purposes of this Agreement, if it would:

(i) limit or reduce the permitted density or intensity of development of any portion of the Project Site below the maximum permitted by Applicable Law and the Project Approvals, or require any reduction in the square footage, number, height, size, bulk or FAR of proposed buildings; except that development of the Project must comply with Applicable Law including, without limitation, the design requirements, parking requirements, landscaping and setbacks;

(ii) modify the permitted or conditional uses of the Project Site as established under Applicable Law and the Project Approvals;

(iii) limit or control the rate, timing, phasing or sequencing of the approval, development or construction of any portion of the Project in any manner (other than by requiring that infrastructure be provided as and when necessary to serve the Project as set forth in Section 4.5(c) below);

(iv) limit or control the location of buildings or structures on the Project Site, except to the extent City is authorized specifically to do so in connection with the design review thereof;

(v) apply to the Project any measure otherwise allowed by this Agreement that is not uniformly applied on a city-wide basis provided, however, that City

shall not be prevented from establishing (in accordance with Applicable Law) zones of benefit, rate zones, benefit districts, assessment districts or similar financing mechanisms that apply to the Project Site, so long as the costs associated with such zones or districts are uniformly applied to all similar uses within the zone or district and not limited in applicability to the Project;

(vi) require the issuance of permits or approvals other than those specifically required by Applicable Law or (in accordance with Section 4.4 below) which City is required to impose by the authority of the state or federal government or of special districts or agencies that are not subject to the authority of City or Agency and whose jurisdiction extends to the Project Site; or

(vii) prevent development of the Project or the Project Site in accordance with this Agreement, the Project Approvals or, as and when issued, the Subsequent Approvals.

Section 4.3 Uniform Codes. City may apply to the Project and Project Site standards contained in the Uniform Building Code and other uniform construction, fire or other codes and in City's Standard Specifications for Public Improvements ("Standard Specifications"), as the same may be adopted or amended from time to time by City, provided that the provisions of any such uniform code or Standard Specifications shall apply to the Project and Project Site only to the extent that such code or Standard Specifications is or are in effect on a city-wide basis.

Section 4.4 State and Federal Law. Nothing in this Agreement shall preclude the application to the Project Site of changes in the rules, regulations or official policies of City to the extent that the application of such changes is specifically required by changes in state or federal laws or regulations. If the application of such changes prevents or precludes compliance with one or more provisions of this Agreement, such provisions shall be modified or suspended, or performance thereof delayed, as may be necessary to comply with such changes and, subject to the provisions of Section 11.6 below, City and Developer shall take any and all such actions as may be necessary or appropriate to ensure that this Agreement shall be implemented and the rights hereunder vested to Developer to the maximum extent practicable.

Section 4.5 Timing of Project Construction and Completion.

(a) There is no requirement that Developer initiate or complete development of the Project within any particular period of time (although failure to do so according to the schedule specified in Section 1.2(a) above or Section 5.4 below shall have the consequences set forth therein), and City shall not include such a requirement in any Subsequent Approval. The parties acknowledge that Developer cannot at this time predict when or the rate at which the Project will be developed. Such decisions depend upon numerous factors which are not within the control of Developer, such as competition and regulation of the pharmaceutical industry.

(b) In light of the foregoing, the parties agree that Developer shall be able to develop in accordance with Developer's own time schedule as such schedule may exist from time to time. In particular, the parties desire to avoid the result of the California Supreme Court's holding in Pardee Construction Co. v. City of Camarillo, 37 Cal.3d 465 (1984), where the failure of the parties therein to consider and expressly provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over such parties' agreement, and therefore acknowledge that Developer shall have the right to develop the Project at such time as Developer deems appropriate within the exercise of its subjective business judgment.

(c) Nothing this Section 4.5 shall limit City's right to insure that infrastructure shall be provided as and when necessary to serve the Project or to require compliance with (i) obligations stated in a separate agreement or undertaking that is entered into voluntarily by Developer in support of any community facilities or assessment district creation or financing, (ii) conditions for commencement of construction stated in any design review approval for construction of specific improvements on a specific portion of the Project Site, or (iii) requirements of the Subdivision Map Act as included in any subdivision ordinance as applied to subdivision improvement agreement with Developer.

ARTICLE V. FINANCIAL COMMITMENTS OF CITY AND AGENCY TO DEVELOPER

Section 5.1 In General. This Article V sets forth certain financial commitments of City and Agency to Developer with respect to the Project. These commitments are made to assist Developer in locating the Project in City, to assist Agency in meeting the objectives of the Redevelopment Plan and secure to City and its citizens new jobs and economic opportunities for the future. City and Agency also acknowledge that they are willing to provide Developer with the undertakings contained in this Agreement because City and Agency have determined that development of the Project Site will provide public benefits that could not be obtained without vested approval of large-scale development including, without limitation, increased tax revenues, coordinated planning of development, installation of both on and off-site public infrastructure, creation of additional needed local employment opportunities and strengthening of the relationship between City and nearby higher education and research facilities, including the University of California at Davis. These represent special benefits to City and Agency, as Developer is proposing an anticipated $150 million capital investment in Phase I of the Project and the creation of an anticipated 300 jobs upon full operation of Phase I, a significant portion of which jobs will be for highly-skilled individuals.

City and Agency will take all appropriate actions to maintain in existence the Agency and the Redevelopment Plan, and City's and Agency's lawful authority to perform these commitments, as to the Project Site. The commitments of City and Agency set forth in this Article V are subject to the continuing legal ability of City or Agency, as appropriate, to satisfy such commitments and a reduction in incentives equivalent to any reduction in taxes received by City or Agency, as appropriate, due to the action of another governmental agency.

If such legal ability is compromised or such taxes are reduced by such governmental agency action, City and Agency shall use good faith efforts to restore the financial commitments set forth herein to the extent feasible and without impacting on a net basis the general fund of the City, subject to all applicable requirements of law and in accordance with all applicable procedures prescribed by law. The commitments set forth in this Article V may be modified administratively by City or Agency, if acceptable to Developer, so long as the total, equivalent financial incentives of City and Agency set forth herein are not exceeded or reduced.

Section 5.2 City Commitments for Phase I. City shall provide to Developer the following financial incentives:

(a) **Training Funds.** City and Developer have cooperated, and agree to continue to cooperate, in obtaining $1.9 million in training monies committed by the Private Industry Council and additional training funds from the State of California.

(b) **Relocation Assistance Package.** City will work with local lenders, realtors, moving companies and the Chamber of Commerce in providing a relocation assistance package for Developer's employees. City will seek to have such assistance include discounts provided by local businesses relative to mortgage and realtor fees, new home purchases, moving expenses and other items.

(c) **Mortgage Credit Certificate Program.** City will commit funding to Developer's qualified relocating employees under the Mortgage Credit Certificate program administered by City's Housing Office, which may include direct tax credits for mortgage interest. Further, Agency agrees to supplement the Mortgage Credit Certificates with down payments and unsecured loans. These programs shall be made available whenever funding is available.

(d) **Sales and Use Taxes.** City shall reimburse and return back to Developer all sales and use taxes received by City from the construction and equipping of Phase I of the Project until approval by the United States Food and Drug Administration ("FDA") of the first product to be manufactured at the Project and FDA licensure of the facilities producing such product. Developer recognizes that it retains primary responsibility for maximization of the benefits hereunder as designation of points of sale or use rests with Developer.

(e) **City Water Rights.** City shall make available for sale to Developer during the Term of this Agreement (i) up to and including 595 water rights, as and when requested by Developer, and (ii) if available, any additional water rights that may be needed from time to time for the Project. Agency shall pay to City all funds necessary to purchase such water rights to the extent set forth in Section 5.3(c)(iv) and (v) below, and any additional funds necessary to purchase additional water rights shall be provided by Developer to City.

Section 5.3 Agency Commitments for Phase I. Agency shall provide to Developer the following financial incentives:

(a) **Direct Property Tax Incentives.** Agency will rebate to Developer all property taxes paid with respect to the Project or the Project Site, to a total of $4 million. This amount is based upon an assumed, assessed value of land and Phase I improvements of $150 million. Developer recognizes that $750,000 of this rebate of property taxes will be paid by Solano County under an agreement with City, and City and Agency shall take all actions necessary or appropriate to ensure that the County provides such rebate with respect to its share of taxes. If the County fails for any reason to provide its $750,000 share of this rebate in a timely manner, Agency shall provide such rebate to Developer out of its own share of such property taxes to a total of $4 million.

(b) **Payment of Development and Impact Fees.** Agency agrees to pay, on behalf of Developer as and when due, all processing, permit application, development impact and other fees arising from Phase I of the Project including, without limitation, the county facilities fee, the school mitigation fee, the drainage fee, the traffic fee, the general city facilities fee, the police facilities fee and the fire facilities fee. This obligation of Agency also includes any increases or other modifications in or to existing fees, and any new fees or processing charges that may be imposed by City or Agency during the Term of the Agreement. This obligation of Agency shall not include the cost of environmental studies and reviews, which shall be the sole responsibility of Developer.

(c) **Water and Sewer-Wastewater Charges and Costs.** Agency agrees to fund, on behalf of Developer, the following costs associated with water and wastewater treatment and distribution or collection:

(i) Agency shall pay all City water and sewer rate charges applicable to the Project up to a maximum of $200,000 until FDA approval of the first product to be manufactured at the Project and FDA licensure of the facilities producing such product.

(ii) Agency shall advance to the City (without any requirement for reimbursement or repayment by Developer) the design and construction costs for offsite water distribution lines for the Project.

(iii) Agency shall pay to City the City's wastewater connection fees applicable to the Project up to an EDU equivalence of 660.8 based on City's EDU equivalence formula as of the Approval Date.

(iv) Agency shall pay to City those funds necessary for the purchase of up to 595 water rights for the Project. This obligation of Agency relates to Developer's continuing process of evaluating the use of SID water for all non-potable uses with City potable water as temporary backup for the Project, as described in Section 6.1(b) below. To the extent that Developer can use SID water for non-potable uses of the Project, City shall waive its water connection fees (but not any water rate charges of City which, however, are subject to clause (i) above), and the parties mutually shall determine what alternative

incentives will be provided to Developer with the funds that would have been required to pay for water rights.

(v) Agency and Developer recognize that construction of a system to supply SID raw water to the Project may not fully be built and operational in time for the operation of Phase I, so Developer may need to use City water on an interim basis until being able to convert to the SID system. In this event, Agency will purchase some or all of the 595 water rights as necessary to supply water for Phase I. After conversion to the SID system, City shall buy back some or all of those water rights, as they will then have been freed for other use. If less than 595 water rights are purchased hereunder, or if and when City repurchases water rights for other use, the parties mutually shall determine what alternative incentive shall be provided to Developer with the then available funds.

(d) **Mortgage Credit Certificate Program.** Agency agrees to supplement the Mortgage Credit Certificates with down payments and unsecured loans as set forth in Section 5.2(c) above.

Section 5.4 Limitations on Financial Commitments. The obligations of City and Agency with respect to Phase I as set forth in Section 5.2 and Section 5.3 above are conditioned upon Developer's commencement and completion of Phase I by the dates specified below. Should Developer fail to meet such dates, unless said dates are extended pursuant to Section 11.6 below, then the obligations of City and Agency set forth in Section 5.2 and Section 5.3 above shall no longer be of any force or effect and Developer shall repay any and all advanced costs or other payments. The specified dates are:

(a) Developer fails to commence Phase I construction by December 31, 1997; or

(b) Developer fails to continue construction such that City issues an occupancy permit for Phase I by December 31, 1999.

Developer's failure to commence and complete construction as set forth above will not constitute a breach of this Agreement resulting in default for which the Agreement may be terminated by City, nor shall it suspend any obligations of City or Agency other than as specifically stated in Sections 5.2 and 5.3. The provisions of this Section 5.4 shall be the sole basis for any repayment by Developer of advanced costs or other payments.

Section 5.5 Adjustments to Phase I Financial Commitments. The financial commitments for Phase I set forth in Sections 5.2 and 5.3 are based on a total anticipated capital investment of $150 million in Phase I and the creation of an anticipated 300 jobs upon full operation of Phase I, a significant portion of which jobs will be for highly-skilled individuals. The parties agree to adjustment of financial commitments as provided in the remainder of this Section 5.5:

(a) If the assessed value of Phase I of the Project is less than $150 million, then the $4 million rebate of property taxes to Developer by Agency pursuant to Section 5.3(a) above will be proportionally reduced. If the assessed value of Phase I of the Project is more than $150 million, then the $4 million rebate of property taxes to Developer by Agency pursuant to Section 5.3(a) above will be increased by the amount of property taxes resulting from such increased assessed value, based on the Agency's share of the $4 million, which is $3.25 million. Thus, by way of example only, if the assessed value of Phase I were to increase by one third (1/3) to $200 million, Agency would rebate an increased amount to Developer for Phase I as follows: 1/3 multiplied by $3.25 million, for an additional $1.08 million and a total rebate of $5.08 million under Section 5.3(a) and this Section 5.5.

(b) If the assessed value of Phase I of the Project is more than $150 million, then notwithstanding Section 5.3(b) above Developer shall pay on its own behalf all increased costs of processing and permitting for Phase I (e.g., processing fees and permit application costs) to the extent due to such increase in assessed value over $150 million, assuming Phase I of the Project continues to be approximately 280,000 square feet of development. If the final assessed value of Phase I of the Project is more than $150 million, City or Agency will send an invoice for costs of processing and permitting due to such increase in assessed value over $150 million, and Developer will make prompt payment of such invoiced amount.

(c) Notwithstanding any decrease or increase in assessed value of Phase I of the Project compared to $150 million, except as otherwise set forth in Sections 5.5(a) and (b) above Developer shall continue to be entitled to the incentives set forth in Sections 5.2 and 5.3 above, subject to the second paragraph of Section 5.1 above. The incentives for the Project set forth in Sections 5 and 6 of this Agreement shall not be adjusted or altered except as provided in this Agreement.

Section 5.6 Future Financial Incentives of City and Agency. Subject to Section 5.1. above and the remainder of this Section 5.6, City and Agency shall provide a corresponding package of incentives for Project facilities constructed by Developer in addition to Phase I, as follows:

(a) For each biopharmaceutical development and manufacturing project with an assessed value of $20 million or more (hereinafter, a "Future Project"), the Agency will rebate to Developer the full "net property tax increment" (as defined below) with respect to such Future Project as provided in clauses (i) through (iii) below. For purposes hereof, "net property tax increment" with respect to any Future Project means all property taxes paid with respect to such Future Project, less the pass-through of funds to Solano County and other agencies, but including the low-income and moderate-income housing set aside (presently set at 20% of the tax increment) which will be paid by Agency from other tax increment received by Agency from the redevelopment project area as a whole.

(i) With respect to each Future Project, Agency will rebate Developer one hundred percent (100%) of the full net property tax increment for a period of 5 years (i.e.,

10 semi-annual tax payments) commencing from the date determined pursuant to clause (ii) below. Thereafter, with respect to each such Future Project, Agency will rebate Developer fifty percent (50%) of the full net property tax increment for each of the following 5 years (i.e., an additional 10 semi-annual tax payments).

(ii) With respect to any particular Future Project, payments to Developer by Agency hereunder shall commence upon written notice from Developer to Agency, and continue thereafter for the following 10 years as set forth in clause (i) above.

(iii) Developer recognizes that the effective periods for redevelopment activities are established by the project plans themselves and applicable state law. In the case of the I-505/80 Redevelopment Project Area of which the Project Site is a part, the estimated period for development activities is the year 2013 unless Agency has incurred debt. The parties agree to work cooperatively to ensure that the incentives to Developer under this Section 5.6 with respect to Future Projects can be provided for the entire Term of the Agreement. For such purposes, the parties understand that the obligations of Agency hereunder are commitments that constitute debt of Agency under applicable law.

(b) The obligations of Agency under this Section 5.6 are subject to the terms of the second paragraph of Section 5.1, and only apply as to property taxes actually paid with respect to a Future Project.

(c) Developer agrees to assist and work cooperatively with City and Agency to seek state and federal grants to support construction of public and private infrastructure for the general area in which the Project Site is located.

(d) Developer will consider establishing points of sale or use from the sales of Developer's products manufactured at the Project in order to provide additional sales and use taxes for City. City recognizes that at this time Developer is limited in establishing such points of sale by Developer's current business operations as well as state and federal law.

ARTICLE VI. COMMITMENTS OF CITY, AGENCY AND GENENTECH RELATED TO THE PROVISION OF CERTAIN UTILITIES

Section 6.1 Provision of Raw and Potable Water.

(a) City acknowledges that the availability of a stable supply of water is integral to Developer's biopharmaceutical manufacturing processes. Therefore, City, Agency, Developer and the Solano Irrigation District ("SID") have been cooperating to insure the availability of water for the Project. City shall guarantee to, or reserve for, Developer 410,000 gallons per day ("gpd") average daily flow of water for Phase I (assuming a maximum peaking factor of 2.0) and 1,230,000 gpd average daily flow for Future Proposed Buildout (assuming a maximum peaking factor of 1.3) or an equivalent maximum daily flow not to exceed 1,600,000 gallons. This guarantee or reservation includes raw, untreated water (from City and SID, as provided in Section 6.1(b) below) and treated, potable water from

City, and covers both the City's water treatment capacity (subject to Section 6.3 below) and the distribution system capacities which are development impact fee projects. Developer acknowledges that infrastructure for the Project generally has been designed to accommodate Phase I and Future Proposed Buildout, but not additional development. The Parties recognize that treated water from City will be necessary for some functions of Developer's facilities, but the allocation of water needed between untreated and treated water is presently unknown.

(b) Such water will be raw, untreated water from either City or SID, and treated, potable water from City. Developer is evaluating the possibility of using SID water for non-potable water uses of the Project with City water as a backup. City acknowledges that the determination of this matter is not fully within the control of Developer, as it involves, among other things, FDA approval of such SID water for such uses. Developer agrees to attempt to maximize its use of untreated water from SID, and it is presently contemplated by the parties that approximately seventy-three percent (73%) of the water to be used may be able to be supplied through untreated water sources. SID has committed to provide 1,000 acre feet (or approximately 893,000 gpd average daily flow) for the Project, which could supply approximately seventy-three percent (73%) of the Project's needs at completion of Future Proposed Buildout. The City has committed to supply the remaining raw, untreated water needs of the Project from other City sources, if additional raw, untreated water is needed. Further, City shall provide treated water to Developer in the amounts set forth above should use of untreated water prove infeasible, in whole or in part (including if SID for any reason does not supply water in accordance with this commitment), or during temporary periods of time during each year when the reliability of the untreated water supply from SID is reduced due to, for example, the periodic cleaning of the Putah South Canal.

(c) When Developer exercises its option (under Section 6.3 below) with respect to the last 410,000 gpd average daily flow portion of the total 1,230,000 gpd average daily flow for Future Proposed Buildout, Developer will commit to a peaking factor of not greater than 1.3 for 1,230,000 gpd average daily flow, or an equivalent maximum daily flow not to exceed 1,600,000 gallons or, if Developer cannot satisfy this commitment, provide appropriate mitigation (if then needed) in connection with Developer's treatment demands. Developer recognizes that infrastructure is being designed and constructed based upon the commitment to the maximum daily flows and peaking factors set forth herein. Prior to construction of any portion of Future Proposed Buildout, Developer will supply to City engineering reports showing the ability to meet these peaking standards or maximum daily flows.

Section 6.2 Limitation on Water Rationing. City shall not impose rationing or restrictions on Developer's water usage in licensed production processes at the Project, which are essential operations, unless to maintain such water supply would result in a threat to public health and safety. Not in limitation of the foregoing, City shall comply with the provisions of California Water Code § 350 et seq. in imposing any such rationing.

Section 6.3 Assuring Water Treatment Capacity. The parties recognize that utilization of treated water for the Project necessarily relies upon the availability of water

treatment capacity in City's water treatment plants. In order to insure the availability of treated water to Developer, City shall guarantee or reserve water treatment capacity during the Term of this Agreement as follows:

(a) The capacity to treat the water for Phase I (410,000 gpd average daily flow, assuming a maximum peaking factor of 2.0) shall be reserved by City out of existing capacity in its water treatment facilities.

(b) The maximum water treatment capacity for Future Proposed Buildout is 1,230,000 gpd average daily flow (with a peaking factor of 1.3) or an equivalent maximum daily flow not to exceed 1,600,000 gallons. City hereby grants Developer an option to reserve and guarantee, in the future, water treatment capacity for all or any portion of its Future Proposed Buildout requirements, which option may be exercised at any time during the Term of this Agreement on the terms set forth herein, subject to the following:

(i) City will notify Developer when 3,000,000 gpd of treatment capacity is left in City's existing water treatment facilities and, when so notified, Developer may elect to reserve all or any portion of Future Proposed Buildout requirements for treated water from the treatment capacity of such existing facilities. If it so elects, Developer shall reserve such treatment capacity by paying to City Developer's proportionate share of the design costs for the next, proposed expansion of City's water treatment facilities (the calculation of such proportionate share to be calculated based on the amount of treatment capacity that Developer has so elected to reserve from City's existing facilities in relation to the total projected capacity of the proposed expansion). Any such design costs paid hereunder will be credited later against any water treatment connection fees paid by Developer for the reserved capacity, which connection fees shall be paid by Developer upon the earlier to occur of (x) Developer's actual connection to City's existing water treatment facilities for the reserved capacity or (y) the date upon which City calls for bids for the construction of the new water treatment facilities.

(ii) On or before the date upon which City calls for bids for the construction of its new water treatment facilities, Developer may reserve from City's existing facilities all or any portion of Future Proposed Buildout water treatment requirements not reserved by Developer under clause (i) above by paying the connection fees for such additional amount; provided, however, that Developer may reserve such additional capacity from City's existing facilities only to the extent that such capacity exists and has not legally been obligated or set aside for the use of another person or entity.

(iii) Any portion of Future Proposed Buildout requirements not reserved from City's existing facilities under clause (i) or clause (ii) above, if any, shall remain subject to Developer's option and may be reserved at any time out of the new water treatment facilities being constructed, with payment of the water treatment connection fees at time of such reservation.

Section 6.4 Collection of Wastewater.

(a) Just as City has acknowledged that the availability of a stable supply of water is integral to Developer's biopharmaceutical manufacturing processes so, too, is the collection and treatment by City of the wastewater from Developer's facilities integral to the Project. Therefore, City, Agency and Developer have been cooperating to insure the availability of sufficient wastewater collection infrastructure and wastewater treatment capacity to serve the Project.

(b) City shall guarantee or reserve collection infrastructure and treatment capacity for (i) 350,000 gpd average daily flow for the maximum month (assuming a maximum peaking factor of 2.0) for Phase I and (ii) for Future Proposed Buildout, 1,050,000 gpd average daily flow for the maximum month (with a peaking factor not to exceed 1.3) or an equivalent maximum peak hour flow not to exceed 1,365,000 gpd. This guarantee or reservation covers both the City's wastewater treatment capacity and the wastewater collection system capacity which is comprised of development impact fee projects. In addition, Agency commits to advance the costs associated with improvements at the Golden West Lift Station, if necessary, so that Phase I can be fully accommodated by June 1, 1997.

(c) When Developer exercises its option (under Section 6.5 below) with respect to the last 350,000 gpd average daily flow portion of the total 1,050,000 gpd average daily flow for Future Proposed Buildout, Developer will commit to a peaking factor of not greater than 1.3 for 1,050,000 gpd average daily flow, or wastewater flows not to exceed an equivalent maximum peak hour flow of 1,365,000 gpd or, if Developer cannot satisfy this commitment, provide appropriate mitigation (if then needed) in connection with Developer's treatment demands. Developer recognizes that infrastructure is being designed and constructed based upon the commitment to the maximum peak hour flows and peaking factors set forth herein. Prior to construction of any portion of Future Proposed Buildout, Developer will supply to City engineering reports showing the ability to meet these peaking standards or maximum daily flows.

Section 6.5 Wastewater Treatment Capacity.

(a) The parties recognize that wastewater from Developer's facilities necessarily relies upon the availability of wastewater collection systems, including lines, pumps, and lift stations, as well as treatment capacity in City's wastewater treatment plant. The wastewater collection systems are provided under the City's infrastructure planning documents and the "NESAD" assessment district referenced in this Agreement.

(b) In order to insure the availability of wastewater treatment capacity for Developer, City shall guarantee or reserve wastewater treatment capacity during the Term of this Agreement as follows: The capacity to treat the wastewater for Phase I (350,000 gpd average daily flow for the maximum month, assuming a maximum peaking factor of 2.0) shall be reserved by City out of existing capacity in its wastewater treatment facilities. As to the

wastewater treatment capacity for Future Proposed Buildout (1,050,000 gpd average daily flow for the maximum month with a peaking factor not to exceed 1.3, or wastewater flows not to exceed an equivalent maximum peak hour flow of 1,365,000 gpd), City hereby grants Developer an option to reserve and guarantee, in the future, wastewater treatment capacity for all or any portion of its Future Proposed Buildout requirements, which option may be exercised at any time during the Term of this Agreement on the terms set forth herein, subject to the following:

(i) City will notify Developer when 1,550,000 gpd of treatment capacity is left in City's existing wastewater treatment facilities and, when so notified, Developer may elect to reserve all or any portion of Future Proposed Buildout requirements for wastewater treatment from the treatment capacity of such existing facilities. If it so elects, Developer shall reserve such treatment capacity by paying to City Developer's proportionate share of the design costs for the next, proposed expansion of City's wastewater treatment facilities (the calculation of such proportionate share to be calculated based on the amount of treatment capacity that Developer has so elected to reserve from City's existing facilities in relation to the total capacity of the proposed expansion). Any such design costs paid hereunder will be credited later against any wastewater treatment connection fees paid by Developer for the reserved capacity, which connection fees shall be paid by Developer upon the earlier to occur of (x) Developer's actual connection to City's existing wastewater treatment facilities for the reserved capacity or (y) the date upon which City calls for bids for the construction of the new wastewater treatment facilities.

(ii) On or before the date upon which City calls for bids for the construction of its new wastewater treatment facilities, Developer may reserve from City's existing facilities all or any portion of Future Proposed Buildout wastewater treatment requirements not reserved by Developer under clause (i) above by paying the connection fees for such additional amount; provided, however, that Developer may reserve such additional capacity from City's existing facilities only to the extent that such capacity exists and has not legally been obligated or set aside for the use of another person or entity.

(iii) Any portion of Future Proposed Buildout requirements not reserved from City's existing facilities under clause (i) or clause (ii) above, if any, shall remain subject to Developer's option and may be reserved at any time out of the new wastewater treatment facilities being constructed, with payment of the wastewater treatment connection fees at time of such reservation.

Section 6.6 Coordination. City shall, each year, provide Developer with City's annual growth audit (or supplement thereto) promptly upon issuance of same. In addition, City and Developer will meet and confer, on an annual basis or as reasonably requested by either of them, to discuss factors such as projected pace of growth, time schedule, capacity, funding and permit status of City's new water and wastewater treatment facilities, etc.

Section 6.7 Assuring Roadway Capacity. City agrees to vest the Project with 90 peak hour trips for Phase I. City also agrees to vest an additional 150 peak hour trips for Future Proposed Buildout, subject to the following:

(a) City will notify Developer when one of the major intersections analyzed in the traffic study prepared in conjunction with the Mitigated Negative Declaration reaches Level of Service "D", i.e., the volume to capacity ratio is at or exceeds 0.80.

(b) At any time or from time to time during the Term, if Developer so elects, it may reserve all or a portion of the existing roadway capacity equivalent to an additional 150 peak hour trips, by paying to City the traffic impact fees. The amount of such fees shall be calculated on a per square foot basis for that portion of Future Proposed Buildout for which Developer wishes to vest roadway capacity.

(c) If the Level of Service for a major intersection is at or below Level of Service "E" or if Project will generate more than a cumulative total of 240 peak hour trips, the provisions of the City's Traffic Mitigation Policy shall apply.

Section 6.8 Provision of Electric Energy to Project. City and Agency will work cooperatively with Developer to negotiate the provision of electrical energy to the Project Site by the Pacific Gas and Electric Company.

ARTICLE VII. OTHER COMMITMENTS OF CITY AND AGENCY

Section 7.1 Property Tax Valuations. City and Agency agree to cooperate with Developer in seeking agreement with the Solano County Assessor and others to limit, to salvage value, the property valuation assessment or appraisal of the Project's facilities and equipment until FDA approval of the first product manufactured at the Project and FDA licensure of the facilities producing such product. Absent such agreement, City will cooperate with Developer in seeking legislation or other direction regarding valuation from the State of California.

Section 7.2 Other Governmental Permits. City shall cooperate with Developer in its endeavors to obtain any other permits and approvals as may be required from other governmental or quasi-governmental agencies having jurisdiction over the Project Site or portions thereof (such as, for example but not by way of limitation, public utilities or utility districts and agencies having jurisdiction over wetlands and air quality issues) and shall, from time to time, at the request of Developer join with Developer in the execution of such permit applications and agreements as may be required to be entered into with any such other agency, so long as the action of that nature will not require City to be exposed to any unreimbursed cost, liability or expense. City shall not unreasonably withhold approval of any amendment to this Agreement, or to any Project Approval or Subsequent Approval, mandated by conditions of approval imposed by any other governmental agency.

Section 7.3 Biological Issues. Not in limitation of anything contained in Section 7.2, City shall use its best efforts to assist Developer in resolving wetlands-related and other biological issues associated with the development and use of the Project Site.

ARTICLE VIII. OTHER DEVELOPER COMMITMENTS

Section 8.1 In General. Developer will develop Project in a manner consistent with the provisions of this Agreement, Applicable Law, the Project Approvals and any Subsequent Approvals required by Applicable Law and issued or approved by City or Agency.

Section 8.2 Planning Costs. Developer shall pay its own planning costs for the Project and, subject to full reimbursement under Article V and Article VI, all development impact fees.

Section 8.3 NESAD. Subject to the obligation of City diligently to process and act upon the same, Developer shall cooperate in the formation of the multi-owner assessment district presently contemplated to consist of the Project Site and adjoining property to the north and east between I-505, and I-80 and the present alignment of Leisure Town Road and related to common public improvements for the area ("NESAD"). Developer shall not, however, be barred from timely challenging the assessment spread of the costs of public improvements to be constructed by NESAD.

ARTICLE IX. CONSIDERATION OF SUBSEQUENT APPROVALS

Section 9.1 Expedited Processing. City shall provide priority and expedited processing and approval of all applications for Subsequent Approvals. Not in limitation of the foregoing, (i) City shall commit the necessary time and resources of City staff to work with the Developer on the timely processing of applications for Subsequent Approvals and (ii) shall accept, process and review, in good faith and in a timely manner (subject to payment of such applicable fees as may be charged hereunder in connection therewith), all applications so submitted by Developer.

Section 9.2 Approval of Applications for Subsequent Approvals. City shall not deny applications for Subsequent Approvals that are consistent with the this Agreement, Project Approvals and Applicable Law.

Section 9.3 Limitations on Discretionary Actions. City shall limit required discretionary actions for the Project to those required under Applicable Law.

Section 9.4 Applicable Law. All applications for Subsequent Approvals submitted by Developer shall be considered by City in light of and in accordance with Applicable Law.

Section 9.5 Administrative Approvals. Except as otherwise specifically required under state law, all applications for discretionary Subsequent Approvals that are consistent with the Policy Plan (as it exists on the Approval Date) shall be given approval by City's

Director of Community Development or his or her designee ("Director") with opportunity for appeal by Developer to the Planning Commission, with further opportunity for appeal to the City Council.

Section 9.6 Other Approvals. City shall act in accordance with General Plan and Policy Plan policies restricting approval of incompatible land uses in the vicinity of the Project Site.

Section 9.7 Mitigation and Mitigation Monitoring. The imposition and monitoring of mitigation measures imposed on the Project under CEQA shall be as follows:

(a) Mitigation requirements under CEQA for Phase I and Future Proposed Buildout shall be limited to those outlined in the Mitigated Negative Declaration (and those included in Applicable Law through their prior specific incorporation into the provisions of the Policy Plan), except to the extent CEQA specifically requires additional environmental review and mitigation.

(b) In connection with any application for a Subsequent Approval, City may evaluate Developer's compliance with, and the applicability of, any mitigation requirements previously imposed by City and which relate to that portion or phase of the Project for which the Subsequent Approval is being sought.

(c) As set forth in Section 12.1(d) below, Developer's implementation of and compliance with applicable mitigation requirements shall be reviewed on an annual basis.

Section 9.8 Life of Approvals. Except as otherwise specifically required under state law, no Project Approval or Subsequent Approval shall expire prior to the expiration of the term of the Agreement, provided that (i) the Tentative Parcel Map shall have a term equivalent to that provided under Applicable Law and (ii) design review approvals each shall have a term of no less than five (5) years.

ARTICLE X. AMENDMENTS

Section 10.1 Amendments of Agreement. This Agreement may be amended from time to time by mutual consent of the parties or their successors in interest, in accordance with the provisions of Government Code Section 65867 and 65688, and Vacaville Municipal Code Chapter 15.60, provided that:

(a) Procedural Exemptions. Any amendment to this Agreement which does not relate to the Term of the Agreement, permitted uses of the Project Site, provisions for the reservation or dedication of land, the conditions, terms, restrictions and requirements relating to subsequent discretionary approvals of City, or monetary exactions of Developer, shall be considered an "Administrative Amendment" and shall not require notice or public hearing before the parties may execute an amendment thereto. However, when in the judgment of the Director or any member of the City Council that notice and public hearing on

any Administrative Amendment would be appropriate, then there shall be a noticed public hearing on said Administrative Amendment.

(b) Amendments of Approvals. No amendment of a Project Approval or Subsequent Approval, or any other issuance of a Subsequent Approval, shall require an amendment to the Agreement. All such amendments and issuances automatically shall be incorporated into this Agreement and vested hereby.

(c) Minor Amendments. Minor amendments of Project Approvals and Subsequent Approvals may be approved without notice or public hearing.

ARTICLE XI. DEFAULT, REMEDIES, TERMINATION OF AGREEMENT

Section 11.1 Defaults.

(a) Any failure by either party to perform any term or provision of this Agreement, which failure continues uncured for a period of sixty (60) days following written notice of such failure from the other party (unless such period is extended by written mutual consent), shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 60-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 60-day period. If the failure is cured, then no default shall exist and the noticing party shall take no further action. If the failure is not cured, then a default shall exist under this Agreement and the non-defaulting party may institute legal proceedings to enforce the terms of this Agreement (as set forth below) or, in the event of a material default, terminate this Agreement.

(b) During any such cure period or during any period prior to notice of failure or default, the party charged shall not be considered in default for purposes of this Agreement. If there is a dispute regarding default or any other matter under this Agreement, the parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter and pending its resolution or formal termination of the Agreement.

Section 11.2 Termination by City. If City elects to consider terminating this Agreement due to a material default of Developer, then City shall give a notice of intent to terminate this Agreement and the matter shall be scheduled for consideration and review by the City Council in the manner set forth in California Government Code §§ 65865, 65867, and 65868. If the City Council determines that a material default has occurred and is continuing, and elects to terminate this Agreement, City shall give written notice of termination of this Agreement to Developer by certified mail and this Agreement shall be terminated thereby; provided, however, that Developer reserves any and all rights it may have to challenge in court City's termination of this Agreement and the basis therefore.

Section 11.3 Other Remedies. Except as otherwise specifically stated in this Agreement, either party may, in addition to any other rights or remedies, institute legal action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation hereof, recover damages for any default, enforce by specific performance the obligations and rights of the parties hereto or obtain any other remedy consistent with this Agreement.

Section 11.4 No Waiver. Failure or delay in giving notice of default shall not constitute a waiver of default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failure or delay by a party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies; nor shall it deprive any such party of its right to institute and maintain any actions or proceedings that it may deem necessary to protect, assert or enforce any such rights or remedies.

Section 11.5 Governing Law; Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of California. Should any legal action be brought by either party because of breach of this Agreement or to enforce any provision of this Agreement, or to obtain a declaration of rights hereunder, the prevailing party shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the Court.

Section 11.6 Force Majeure. Performance by any party of its obligations hereunder (other than for payment of money) shall be excused during any period of "Permitted Delay" as hereinafter defined. For purposes hereof, Permitted Delay shall include delay beyond the reasonable control of the party claiming the delay (and despite the good faith efforts of such party) including, but not limited to (i) acts of God, (ii) civil commotion, (iii) riots, (iv) strikes, picketing or other labor disputes, (v) shortages of materials or supplies, (vi) damage to work in progress by reason of fire, floods, earthquake or other casualties, (vii) failure, delay or inability of the other party to act, (viii) as to Developer only, the failure, delay or inability of City to provide adequate levels of public services, facilities or infrastructure to the Project Site including, by way of example only, the lack of water to serve the Project Site, or any part thereof due to drought; (ix) delay caused by governmental restrictions imposed or mandated by other governmental entities, (x) enactment of conflicting state or federal laws or regulations, (xi) judicial decisions or similar basis for excused performance; and (xii) litigation brought by a third party attacking the validity of this Agreement. Any party claiming delay shall promptly notify the other party (or parties) of any delay hereunder as soon as possible after the same has been ascertained.

Section 11.7 Developer Right to Terminate. Notwithstanding anything to the contrary contained herein, Developer may terminate this Agreement by giving written notice to City and Agency, and this Agreement shall terminate as of the date of such notice and be of no further force or effect, upon the occurrence of any of the following:

(a) The legal ability of City or Agency to maintain the financial incentives set forth in Article V above is compromised, or the taxes received by the City or Agency are reduced, in such a manner that City or Agency cannot maintain or must reduce such incentives (notwithstanding the good faith efforts of City or Agency under Section 5.1 above to restore such incentives) to an amount or level insufficient to justify (in Developer's sole business judgment) the continuation of this Agreement; or

(b) City applies new measures to the Project under Section 4.4 above and such measures render infeasible the Project in Developer's sole business judgment; or

(c) this Agreement is made subject to a referendum in accordance with the provisions of Government Code § 65454.

ARTICLE XII. MEETINGS AND EXCHANGES OF INFORMATION; ANNUAL REVIEW

Section 12.1 Meetings and Exchanges of Information. Regardless of whether an annual review is conducted during any given year as set forth in Sections 12.2 through 12.5 below, City and Developer shall meet, confer and exchange information regarding the Project and other matters as follows:

(a) Developer shall provide to City, on an annual basis or as reasonably requested by City, engineering reports relating to Developer's water and wastewater usage for each phase of the Project. In addition, Developer shall provide to City the information specified in the last sentences of Sections 6.1(c) and 6.4(c) at the times specified therein.

(b) Developer shall provide City, on an annual basis or as reasonably requested by City, with updated schedules for Future Proposed Buildout and other buildout of the Project.

(c) As set forth in Section 6.6 above, City shall, each year, provide Developer with City's annual growth audit (or supplement thereto) promptly upon issuance of same.

(d) Developer and City shall meet and confer, on an annual basis or as reasonably requested by either of them, to discuss the coordinated planning and development of the Project and the Project Site. Such meetings and conferrals shall include, without limitation, discussion of the subjects identified in Sections 6.3(b)(i), 6.5(b)(i), 6.6 and 6.7 above (relating to, among other things, available capacity in City's water and wastewater treatment facilities) and the status of Developer's implementation of (and compliance with) any mitigation requirements imposed under the Mitigated Negative Declaration or other CEQA review of the Project.

Section 12.2 Annual Review in General. The good faith compliance of Developer with the provisions of this Agreement shall be subject to annual review pursuant to

Government Code § 65865.1 and Chapter 15.60.70 of the Vacaville Municipal Code, utilizing the procedures set forth below. Review shall be conducted by the "Director" (as defined in Section 9.5 above) upon a submission made by Developer of a draft report, accompanied by the fee therefor, on behalf of all of the Project Site pursuant to Vacaville Municipal Code § 15.60.070B not less than 45 days nor more than 60 days prior to the anniversary of the Effective Date. City recognizes that the development contemplated by this Agreement is unique and necessitates a much reduced annual report in comparison to development agreements that relate to residential development, for example.

The Director may refer the review to the Planning Commission pursuant to the terms of Vacaville Municipal Code § 15.06.070F. If Developer fails to submit a draft report and the City does not notify Developer, within 90 days following the anniversary of the Effective Date, of Developer's failure to so submit such a report, then the annual review for such year shall be deemed to have satisfactorily been completed and Developer shall be deemed to be in compliance with the terms of this Agreement.

Section 12.3 Showing Required. During the annual review, Developer shall be required to demonstrate good faith compliance with the terms of this Agreement and provide such documents in connection with such demonstration as the Director may reasonably request.

Section 12.4 Notice Of Staff Reports, Opportunity To Respond. At least ten (10) days prior to the conduct of any annual review, Director shall deliver to Developer a copy of any staff reports and documents to be used or relied upon in conducting the review. Developer shall be permitted an opportunity to respond to Director's evaluation of its performance by written and oral testimony at a public hearing to be held before Director, if Developer elects.

Section 12.5 Director's Findings; Appeal. At the conclusion of the review, Director shall make written findings and determinations, on the basis of substantial evidence, as to whether or not Developer has complied in good faith with the terms and conditions of this Agreement. If Director finds that Developer has not complied in good faith the terms and conditions of this Agreement (and all appeal periods have expired and any appeals have been completed as set forth below), then City shall deliver to Developer a notice of failure or default as specified in Section 11.1 above. Any interested person may appeal the decision of Director directly to the City Council, such appeal to be filed within ten (10) days after Director has rendered his decision in writing or issued a Certificate of Compliance.

Section 12.6 Notice Of Termination. If City determines to terminate or modify this Agreement due to any default by Developer (or any person, firm or entity holding a recorded interest in the Project Site or any portion thereof) then (i) if termination is proposed, it shall apply solely with respect to that portion of the Project Site (if less than all) affected by the failure to show good faith compliance and (ii) if modification hereof is proposed, the modification shall pertain solely to the provisions hereof as applicable to that portion of the

Project Site (if less than all) affected by the condition that has prompted the proposed modification.

Section 12.7 Notice Of Compliance. Upon Developer's request, City shall provide Developer with a written notice of compliance, in recordable form, duly executed and acknowledged by City with respect to any year for which annual review has been conducted or waived and Developer has been found or deemed to be in compliance. Any person (including any "Financing Entity" or "Lender," as defined below) having a recorded interest in any portion of the Project Site will have the right to record such notice.

ARTICLE XIII. TRANSFERS AND ASSIGNMENTS

Section 13.1 Developer includes Genentech and Affiliates. As used herein, the term "Developer" shall mean Genentech, Inc., a Delaware corporation ("Genentech"), any "Affiliate" of Genentech (defined below) or any corporation succeeding to substantially all of the assets of Genentech or an Affiliate of Genentech as a result of a consolidation or merger, or a corporation to which all or substantially all of the assets of Genentech or an Affiliate of Genentech have been sold. As used in the immediately preceding sentence, the term "Affiliate" shall mean any corporation directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Genentech. As used in the immediately preceding sentence, the term "control" shall mean the right to the exercise, directly or indirectly, of more than fifty percent (50%) of the voting rights attributable to the shares of the controlled corporation.

Section 13.2 Financing Structure.

(a) City and Agency understand and acknowledge that Developer intends to finance the acquisition of the Project Site, and construction and operation of the Project or portions thereof, as set forth in subsection (b) below. City and Agency hereby acknowledge that (except as specifically set forth in this Agreement, including in Section 13.3 below) no transfer of any interest in any portion of the Project Site occurring in connection with any such arrangement shall limit or affect in any way the rights of Developer or obligations of the City or the Agency under this Agreement.

(b) Developer intends to cause title to the Project Site or portions thereof to be acquired by one or more third party financing entities (each such entity, together with its successors and assigns, a "Financing Entity"). The Financing Entity's acquisition of title to the Project Site or relevant portion thereof may be funded by a loan from or sale of promissory notes to one or more lenders (each such entity, together with its successors and assigns, a "Lender") in exchange for one or more promissory notes from the Financing Entity secured by a deed of trust or mortgage covering the Financing Entity's interest in the Project Site or relevant portion thereof. The Financing Entity will lease the Project Site or relevant portion thereof to Developer under one or more leases (each such lease, a "Lease"), and Developer will build and operate the Project as the sole lessee and an occupant and user of the Project Site or relevant portion thereof.

(c) City and Agency acknowledge and agree that each Lender and Financing Entity shall be deemed a "Mortgagee" within the meaning of Article XIV below and shall be afforded all of the rights and protections afforded to Mortgagees under such Article XIV, with respect to the portion or portion of the Project Site in which they have a recorded interest.

Section 13.3 Transfers and Assignments. City, Agency and Developer desire to set forth terms governing the degree to which the "Financial Commitments," "Entitlement Commitments" and "Infrastructure Commitments" (each as defined below) shall benefit Developer personally or inure to the benefit of Developer's successors and assigns, as follows:

(a) For so long as Developer holds any legal or equitable interest in the Project Site or any portion thereof including, without limitation, as lessee under a Lease, the Financial Commitments, Entitlement Commitments and Infrastructure Commitments shall continue to inure to the benefit of Developer, and shall not inure to the benefit of any holder of any other interest in the Project Site (including, without limitation, any Financing Entity or Lender) or any transferee of Developer or any such holder.

(b) If all of Developer's interest in the Project Site or any portion thereof is terminated for any reason including but not limited to transfer or foreclosure (after lapse of any applicable periods for contest or appeal), the Entitlement Commitments shall inure to the benefit of the then owner of the fee interest of the Project Site or any portion thereof, but only with respect to those improvements to the Project Site which have been completed or as to which construction has been commenced, in any case as of the date of such termination. For the purposes of this Subsection 13.3(b) and Subsections 13.3(c) and (d) below, all of Developer's interest in a portion of the Project Site shall be deemed to have terminated with respect to any such portion that is transferred by Developer by lease, sale or any other conveyance to a third party for development other than the Project.

(c) If all of Developer's interest in the Project Site or any portion thereof is terminated for any reason including but not limited to transfer or foreclosure (after lapse of any applicable periods for contest or appeal), then any Financial Commitments which have not yet been paid or performed shall terminate in their entirety.

(d) If all of Developer's interest in the Project Site or any portion thereof is terminated for any reason including but not limited to transfer or foreclosure (after lapse of any applicable periods for contest or appeal), then any Infrastructure Commitments shall inure to the benefit of the then owner of the fee interest of the Project Site or any portion thereof, but only with respect to those improvements to the Project Site which have been completed or as to which construction has been commenced, in any case as of the date of such termination, and in addition, if at all, to the extent Developer has granted or assigned any Infrastructure Commitments to an owner of all or any portion of the Project Site (or its predecessor in interest) in writing prior to the date of such termination.

Section 13.4 Definitions of Financial, Entitlement and Infrastructure Commitments. As used herein, "Financial Commitments" shall mean all of the commitments and obligations of, and incentives granted by, City and Agency in Articles V and VII and Sections 6.2, 6.6 and 6.8, and all related terms elsewhere in the Agreement; "Entitlement Commitments" shall mean all of the commitments and obligations of, and incentives granted by, City and Agency in Articles II, III, IV and IX, and all related terms elsewhere in the Agreement; and "Infrastructure Commitments" shall mean all of the commitments and obligations of, and incentives granted by, City and Agency in Sections 6.1, 6.3, 6.4, 6.5 and 6.7, and all related terms elsewhere in the Agreement, and the rights of "Genentech" under Section 9 of that certain Deferred Improvement Agreement dated as of June 30, 1995 between the City of Vacaville and Chevron Land and Development Company.

ARTICLE XIV. MORTGAGEE PROTECTION

The parties hereto agree that this Agreement shall not prevent or limit Developer's right to encumber the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. City acknowledges that lenders providing such financing and other "Mortgagees" (defined below) may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with Developer and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any person holding a mortgage or deed of trust on all or any portion of the Project Site made in good faith and for value, and any Financing Entity (each, a "Mortgagee"), shall be entitled to the following rights and privileges:

Section 14.1 Impairment of Mortgage or Deed of Trust. No breach of this Agreement shall defeat, render invalid, diminish, or impair the lien of any mortgage or deed of trust on the Project Site made, or other interest in the Project Site acquired by, any Mortgagee in good faith and for value.

Section 14.2 Notice of Default to Mortgagee. If a Mortgagee of any mortgage or deed of trust encumbering the Project Site, or any part thereof, or a Financing Entity holding a recorded interest in the Project Site or any portion thereof, has submitted a request in writing to City in the manner specified herein for giving notices, it shall be entitled to receive written notification from City of any failure or default by Developer in the performance of Developer's obligations under this Agreement.

Section 14.3 Right of Mortgagee to Cure. If City timely receives a request from a Mortgagee requesting a copy of any notice of failure or default given to Developer under the terms of this Agreement, City shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of default to Developer. The Mortgagee shall have the right, but not the obligation, to cure the failure or default during the remaining cure period allowed such party under this Agreement, plus an additional 60 days if, in order to cure such failure or

default, it is necessary for the Mortgagee to obtain possession of the property such as by seeking the appointment of a receiver or other legal process.

Section 14.4 Liability for Past Defaults or Obligations. Subject to the provisions of Article XIII above, any Mortgagee, including the successful bidder at a foreclosure sale, who comes into possession of the Project Site or any part thereof pursuant to foreclosure, eviction or otherwise, shall take the Property, or part thereof, subject to the terms of this Agreement; provided, however, in no event shall such Mortgagee be liable for any defaults or monetary obligations of Developer arising prior to acquisition of possession of the Project Site, or part thereof, by such Mortgagee and provided further in no event shall any such Mortgagee or its successors or assigns be entitled to a building permit or occupancy certificate until all fees and other monetary obligations due under this Agreement have been paid to City.

ARTICLE XV. GENERAL PROVISIONS

Section 15.1 Incorporation of Recitals. The Recitals set forth above, and all defined terms set forth in such Recitals and in the introductory paragraph preceding the Recitals, are incorporated herein as though set forth in full.

Section 15.2 Covenants. Except as otherwise specifically set forth herein, the provisions of this Agreement shall constitute covenants or servitudes which shall run with the land comprising the Project Site, and the burdens and benefits of this Agreement shall bind and inure to all estates and interests in the Property and all successors in interest to Developer.

Section 15.3 Project Is A Private Undertaking. The development proposed to be undertaken by Developer on the Project Site is a private development. City has no interest in, responsibility for or duty to third persons concerning any of said improvements; and Developer shall exercise full dominion and control over the Project Site, subject only to the limitations and obligations of Developer contained in this Agreement.

Section 15.4 Hold Harmless; Indemnity. Developer shall hold and save harmless City and Agency, their officers and employees, and shall indemnify them of and from any and all claims, loss, cost, damage, injury or expense, arising out of or in any way related to the physical development of the Project to the extent attributable to the sole and simple negligence, recklessness or willful misconduct of Developer.

Section 15.5 Cooperation in the Event of Legal Challenge. In the event of any administrative, legal or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of this Agreement or any Project Approval or Subsequent Approval, the parties shall cooperate in defending such action or proceeding. City shall promptly notify Developer of any such action against City. If City fails promptly to notify Developer of any legal action against City or if City fails to cooperate in the defense, Developer shall not thereafter be responsible for City's defense. The parties shall use best efforts to select mutually agreeable legal counsel to defend such action, and Developer shall pay the fees and expenses for such legal counsel; provided, however, that such fees and

expenses shall include only those paid to counsel not otherwise employed as City staff and shall exclude, without limitation, City Attorney time and overhead costs and other City staff overhead costs and normal day-to-day business expenses incurred by City. Developer's obligation to pay for legal counsel shall not extend to fees incurred on appeal unless otherwise authorized by Developer. In the event City and Developer are unable to select mutually agreeable legal counsel to defend such action or proceeding, each party may select its own legal counsel as its own expense. City shall not reject any reasonable settlement; if City does reject a settlement acceptable to Developer, City may continue to defend such action at its own cost.

Section 15.6 Notices. Any notice or communication required hereunder between City or Agency and Developer must be in writing, and may be given either personally, by telefacsimile (with original forwarded by regular U.S. Mail) or by Federal Express or other similar courier promising overnight delivery. If personally delivered, a notice or communication shall be deemed to have been given and received when delivered to the party to whom it is addressed. If given by facsimile transmission, a notice or communication shall be deemed to have been given and received upon actual physical receipt of the entire document by the receiving party's facsimile machine. Notices transmitted by facsimile after 5:00 p.m. on a normal business day or on a Saturday, Sunday or holiday shall be deemed to have been given and received on the next normal business day. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Such notices or communications shall be given to the parties at their addresses set forth below:

If to City or Agency, to:

City Manager
John Thompson
650 Merchant Street
Vacaville, California 95688
Telefacsimile: (707) 449-5149

With copies to:

Community Development Director
Gregory J. Werner
City of Vacaville
650 Merchant Street
Vacaville, California 95688
Telefacsimile: (707) 449-5423

Charles O. Lamoree, Esq.
City of Vacaville
650 Merchant Street
Vacaville, California 95688

Telefacsimile: (707) 449-5149

Director of Public Works
Dale I. Pfeiffer
City of Vacaville
650 Merchant Street
Vacaville, California 95688
Telefacsimile: (707) 449-5377

If to Developer, to:

Genentech, Inc.
460 Point San Bruno Boulevard
South San Francisco, California 94080
Att'n: Corporate Secretary
Telefacsimile: (415) 952-9881

With copies to:

James P. Panek
Vice President,
Engineering and Facilities
460 Point San Bruno Boulevard
South San Francisco, California 94080
Telefacsimile: (415) 225-5007

Morrison & Foerster
345 California Street
San Francisco, California 94104
Att'n: Zane O. Gresham
R. Clark Morrison
Telefacsimile: (415) 677-7522
(510) 946-9912

Any party hereto may at any time, by giving ten (10) days' written notice to the other parties, designate any other address or facsimile number in substitution of the address or facsimile number to which such notice or communication shall be given.

Section 15.7 No Joint Venture Or Partnership. Nothing contained in this Agreement or in any document executed in connection with this Agreement shall be construed as creating a joint venture or partnership between City and Developer or Agency and Developer.

Section 15.8 Severability. If any provision of this Agreement is held invalid, void or unenforceable but the remainder of this Agreement can be enforced without failure of

material consideration to any party, then this Agreement shall not be affected and it shall remain in full force and effect, unless amended or modified by mutual consent of the parties. If any material provision of this agreement is held invalid, void or unenforceable, however, Developer shall have the right in its sole and absolute discretion to terminate this agreement by providing written notice of such termination to City.

Section 15.9 Completion Or Revocation. Upon completion of performance by the parties or revocation of this Agreement, a written statement acknowledging such completion or revocation, signed by the appropriate parties shall be recorded in the Official Records of Solano County.

Section 15.10 Estoppel Certificate. Any party (and, in the case of Developer, any Financing Entity or Lender with a recorded interest in any portion of the Project Site) may, at any time, and from time to time, deliver written notice to the other party or parties requesting such party or parties to certify in writing that, to the knowledge of the certifying party, (i) this Agreement is in full force and effect and a binding obligation of the parties, (ii) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments, and (iii) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A party receiving a request hereunder shall execute and return such certificate or give a written detailed response explaining why it will not do so within thirty (30) days following the receipt thereof. Each party acknowledges that such a certificate may be relied upon by third parties acting in good faith. A certificate provided by City or Agency establishing the status of this Agreement shall be in recordable form and may be recorded at the expense of the recording party.

Section 15.11 Further Assurances. Each party shall execute and deliver to the other party or parties all such other further instruments and documents and take all such further actions as may be reasonably necessary to carry out this Agreement, the Project Approvals and Subsequent Approvals and to provide and secure to the other party or parties the full and complete enjoyment of its rights and privileges hereunder.

Section 15.12 Construction. All parties have been represented by counsel in the preparation of this Agreement and no presumption or rule that ambiguity shall be construed against a drafting party shall apply to interpretation or enforcement hereof. Captions on sections and subsections are provided for convenience only and shall not be deemed to limit, amend or affect the meaning of the provision to which they pertain.

Section 15.13 Counterpart Execution. This Agreement may be executed in any number of counterparts and shall be deemed duly executed when each of the parties has executed such a counterpart.

Section 15.14 Time. Time is of the essence of each and every provision hereof.

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

CITY: CITY OF VACAVILLE,
a municipal corporation

Mayor

AGENCY: REDEVELOPMENT AGENCY OF
CITY OF VACAVILLE,
a public body, corporate
and politic

By:

Its: Chairman

APPROVED AS TO FORM:

By: _____
Its: City Attorney

DEVELOPER: GENENTECH, INC.,
a Delaware corporation

By: _____
Its: Senior Vice President

State of CALIFORNIA)
)
County of SAN MATEO)

On SEPTEMBER 20, 1995 before me, EUNICE PAULEY, NOTARY Public, personally appeared WILLIAM D. YOUNG, personally known to me, or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS by hand and official seal.

EUNICE M. PAULEY
COMM. # 1014819
Notary Public — California
SAN MATEO COUNTY
My Comm. Expires JAN 20, 1998

Eunice M. Pauley
Signature of Notary

State of California)
)
County of Solano)

On September 22, 1995 before me, Karen M. Sena, Notary Public personally appeared David A. Fleming, personally known to me, or proved to me on the basis of satisfactory evidence to be the person(X) whose name(X) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(X) on the instrument the person(X), or the entity upon behalf of which the person(X) acted, executed the instrument.

WITNESS by hand and official seal.

NNA1 KAREN M. SENA NNA1
COMM. # 999938
Notary Public — California
SOLANO COUNTY
My Comm. Expires JUL 15, 1997

Karen M. Sena
Signature of Notary

State of California)
)
County of Solano)

On September 25, 1995 before me, Karen M. Sena, Notary Public personally appeared Charles O. Lamoree, personally known to me, or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS by hand and official seal.

KAREN M. SENA
COMM. # 999938
Notary Public — California
SOLANO COUNTY
My Comm. Expires JUL 15, 1997

Karen M. Sena
Signature of Notary

EXHIBIT A

Diagram of Project Site

Genentech, Inc.

Vaca Valley Business Park - Site Location

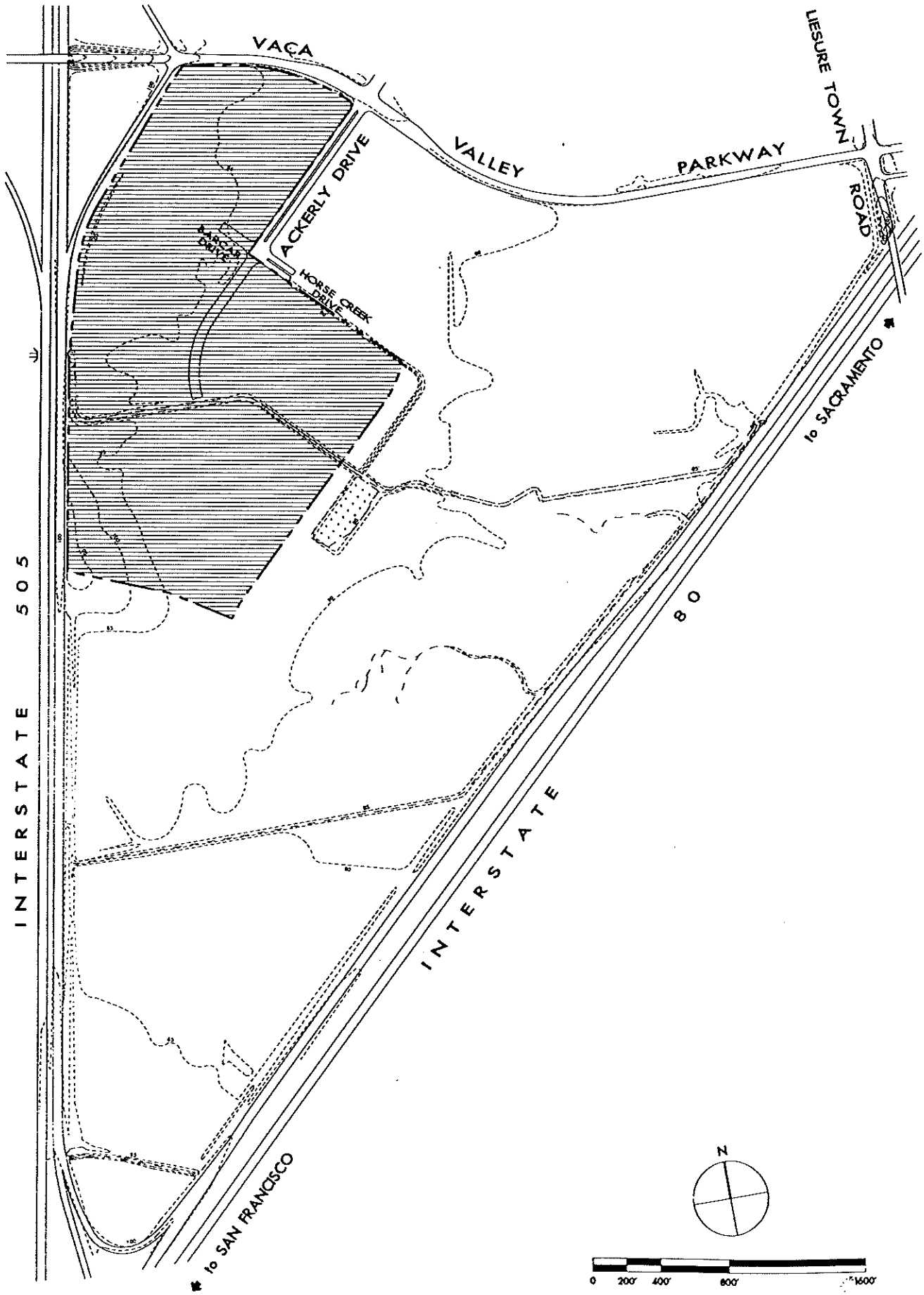


EXHIBIT A-1

Legal Description of Project Site

ALL THAT REAL PROPERTY SITUATE IN THE CITY OF VACAVILLE, COUNTY OF SOLANO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL "4D", AS SHOWN ON THAT CERTAIN MAP ENTITLED: "PARCEL MAP, BEING A RESUBDIVISION OF PARCEL 4, AS SHOWN IN BOOK 38 OF PARCEL MAPS, PAGE 35, PARCELS 14-22, PORTIONS OF AKERLY DRIVE AND BARCAR DRIVE AS SHOWN IN BOOK 39 OF MAPS, PAGE 74, AND PORTIONS OF LANDS DESCRIBED IN DEED RECORDED MAY 13, 1982, PAGE 29409, AS INSTRUMENT NO. 17086 IN THE OFFICE OF THE COUNTY RECORDER OF SOLANO COUNTY, STATE OF CALIFORNIA," FILED JULY 31, 1995 IN THE OFFICE OF THE COUNTY RECORDER OF SOLANO COUNTY, IN BOOK 39 OF PARCEL MAPS, PAGE 37, DOCUMENT NUMBER 1995-00045073.

EXHIBIT B

Description of Project
at
Phase I and Future Proposed Buildout

The Project is the construction and operation of manufacturing and related facilities for Genentech. The Project Site consists of approximately 100 acres located within the Vaca Valley Business Park in Vacaville, California. Phase I of the Project will consist of approximately 280,000 square feet of manufacturing, office, laboratory and warehouse space covering a cumulative total of approximately 35 acres.

Future Proposed Buildout of the Project may eventually include certain additional development generally consistent with the pattern of uses established in Phase I, such as additional manufacturing, laboratory, office and other production support space. This potential development is estimated to include approximately 661,000 square feet on an additional 10 acres of the Project Site. Phase I and Future Proposed Buildout would cover a cumulative total of approximately 45 acres of the Project Site.

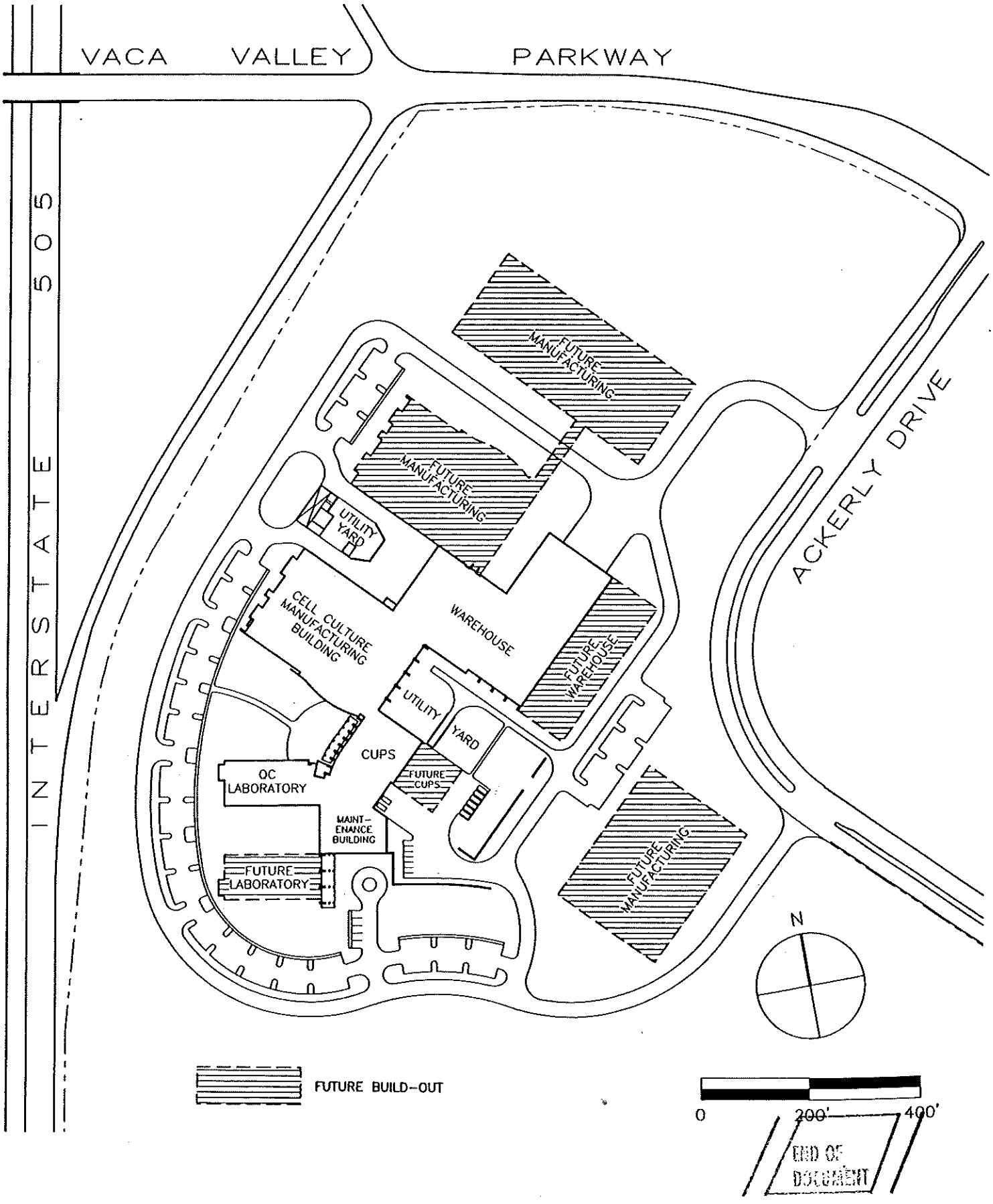
The building types, locations and square footages anticipated for Phase I and Future Proposed Buildout of the Project are described in greater detail in the schematic illustrations in Exhibit C. These schematics illustrate possible locations of Phase I and Future Proposed Buildout of the Project on the Project Site.

EXHIBIT C

Schematic Illustration of Phase I and
Future Proposed Buildout of Project

Genentech, Inc.

Site Plan



END OF DOCUMENT