

**EIGHTH AMENDMENT TO
RETAIL CONCESSION AGREEMENT
BETWEEN
THE CITY OF SAN JOSE
AND
AMS-SJC JV**

This EIGHTH AMENDMENT TO RETAIL CONCESSION AGREEMENT is entered into this ____ day of _____, 2019, by the CITY OF SAN JOSE, a municipal corporation of the State of California ("City"), and AMS-SJC JV, a Joint Venture authorized to do business in the State of California ("Concessionaire").

RECITALS

WHEREAS, on February 2, 2009, City and Concessionaire entered into an agreement entitled "NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT RETAIL CONCESSION AGREEMENT BY AND BETWEEN THE CITY OF SAN JOSE AND AMS-SJC JV" (referred to herein as the "Agreement"); and

WHEREAS, on November 15, 2011, City and Concessionaire entered into a First Amendment to the Agreement to revise provisions regarding customer pricing, amend the Concession Area and concepts, memorialize changes to the Minimum Annual Guarantee commencement date and annual adjustment date, and make clerical corrections; and

WHEREAS, on December 7, 2011, City and Concessionaire consented to the assignment of the interest of Marilla Chocolate Company to the remaining joint venturers, Airport Management Services, LLC (dba Hudson Group), and J.R. Lester & Associates, Ltd.; and

WHEREAS, on May 07, 2012, City and Concessionaire entered into a Second Amendment to the Agreement to delete the terms and conditions of the City's Living

Wage Policy and/or Prevailing Wage Policy for the remaining term of the amended Agreement hereby making Concessionaire subject to the Minimum Compensation requirements of Chapter 25.11 of the San José Municipal Code “Airport Living Wage and Labor Standards”; and

WHEREAS, on December 10, 2014, City and Concessionaire entered into a Third Amendment to the Agreement to revise Section 22.6 “Minimum Mid-Term Concession Refurbishment Expenditure” to grant the Director authority to change the required dates for the mid-term refurbishments; and

WHEREAS, on January 27, 2015, City and Concessionaire entered into a Fourth Amendment to the Agreement to permit the sale of Duty Free Goods under the Concession Operations, further revise Exhibit B, and extend the term of the Agreement through June 30, 2024; and

WHEREAS, on June 18, 2015, City and Concessionaire entered into a Fifth Amendment to the Agreement to relocate the Concession Support Space and further revise Exhibit B, and to add nondiscrimination requirements, as mandated by the Federal Aviation Administration; and

WHEREAS, Dufry AG is the parent company of both Concessionaire and of WDFG North America LLC (“WDFG”), which also operates Concession Operations at the Airport as a concessionaire pursuant to a separate Retail Concession Agreement, dated February 2, 2009, as amended (“WDFG Agreement”) with the City; and

WHEREAS, on April 4, 2017, City and Concessionaire entered into a Sixth Amendment to the Agreement to consolidate and incorporate the WDFG Agreement under the Agreement; extend the term, revise the Concession Operations, add to the Modification of Concession Area provisions, add to the Director’s Authority provisions; add approximately 1,500 square feet of Concession Support Space; modify the Annual MAG

Adjustment, and add provisions as required under federal law and regulations and the San José Municipal Code; and

WHEREAS, on October 30, 2017, City and Concessionaire entered into a Seventh Amendment to further revise Exhibit B and Exhibit C; and

WHEREAS, City and Concessionaire desire to further amend the amended Agreement to add a Hudson Grab and Go Concession to the Concession Operations permitted under the Agreement; and

NOW, THEREFORE, the parties agree to further amend the amended Agreement as follows:

SECTION 1. SECTION 6 “FEES & DEPOSITS” subsection 6.1.1.1 entitled “Concession Fee Calculation” is hereby amended to read as follows:

“6.1.1.1. Concession Fee Calculation.

a. From the Commencement Date, Concessionaire shall pay a Concession Fee calculated solely as the Percentage Fee of Concessionaire’s Gross Revenues as follows:

| | |
|---|-------------------------|
| Reading Material, candy, snacks, tobacco, HBA, sundries, travel accessories, food and beverage, sold from Concession Areas other than the Duty Free Concession Area | 18.0% of Gross Revenues |
| Souvenirs, gifts, apparel, t-shirts sold from Concession Areas other than the Duty Free Concession Area | 25.0% of Gross Revenues |
| | 12.0% of Gross Revenues |

| | |
|--|--|
| All other items sold from Concession Areas other than the Duty Free Concession Area | |
| Food and Beverage portion of Concession Area at location TA-26 (Terminal A) | 12.0% of Gross Revenues |
| All items sold from the the Concession Area at location F2261 (Hudson Grab and Go, Terminal A) | 8.5% of Gross Revenues from the execution of the eighth amendment through December 31, 2022 10.5% of Gross Revenues from January 01, 2023 through the Expiration Date of the Concession Location as stated on Exhibit C |
| All goods sold from the Duty Free (DUFY) Concession Area | 12.0% of Duty Free Concession Area Gross Revenues from \$0 to \$1,500,000 |
| All items sold from the Duty Free (DUFY) Concession Area | 18.0% of Duty Free Concession Area Gross Revenues from \$1,500,000 to \$4,000,000 |
| All items sold from the Duty Free Concession | 20.0% of Duty Free Concession Area Gross Revenues in excess of \$4,000,000 |

b. From the MAG Commencement Date, Concessionaire shall pay to City on a monthly basis the greater of: a) one-twelfth (1/12) of the MAG set out in **SECTION 6.1.2** below, or b) the total of the Percentage Fees set out in subsection a above.”

SECTION 2. **SECTION 6 “FEES & DEPOSITS”** subsection 6.1.5 entitled “Joint Marketing Fund Fee” is hereby amended to read as follows:

“6.1.5 Joint Marketing and Customer Service Fund Fee

A concession marketing and customer service fee of one half of one percent (.5%) of Gross Revenues will be assessed monthly to be paid to the City monthly, on the twentieth (20th) of each month, to be used for marketing the concession at the Airport and customer service initiatives to enhance the overall customer service at the Airport. Concessionaire shall deliver to the City the Joint Marketing and Customer Service Fund Fee in accordance with the payment schedule for payment of the Percentage Fee in **SECTION 6.1.3.1** above.”

SECTION 3. **SECTION 22 “ALTERATIONS AND IMPROVEMENTS”** subsection 22.6.5 is hereby added as follows:

“22.6.5 Effective February 26, 2019, Concessionaire will take possession of the Hudson Grab and Go location as indentified on EXHIBIT B. Concessionaire agrees to install the Concession Improvements and Concessionaire’s Furnishings, Trade Fixtures and Equipment at its sole cost and expense without any reimbursement from City in accordance with the provision of the Agreement in the Concession Area identified on **EXHIBIT B** as the Hudson Grab and Go. Any Capital Improvement Expenditure for the Hudson Grab and Go location shall be fully amortized by Concessionaire no later than December 31, 2022.

SECTION 4. **FIFTH REVISED EXHIBIT B**, entitled “**CONCESSION AREA**,” is amended to read as shown on the “**SIXTH REVISED EXHIBIT B**”, attached and incorporated into this Eighth Amendment.

SECTION 5. **SECOND REVISED EXHIBIT C**, entitled “**TENANT MIX**,” is amended to read as shown on the “**THIRD REVISED EXHIBIT C**”, attached and incorporated into this Eighth Amendment.

SECTION 6. All of the terms and conditions of the amended Agreement not modified by this Eighth Amendment shall remain in full force and effect.

WITNESS THE EXECUTION HEREOF on the day and year first written above.

"CITY"

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal corporation
of the State of California

KEVIN FISHER
Chief Deputy City Attorney

TONI J. TABER, CMC
City Clerk

Date: _____

"CONCESSIONAIRE"

AMS-SJC JV, a Joint Venture

AIRPORT MANAGEMENT SERVICES, LLC
(dba Hudson Group), a Delaware limited
liability company authorized to do business in
the State of California

APPROVED AS TO FORM:

Natalie Aronov
Natalie Aronov
Senior Counsel, Hudson Group
1/29/19
Date

By: Michael R. Mullaney
Name: Michael R. Mullaney
Executive Vice President
Corporate Strategy & Development
Title: Corporate Strategy & Development

Date: _____

J.R. LESTER & ASSOCIATES, LTD,
a California corporation

By: _____

Name: _____

Title: _____

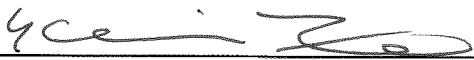
Date: _____

WITNESS THE EXECUTION HEREOF on the day and year first written above.

"CITY"

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal corporation
of the State of California



KEVIN FISHER
Chief Deputy City Attorney

TONI J. TABER, CMC
City Clerk


Date: _____

"CONCESSIONAIRE"

AMS-SJC JV, a Joint Venture

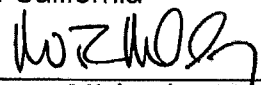
AIRPORT MANAGEMENT SERVICES, LLC
(dba Hudson Group), a Delaware limited
liability company authorized to do business in
the State of California

APPROVED AS TO FORM:



Natalie Aronov
Senior Counsel, Hudson Group
1/29/19


Date

By: 

Name: Michael R. Mullaney
Executive Vice President
Corporate Strategy & Development
Title: Corporate Strategy & Development

Date: _____

J.R. LESTER & ASSOCIATES, LTD,
a California corporation

By: 

Name: N. Amos G. Munga,
Title: PRESIDENT/CEO
Date: _____

CERTIFICATE OF LLC AUTHORITY

This Certificate of LLC Authority shall be executed by the manager of the limited liability company.

I, _____, certify that I am the manager of the
Name of Manager
limited liability company named in the attached agreement;

that _____ signed the agreement on behalf of the limited
Name of Person that Signed Agreement

liability company as the _____ of the limited liability
Title of Person that Signed Agreement
company; and that the agreement was duly signed for and on behalf of the limited liability company by authority of its members, and is within the scope of its limited liability company powers.

By: WRMOR
Name: Michael R. Mullaney
Executive Vice President
Corporate Strategy & Development
Its: Manager
Date: 2/4/19

CORPORATE SECRETARY CERTIFICATE

This certificate shall be executed by the secretary or assistant secretary of the corporation.

I, Adam Ratner certify that I
Name of Secretary or Assistant Secretary

am the ☒ Secretary or ☐ Assistant Secretary of the corporation named in the

attached agreement; that Michael Mullanev
Name of Person that Signed Agreement

signed the agreement on behalf of the corporation as the Executive Vice President
Title of Person that Signed the Agreement

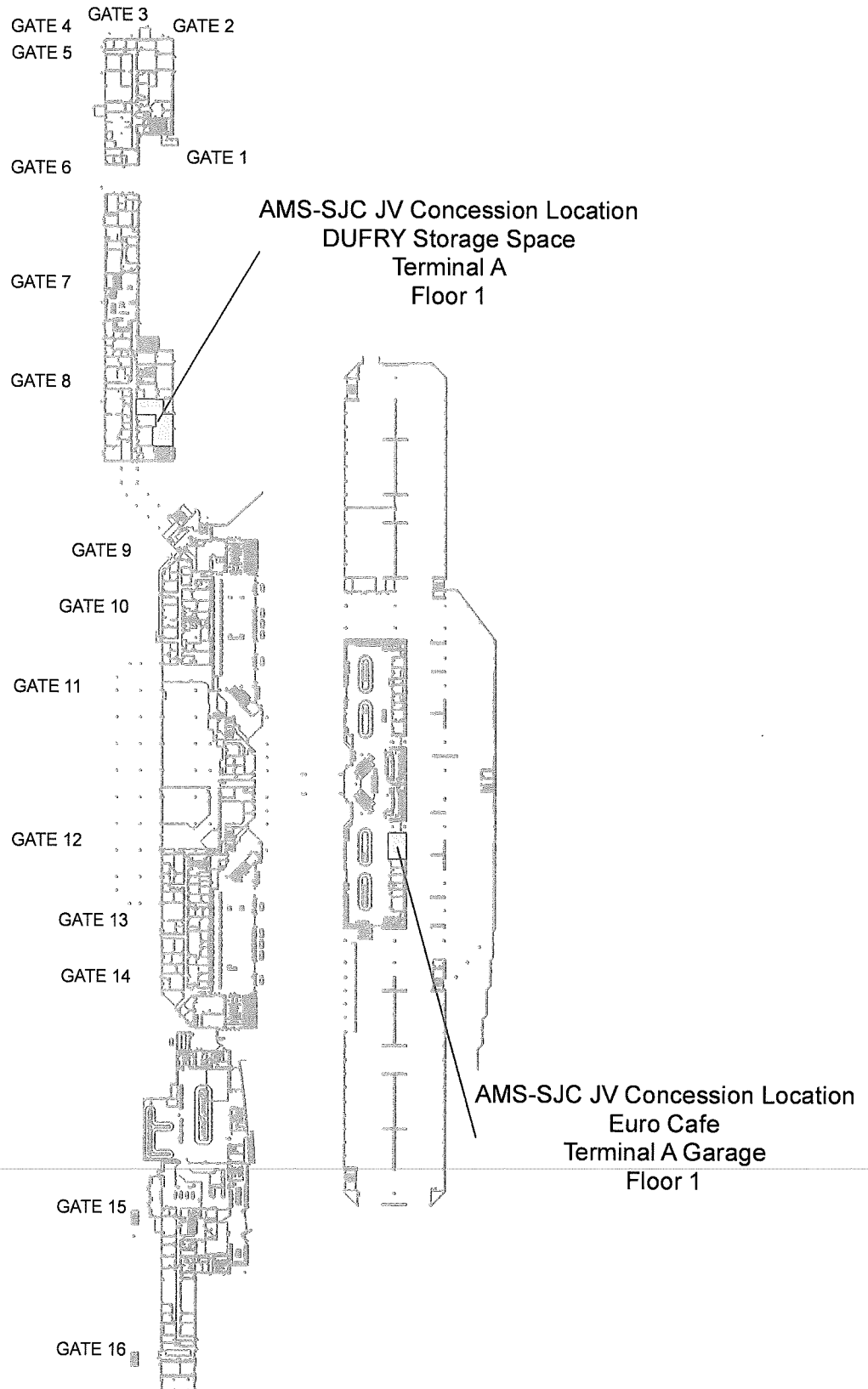
of the corporation; and that the agreement was duly signed for and on behalf of
the corporation by authority of its Board of Directors, and is within the scope of its
corporate powers.

Ad Rat
Signature of Secretary or Assistant Secretary

Corporate Seal

2/4/17
Date

SIXTH REVISED EXHIBIT B



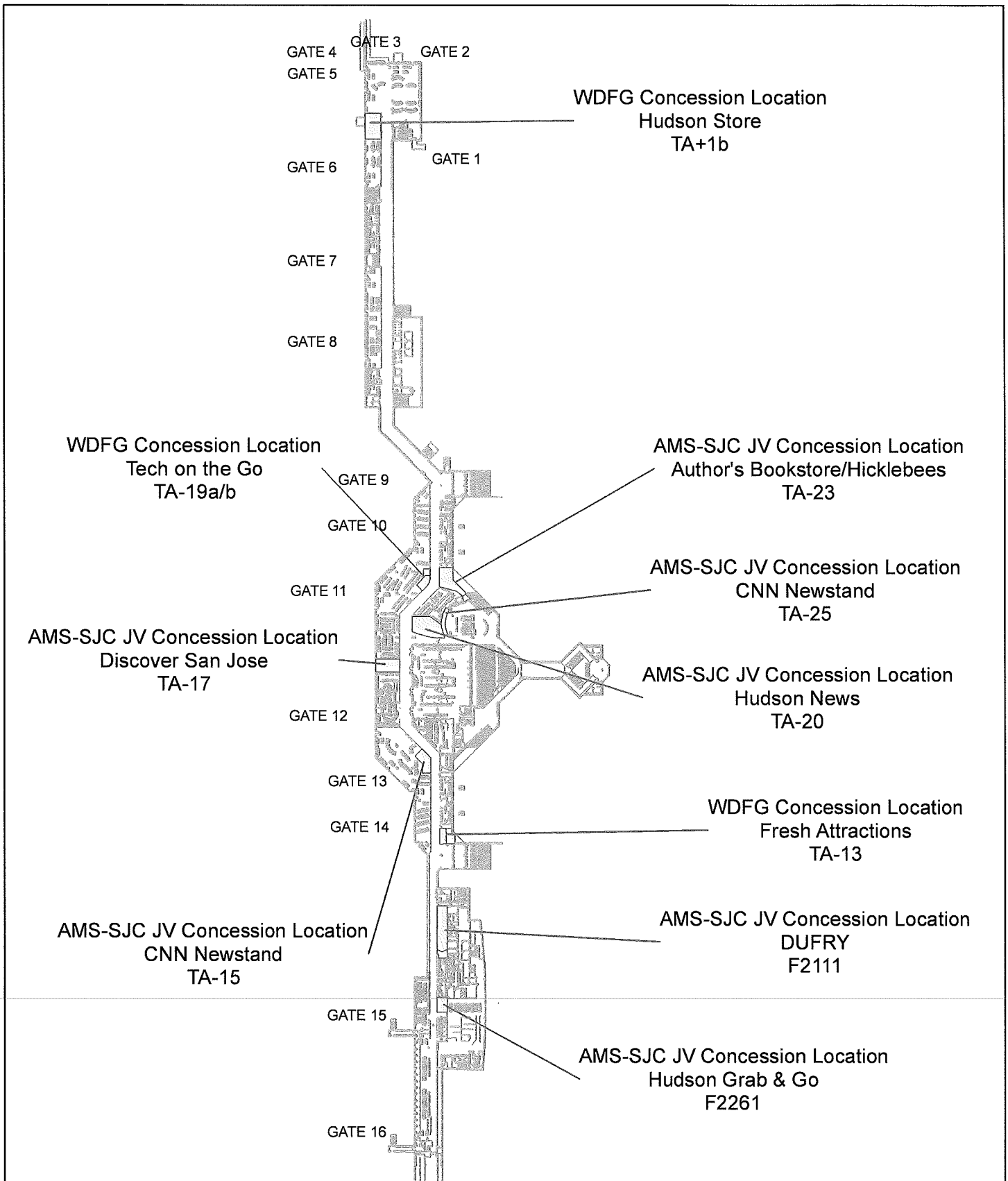
AMS-SJC JV
Terminal A Floor 1 Overall Plan
B-1

NORMAN Y. MINETA
SAN JOSE
INTERNATIONAL
AIRPORT



DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

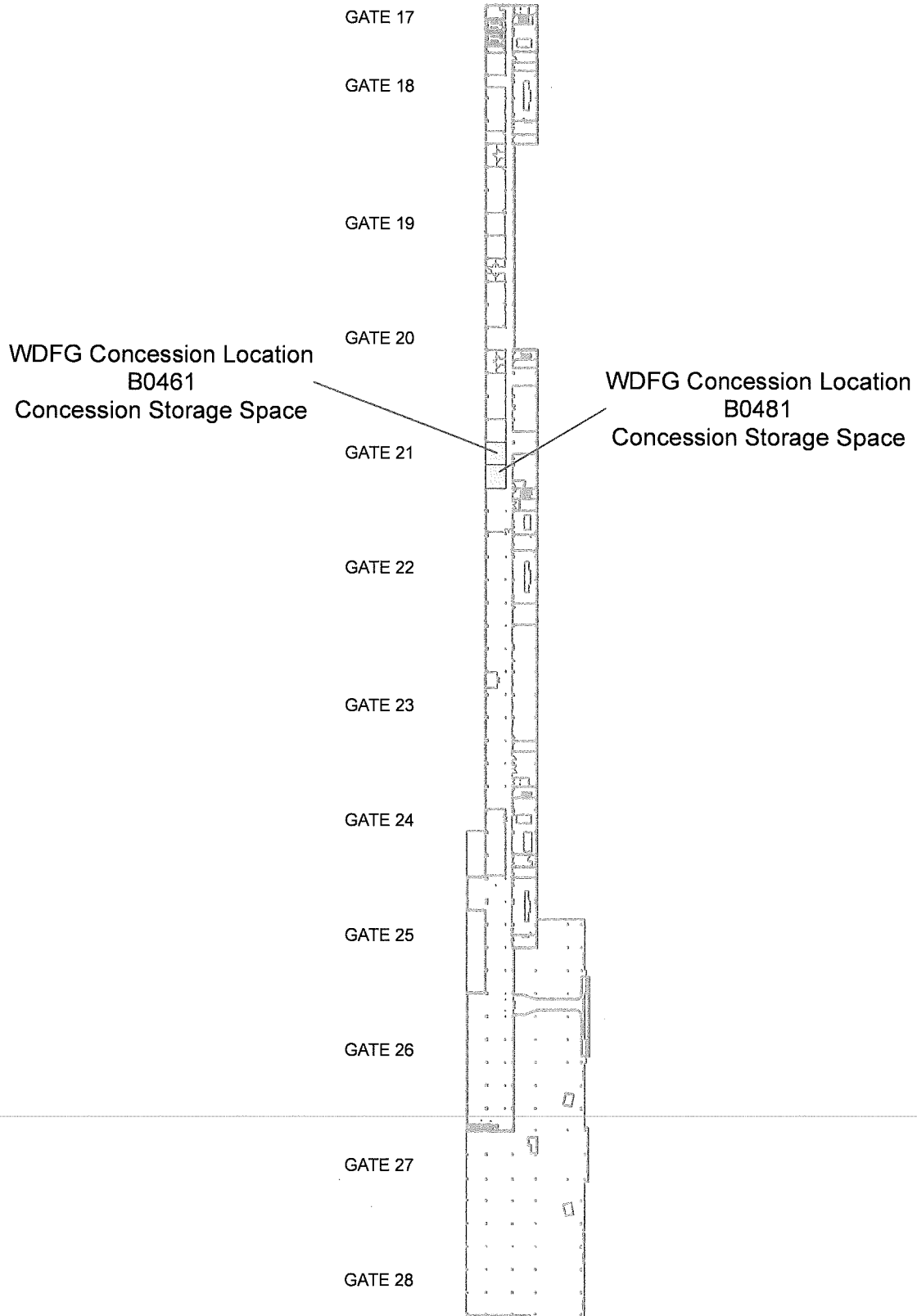
SIXTH REVISED EXHIBIT B



AMS-SJC JV
Terminal A Floor 2 Overall Plan
B-2



SIXTH REVISED EXHIBIT B



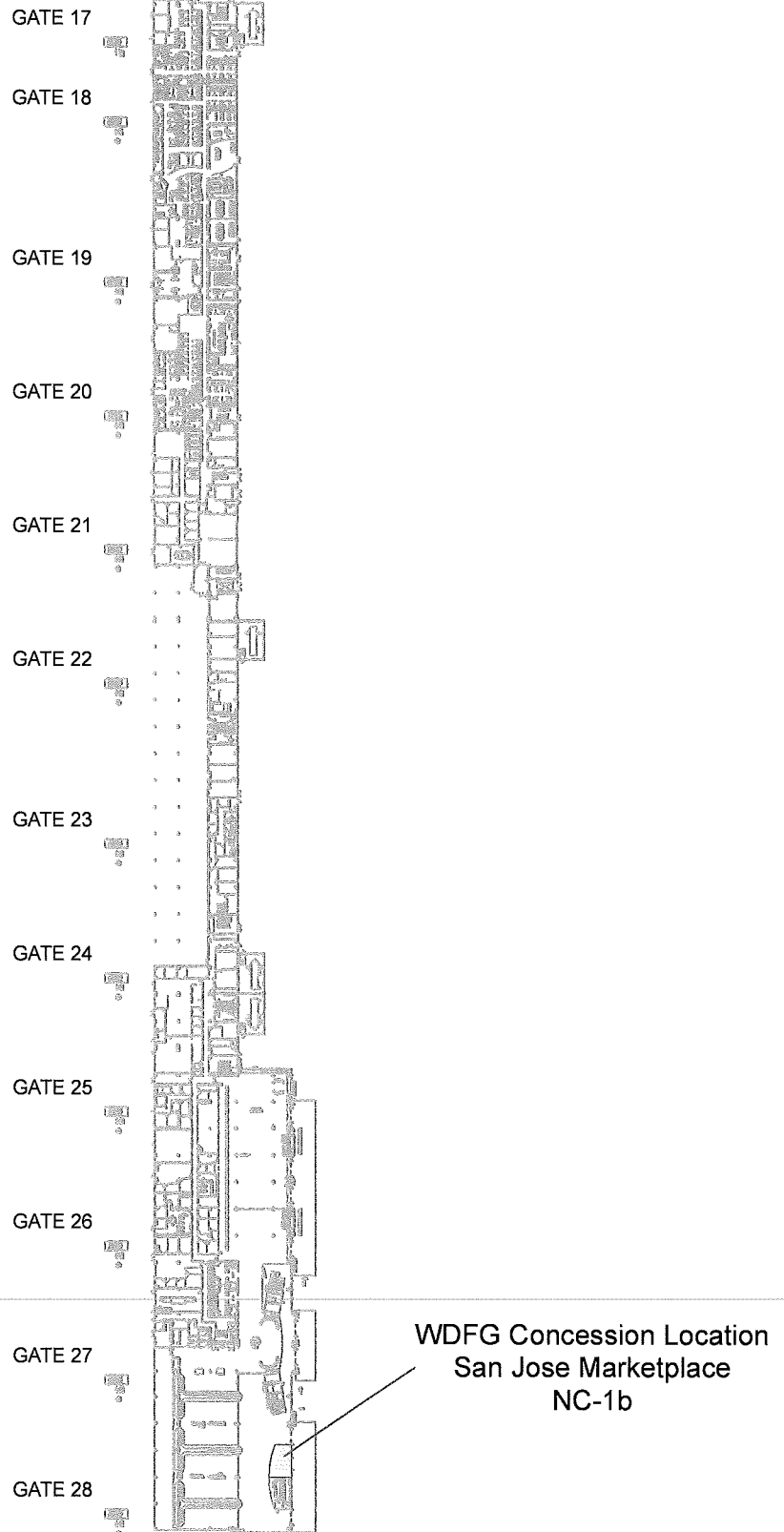
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Terminal B Floor 0 Overall Plan
R-3

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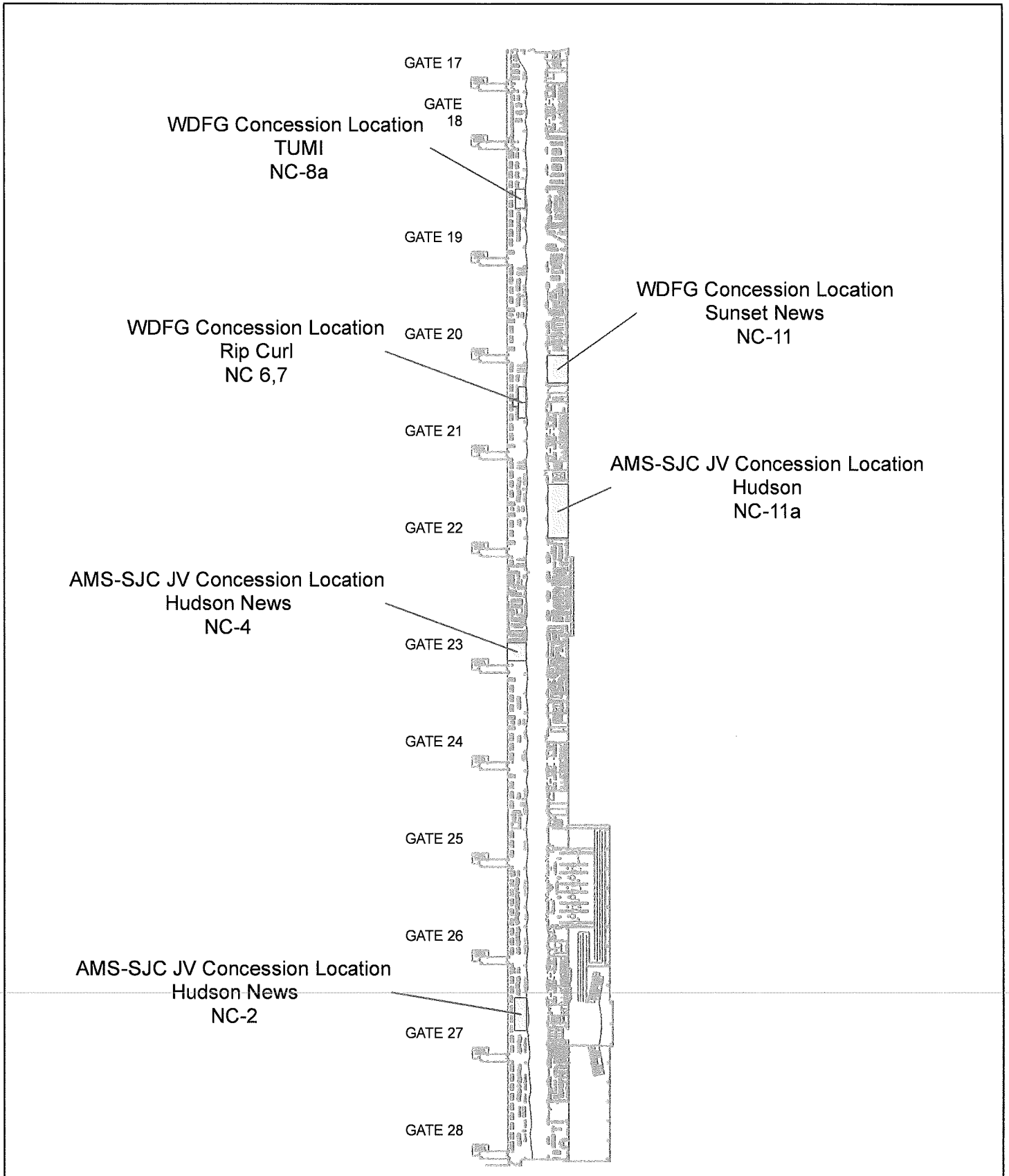
AMS-SJC JV
Terminal B Floor 1 Overall Plan
R-4

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AMS-SJC JV
Terminal B Floor 2 Overall Plan
R-5

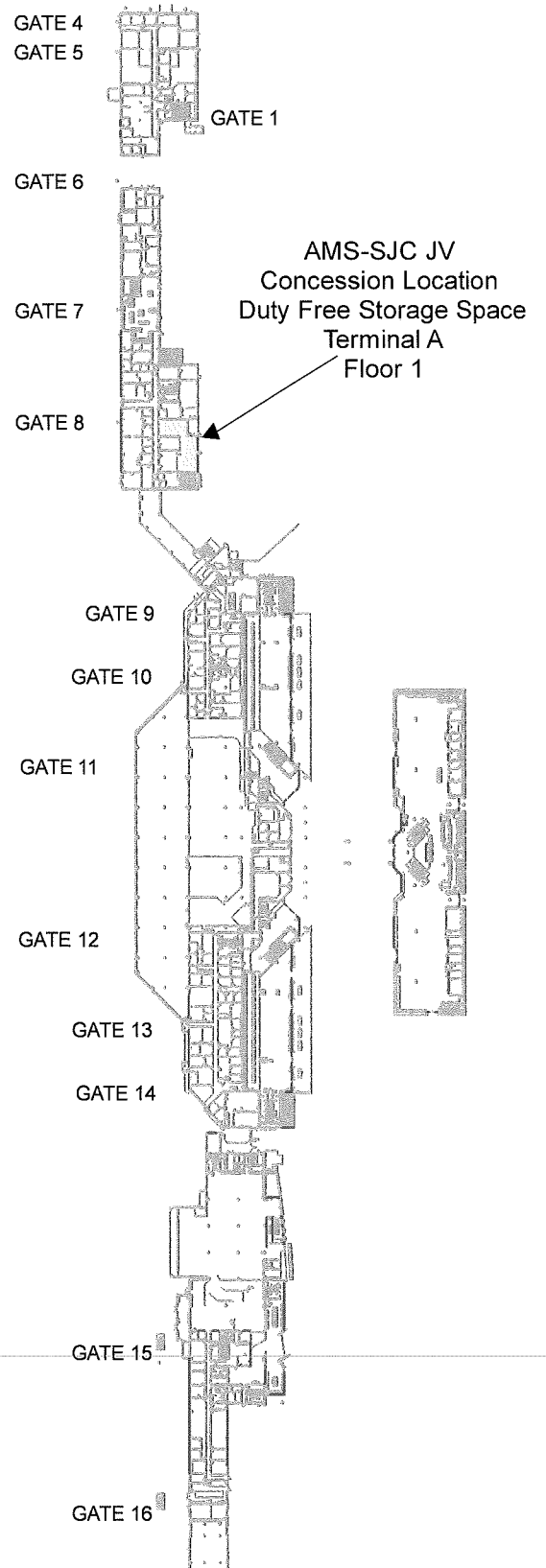
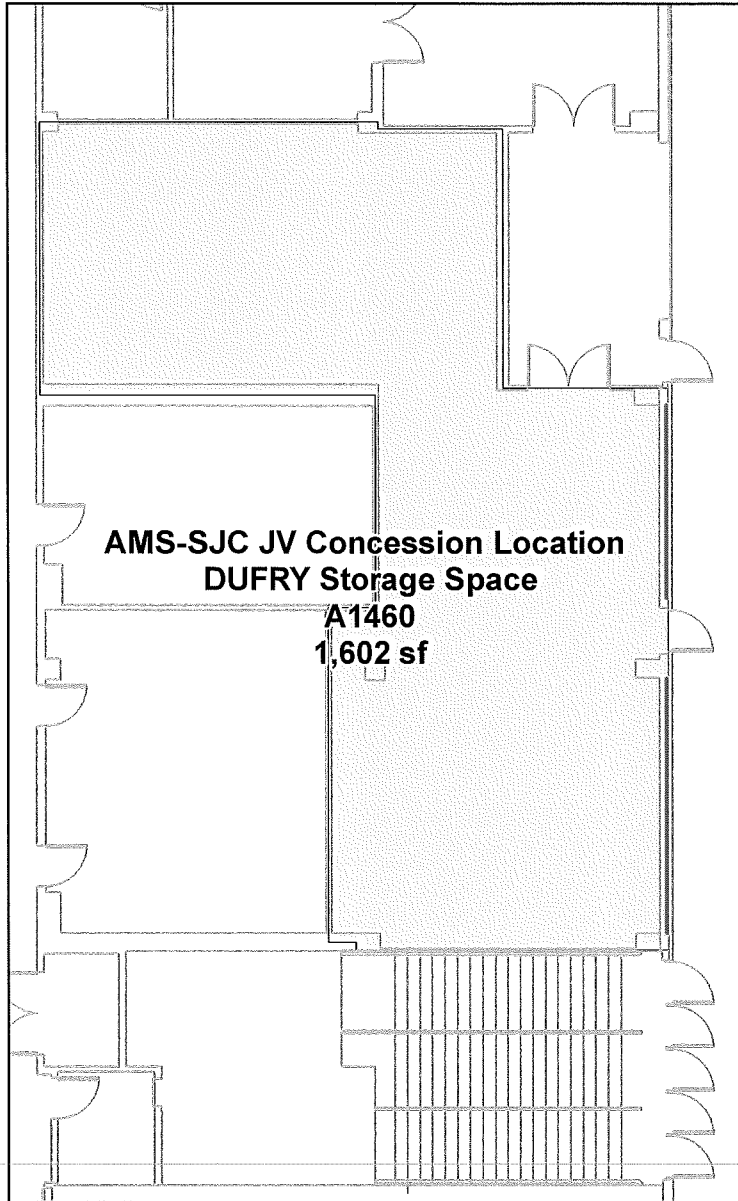
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SIXTH REVISED EXHIBIT B



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Terminal A Floor 1
R.6

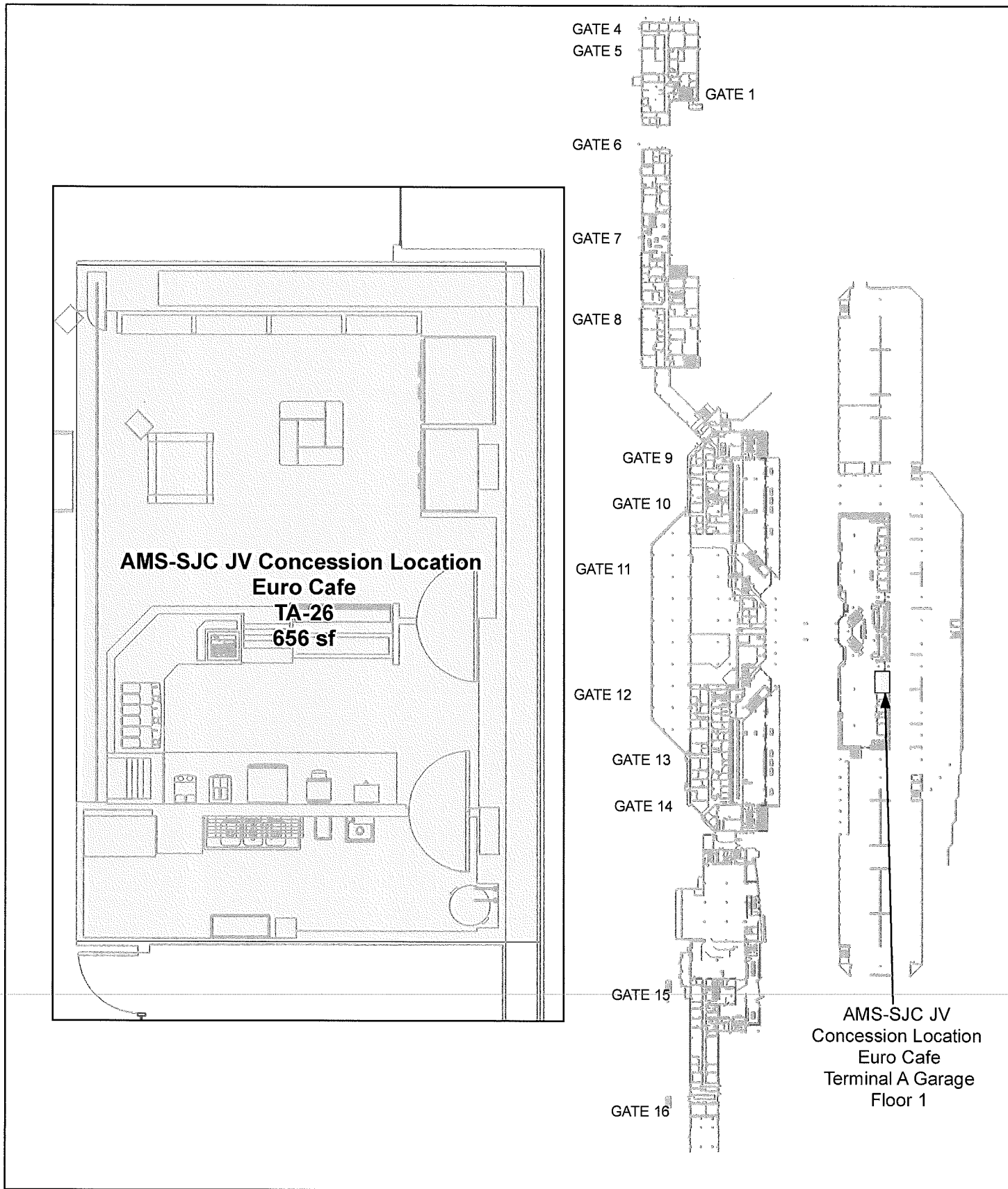
NORMAN Y. MINETA
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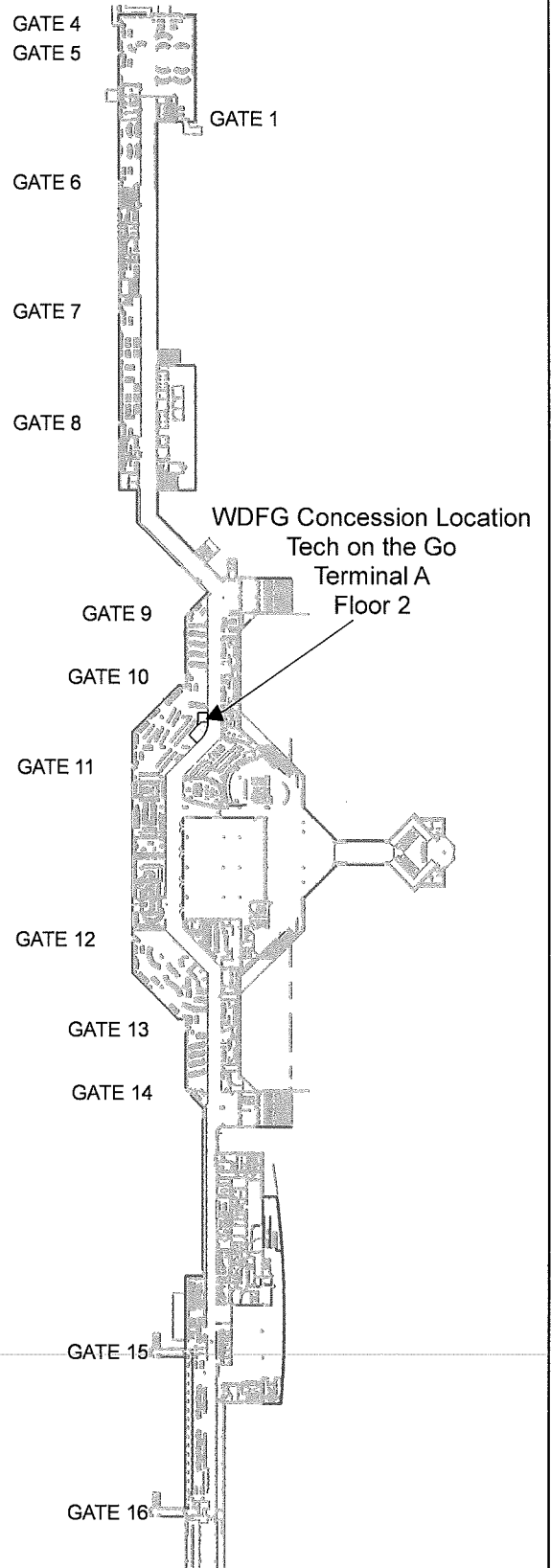
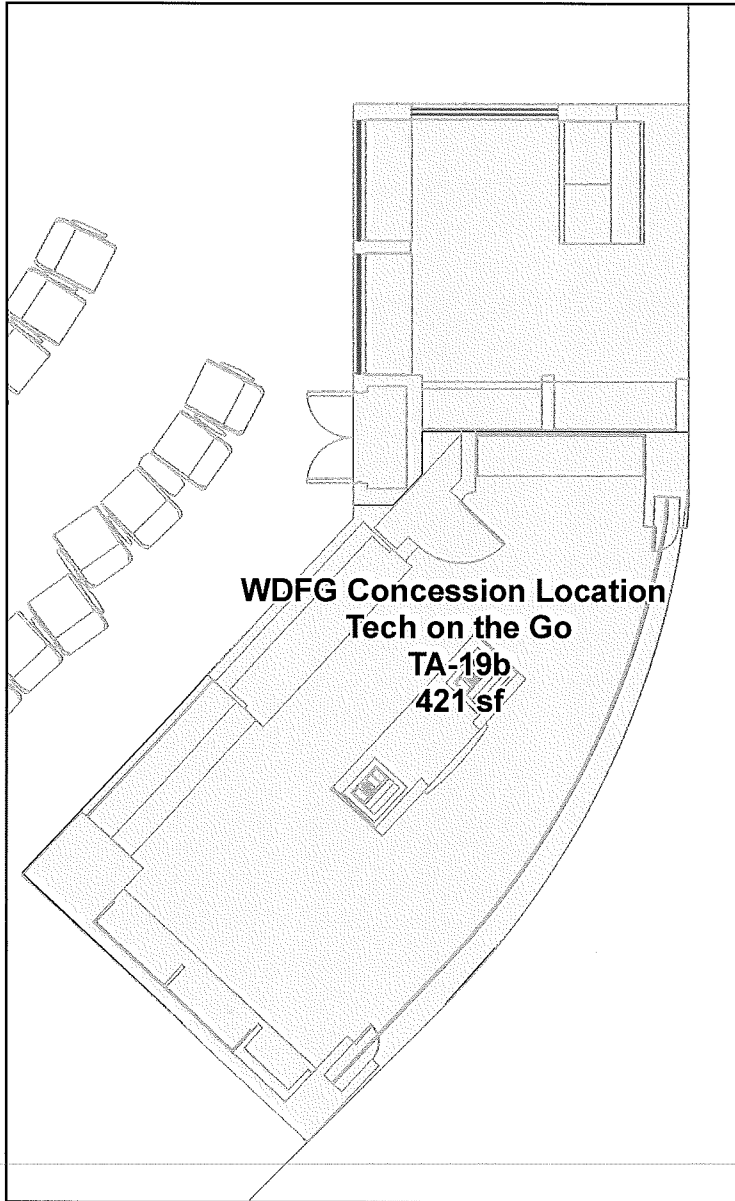
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SIXTH REVISED EXHIBIT B



SIXTH REVISED EXHIBIT B



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Terminal A Floor 2
R 8

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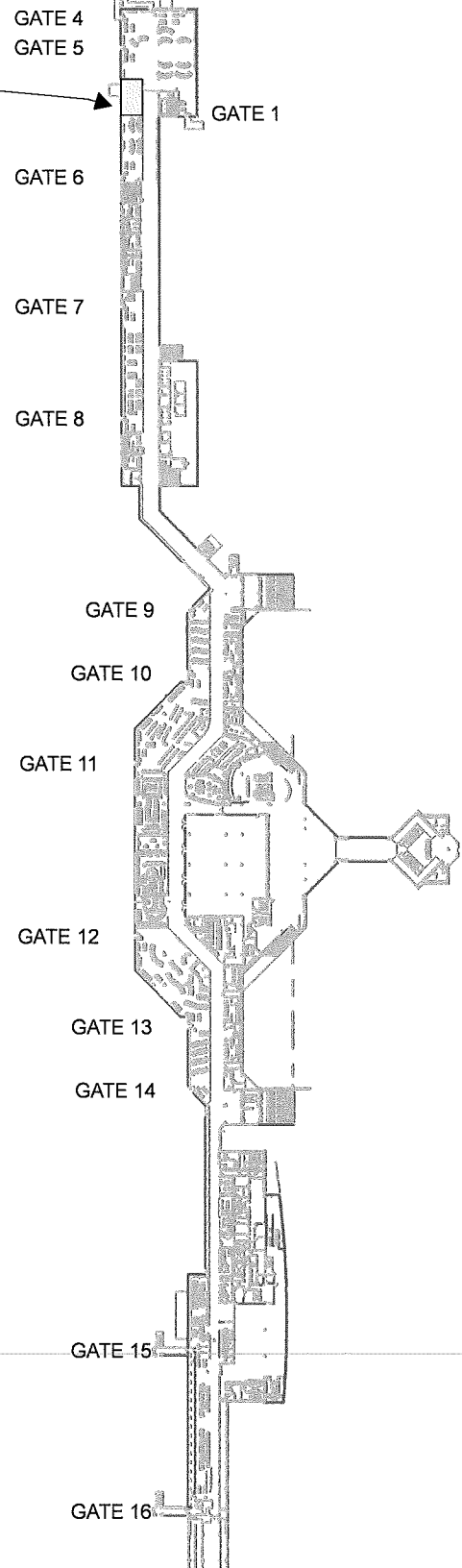


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SIXTH REVISED EXHIBIT B

WDFG Concession Location
Hudson News
Terminal A
Floor 2

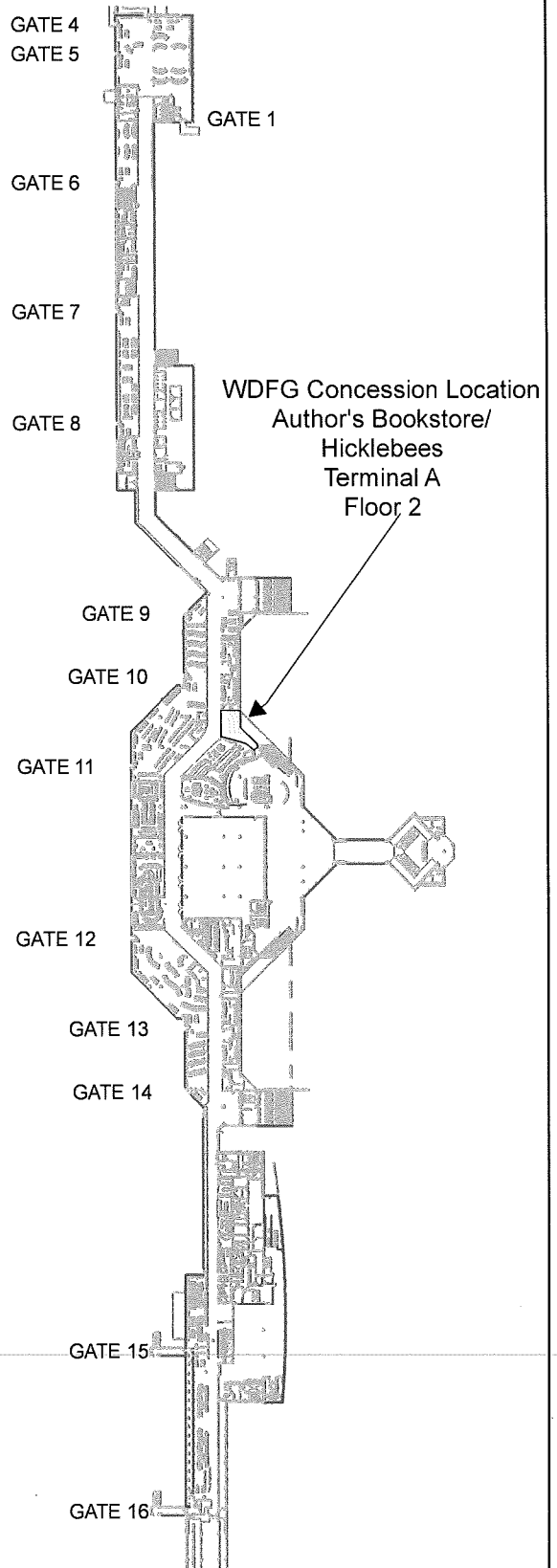
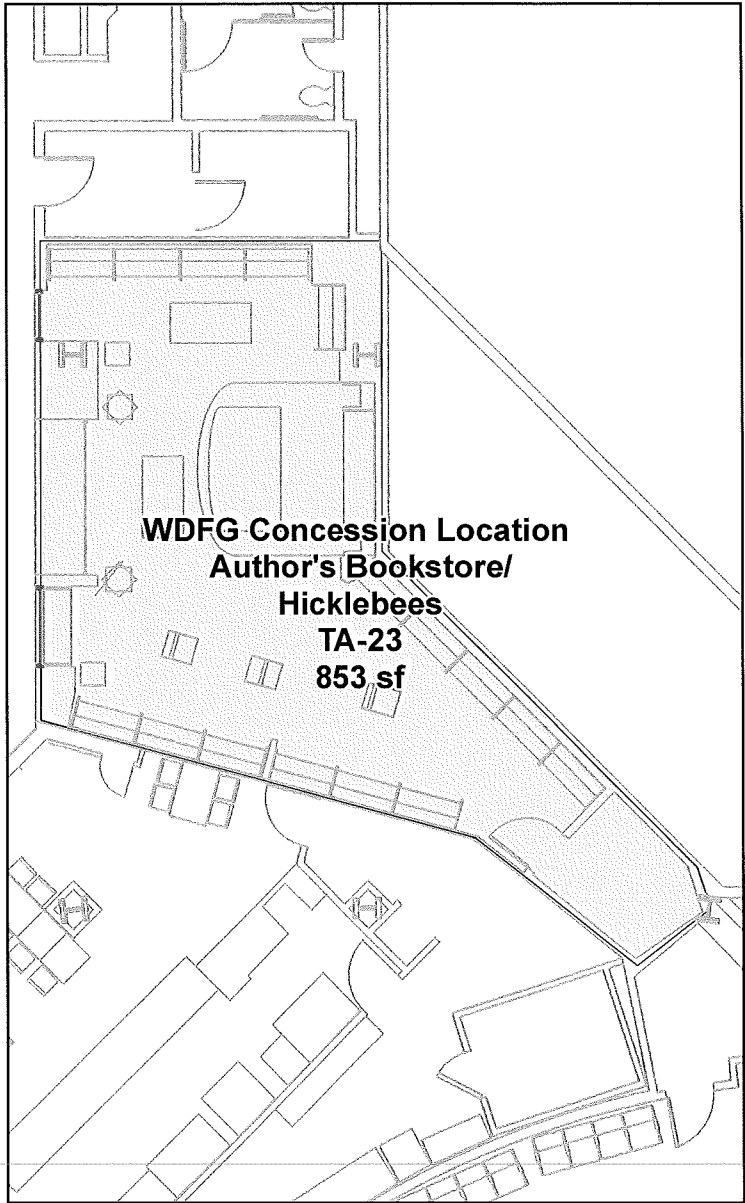


AMS-SJC JV
Terminal A Floor 2
R 0

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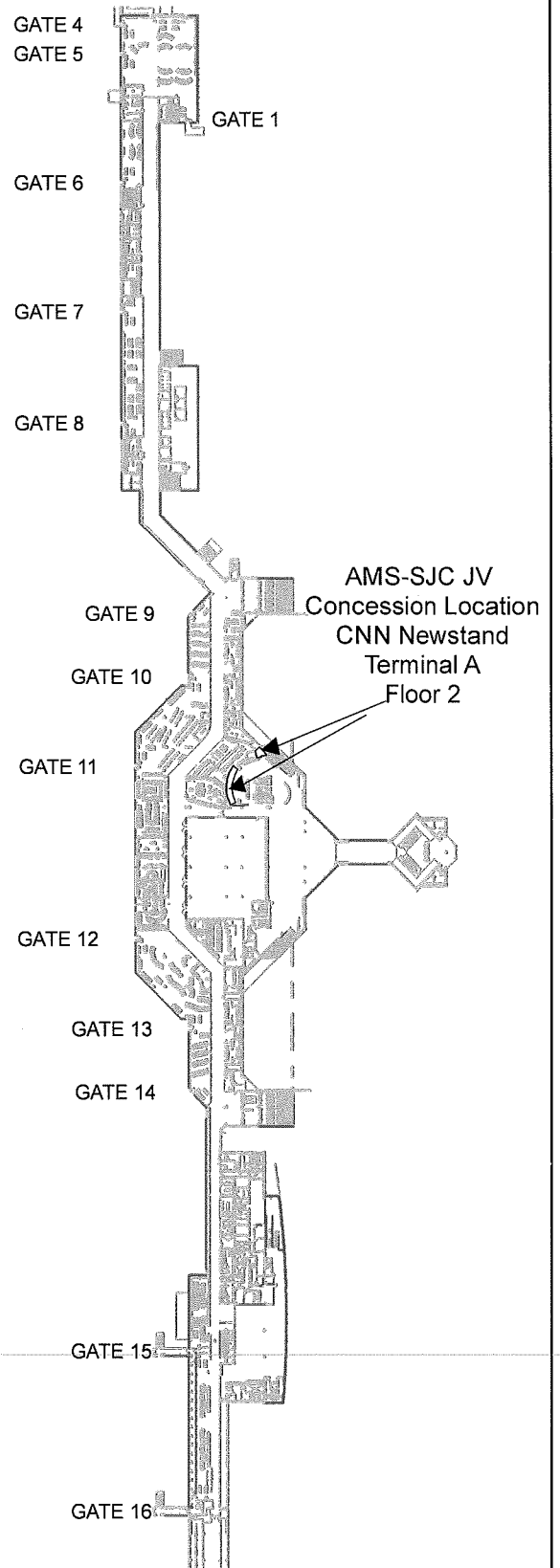
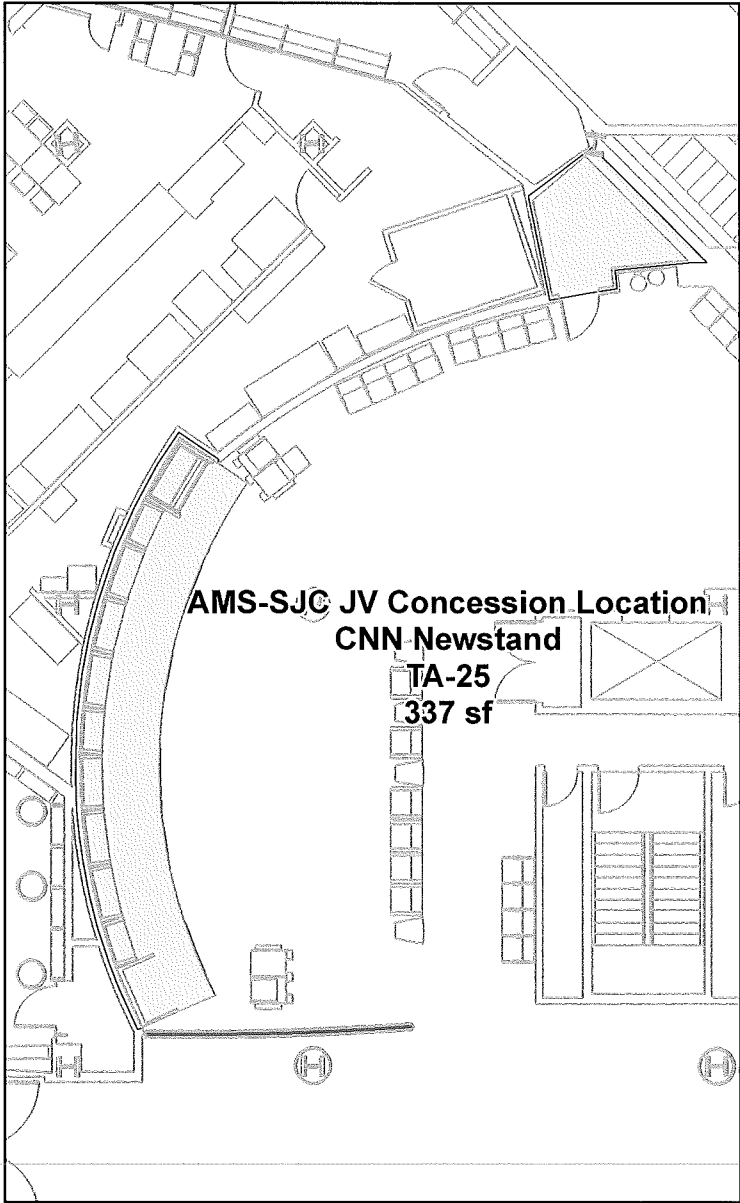


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Terminal A Floor 2
B 10



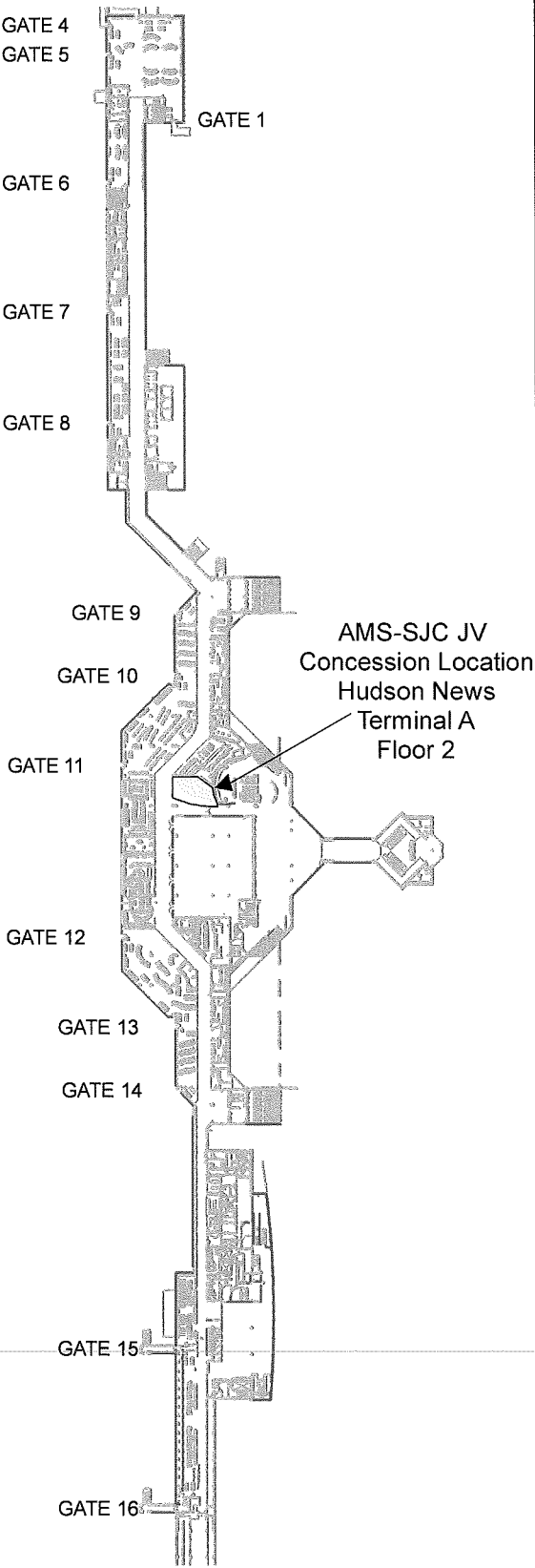
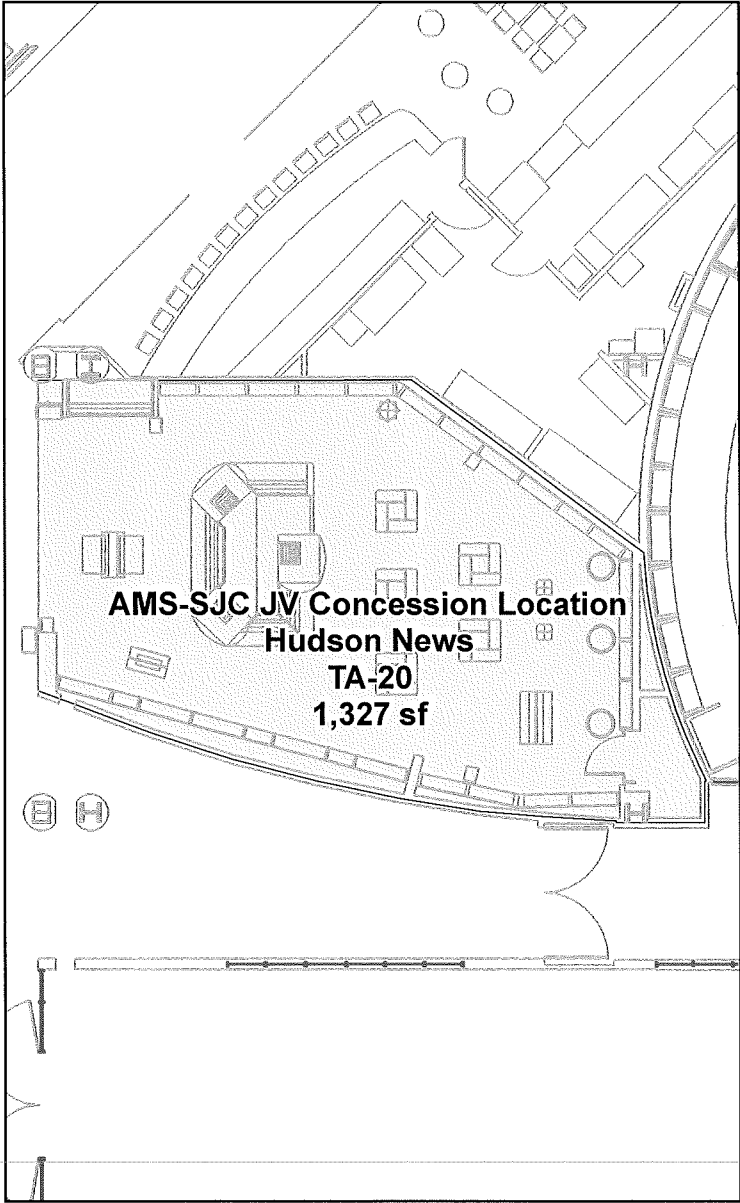


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Terminal A Floor 2
B 11

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INTERNATIONAL
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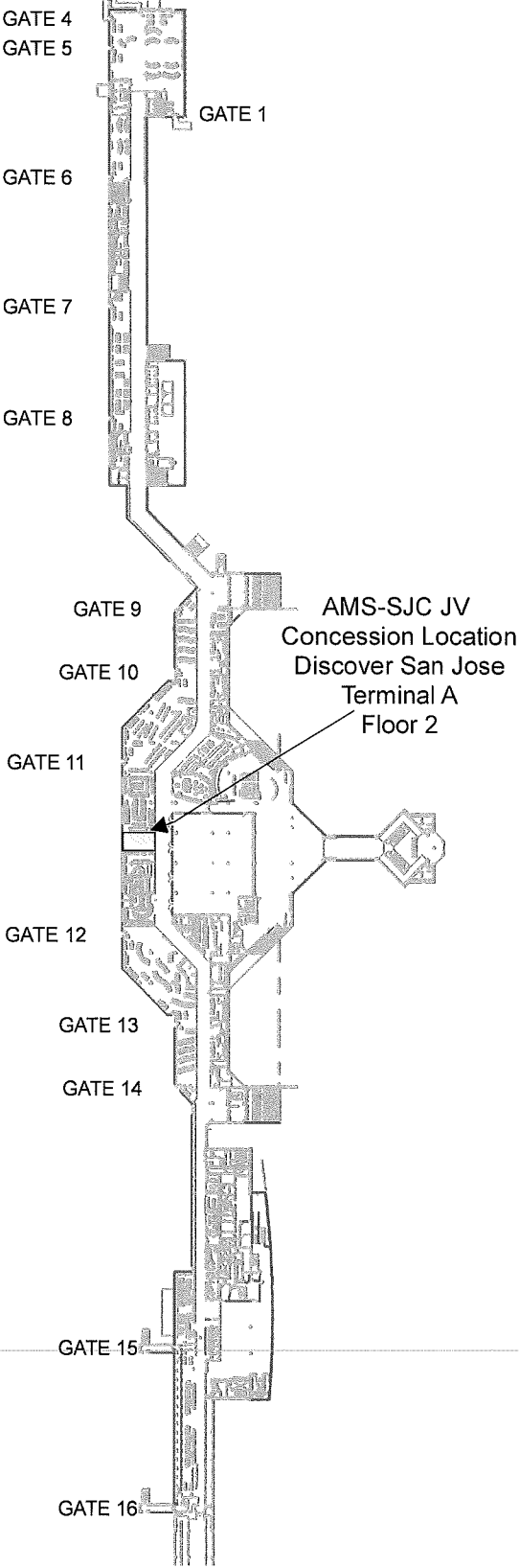
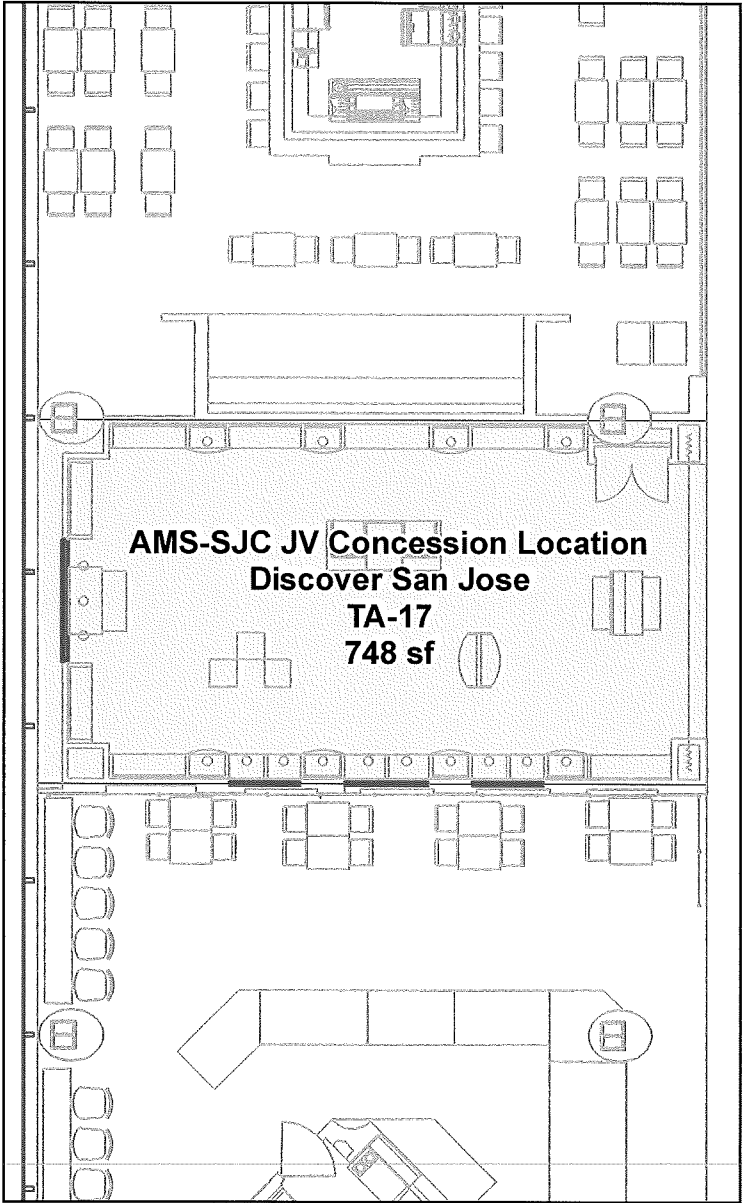


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Terminal A Floor 2
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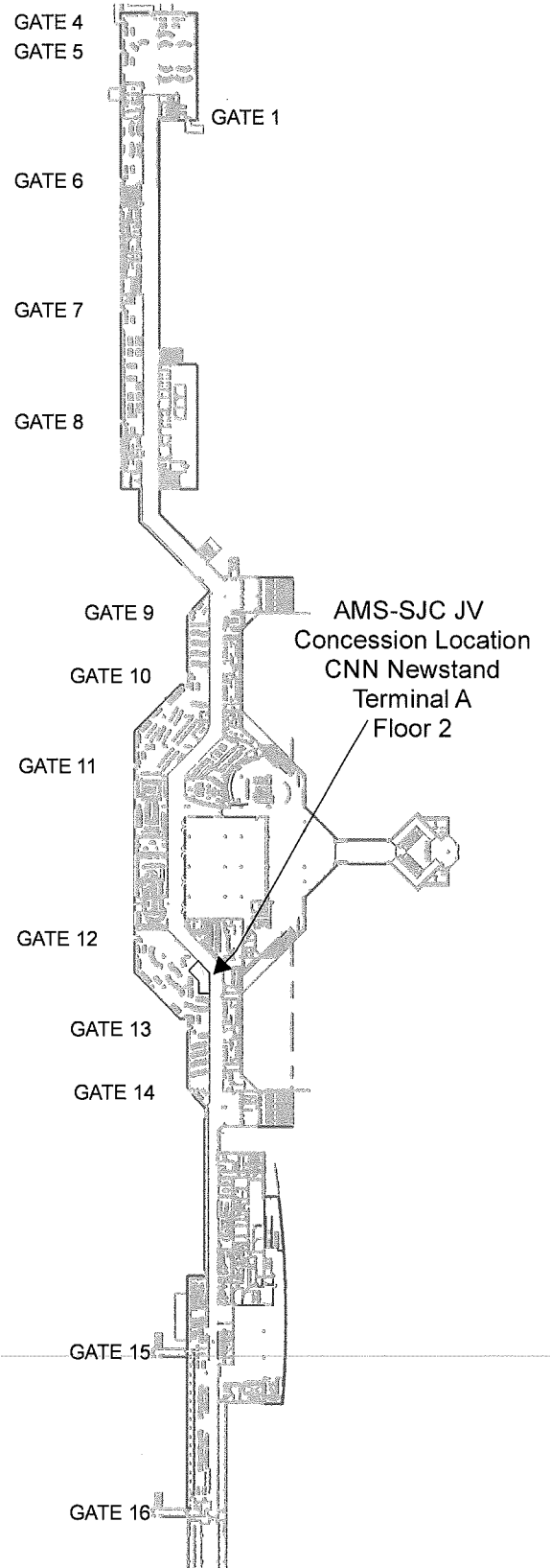
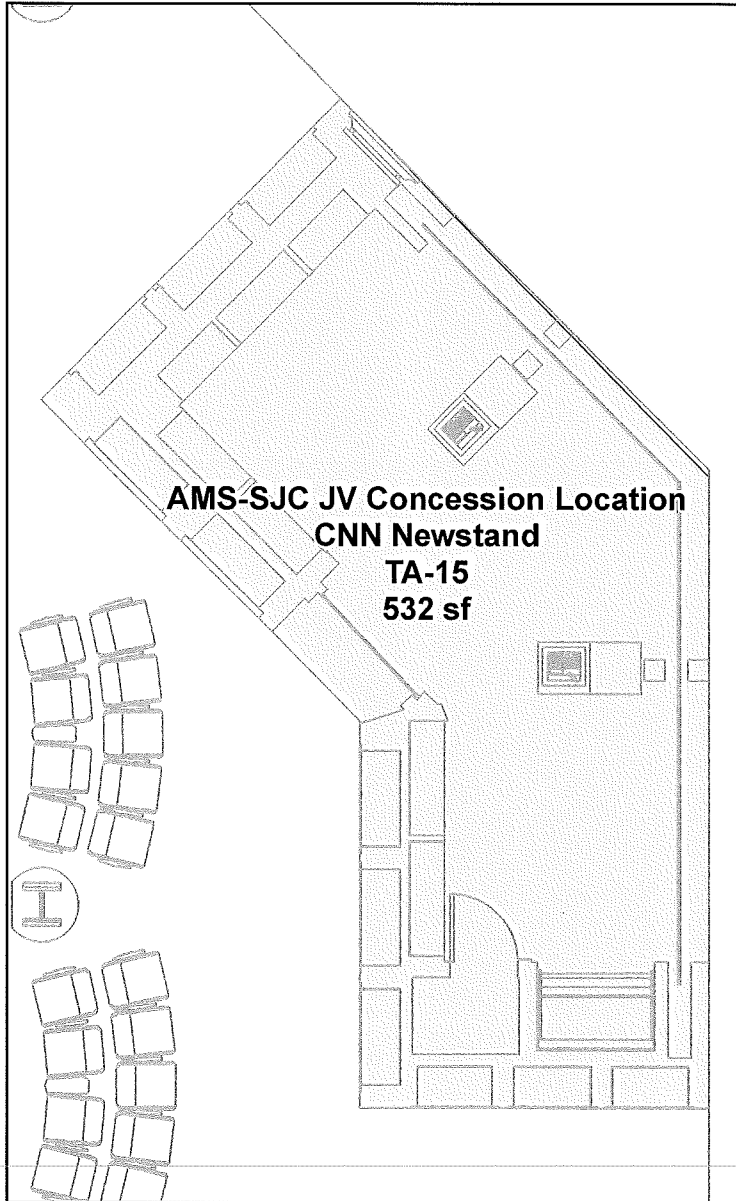




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Terminal A Floor 2
R. 12



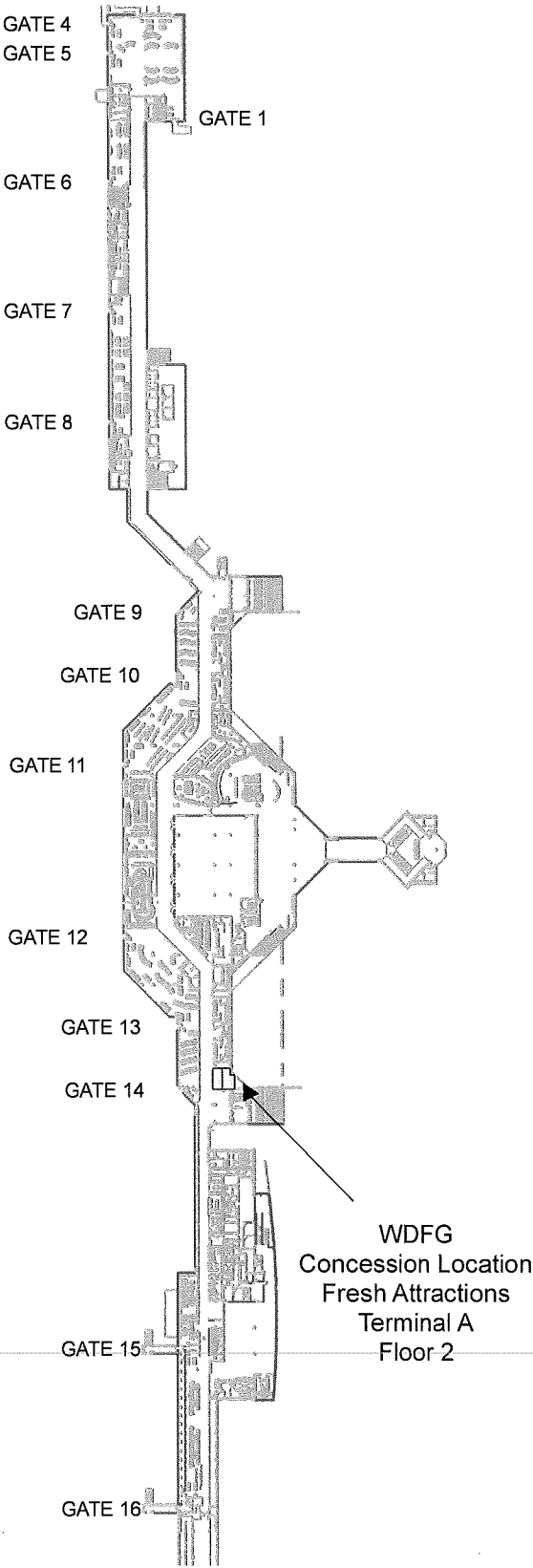
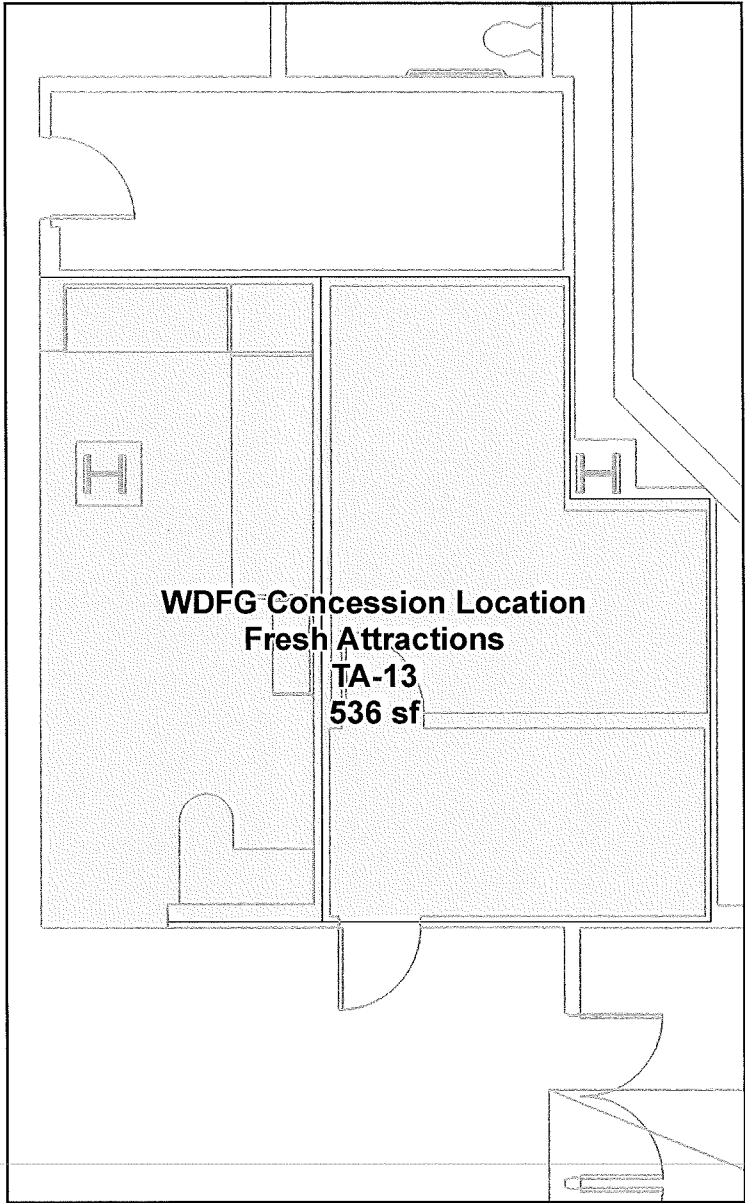
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**AMS-SJC JV
Terminal A Floor 2
B-14**

**NORMAN Y. MINETA
SAN JOSE
INTERNATIONAL
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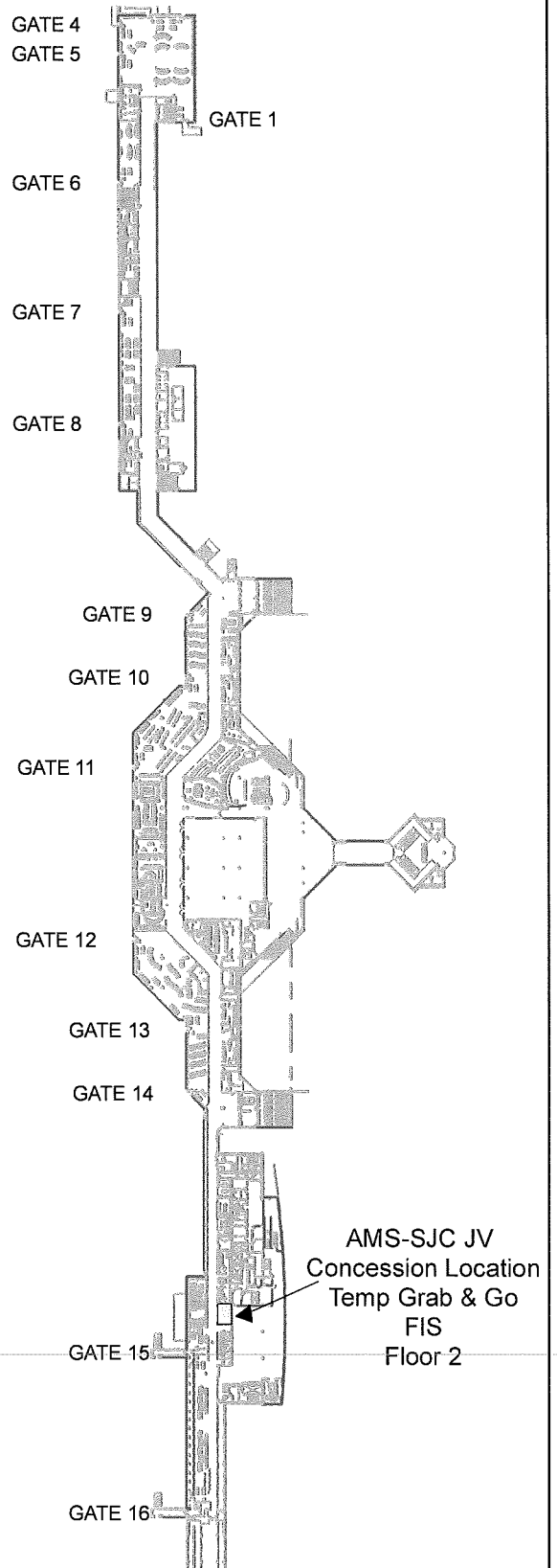
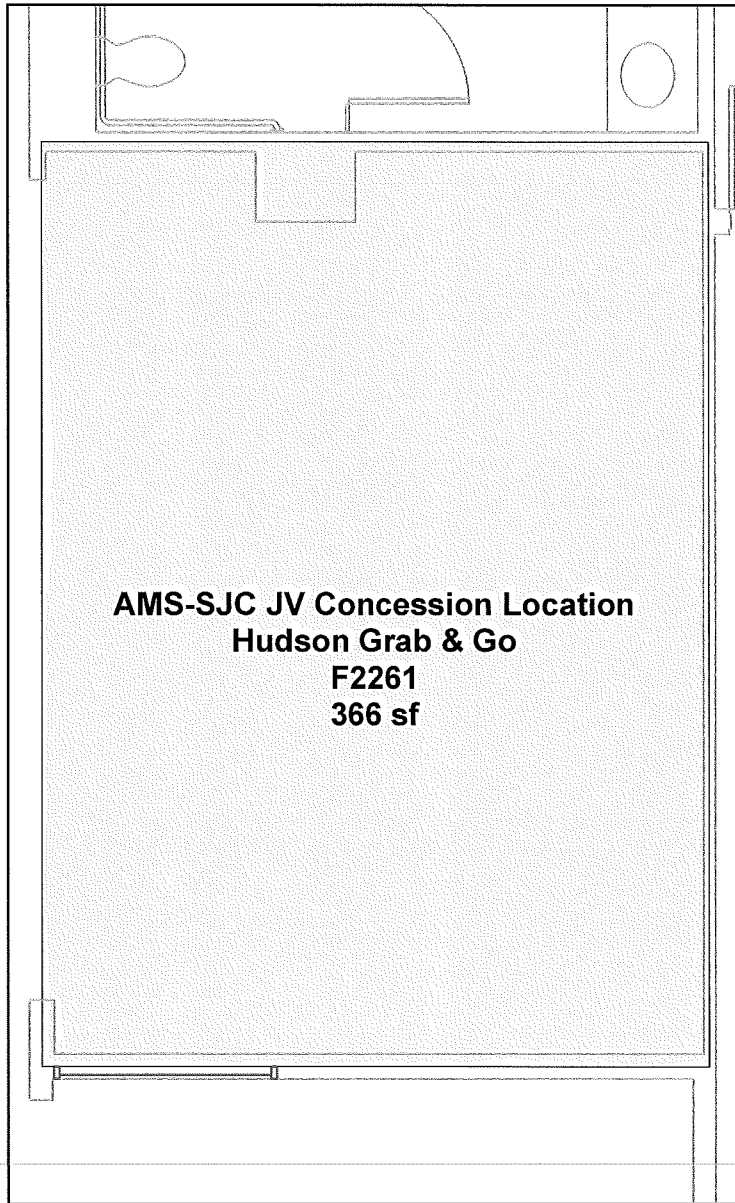


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Terminal A Floor 2
B-15

NORMAN Y. MINETA
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INTERNATIONAL
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SIXTH REVISED EXHIBIT B

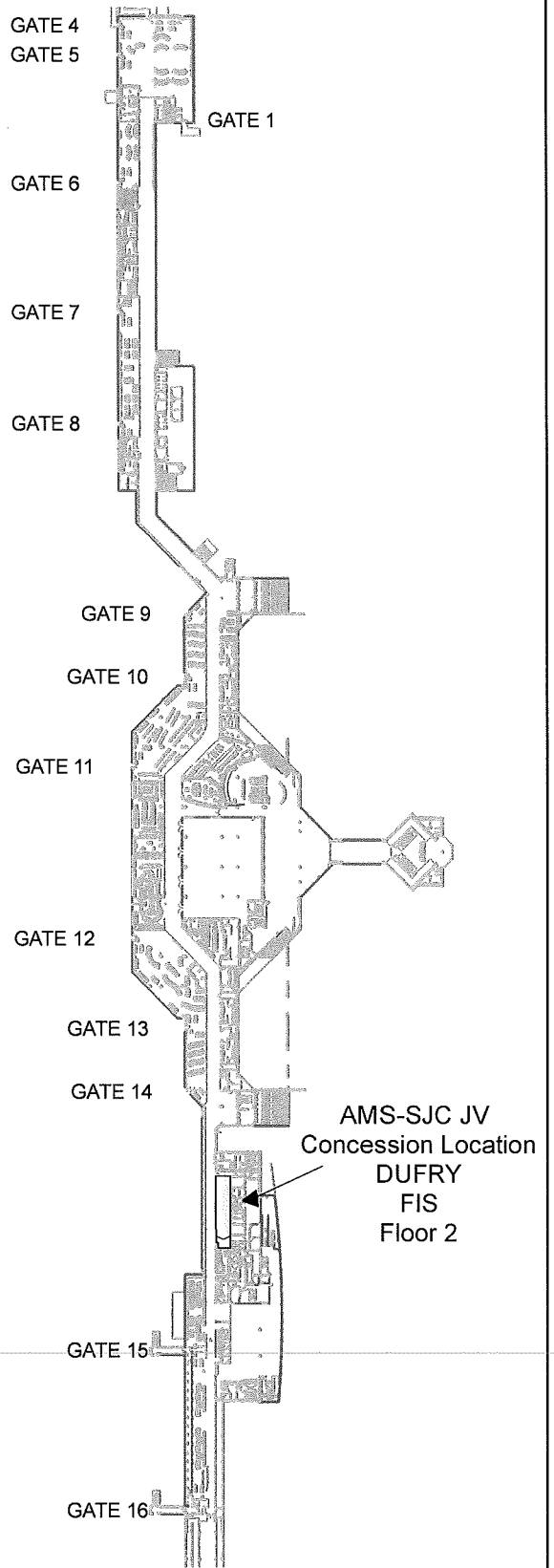
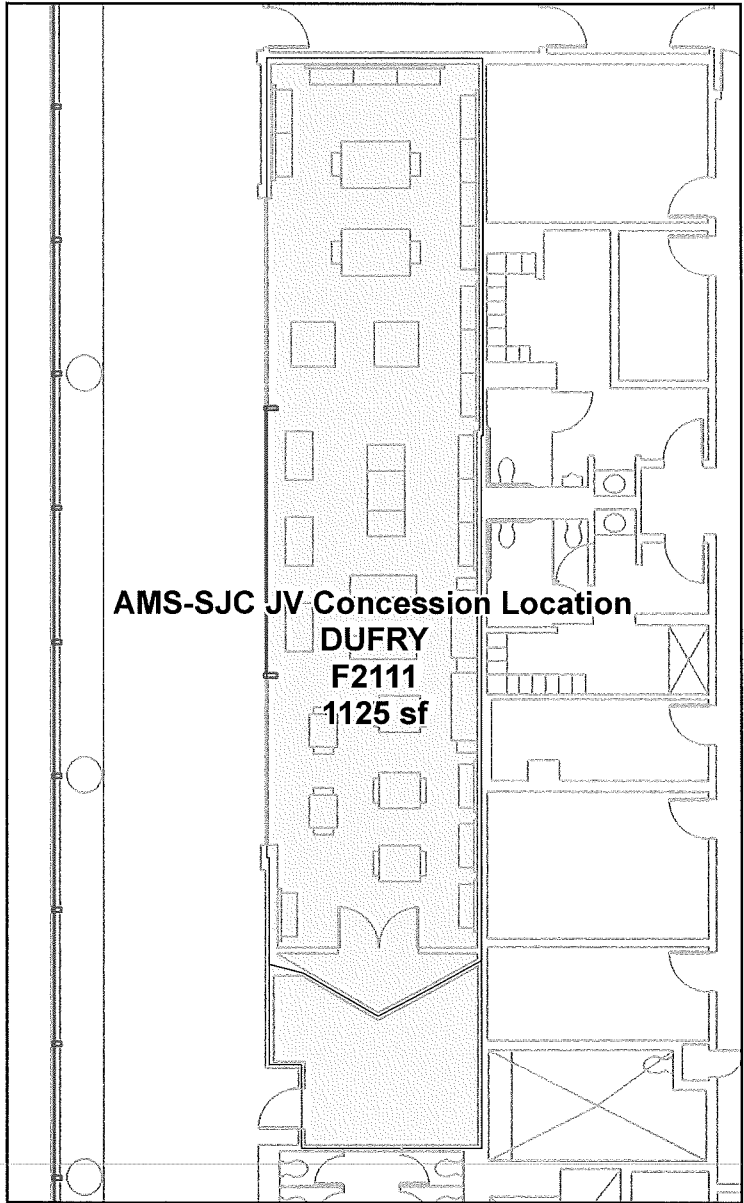


AMS-SJC JV
Terminal A Floor 2
P. 16

NORMAN Y. MINETA
SAN JOSE
INTERNATIONAL

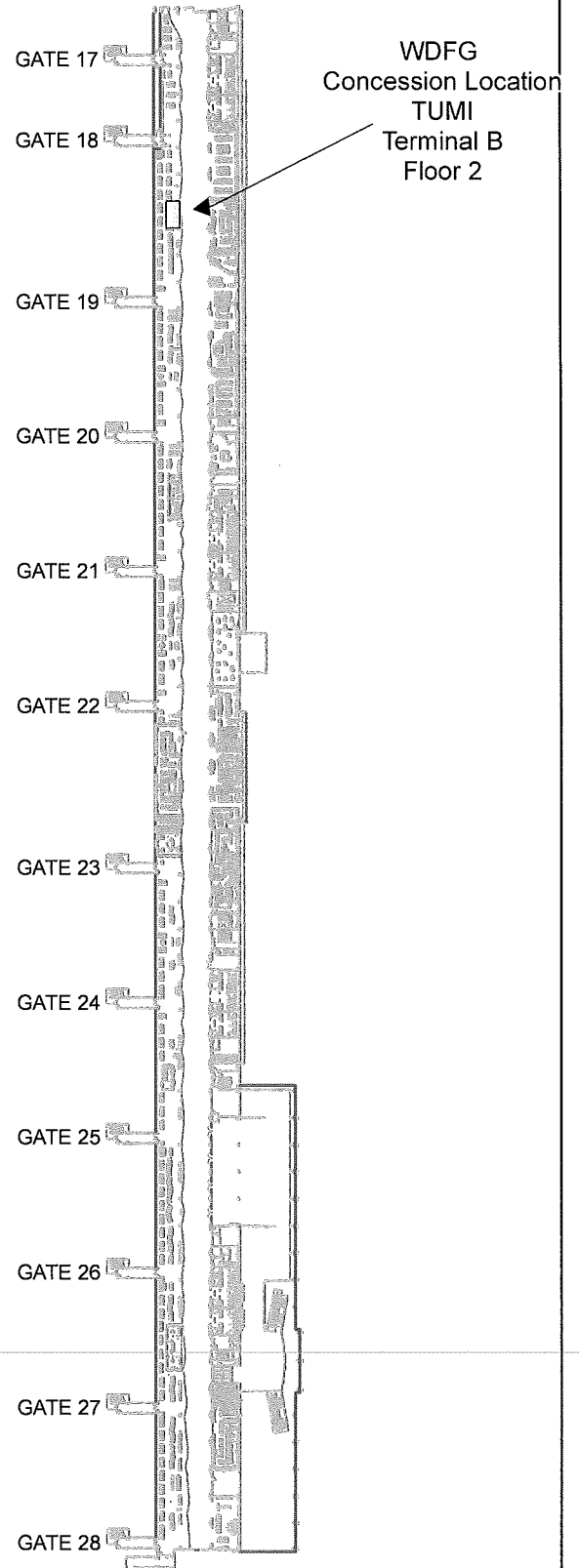
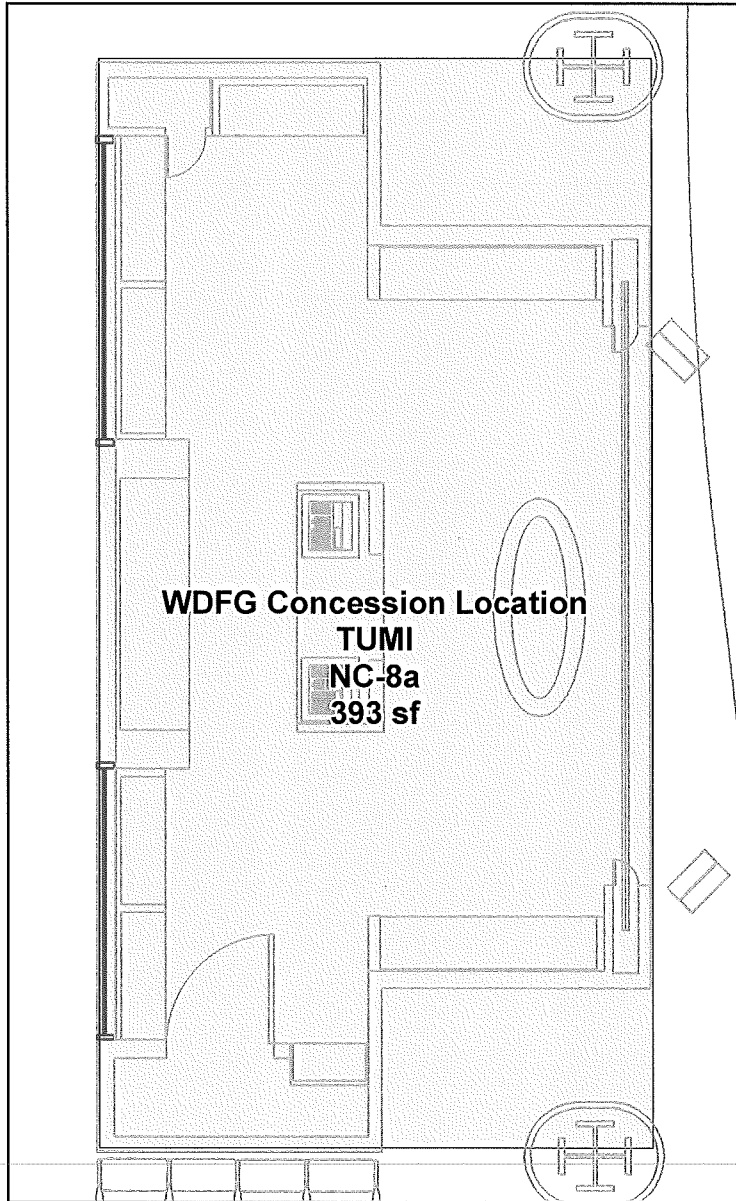


SIXTH REVISED EXHIBIT B



AMS-SJC JV
Terminal A Floor 2
R 17





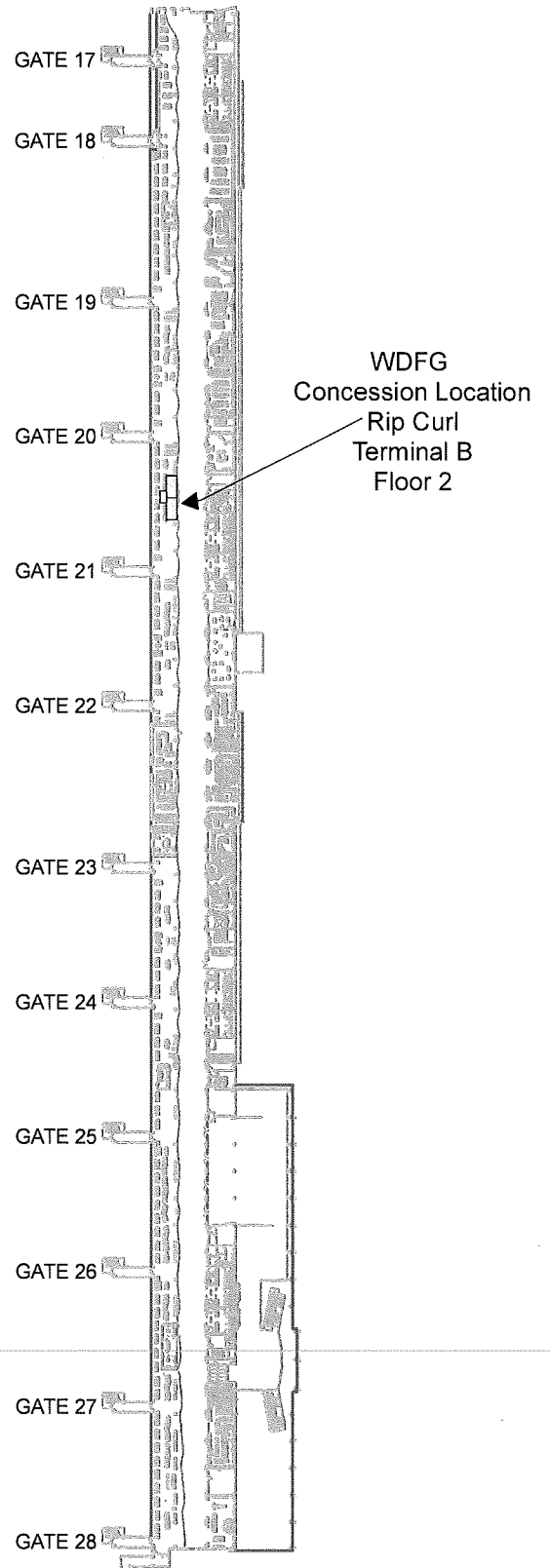
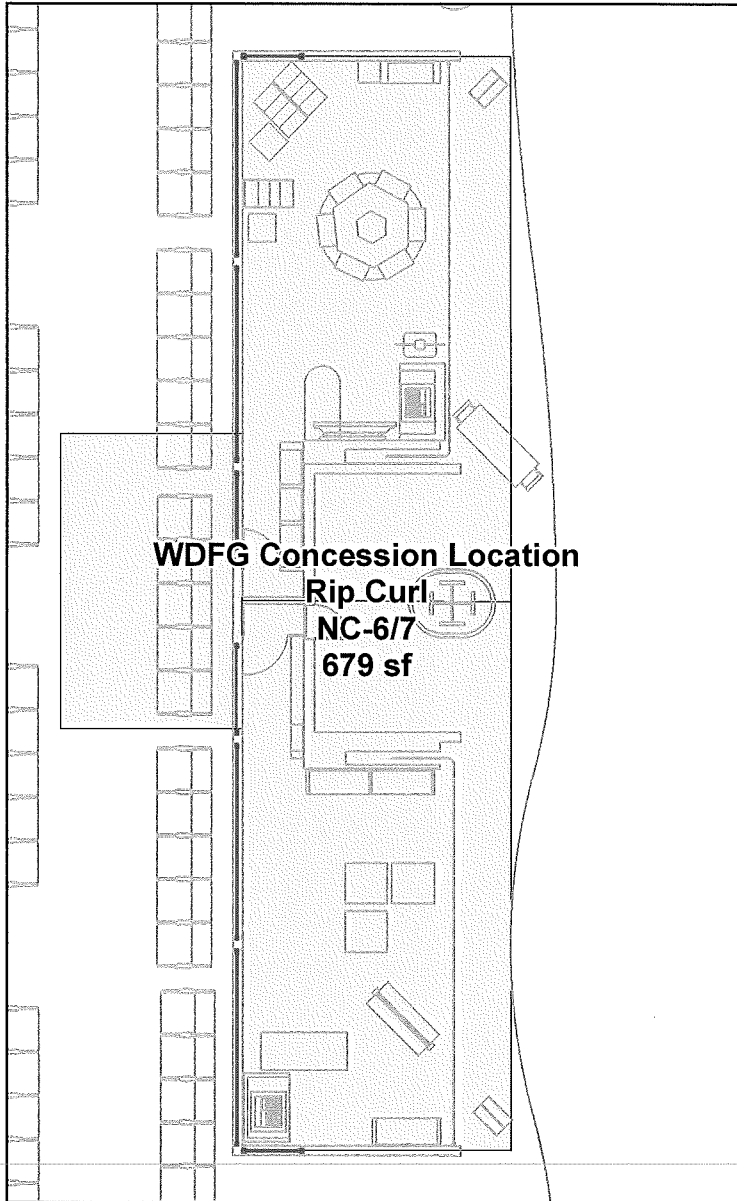
AMS-SJC JV
Terminal B Floor 2
R 18

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INTERNATIONAL
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SIXTH REVISED EXHIBIT B

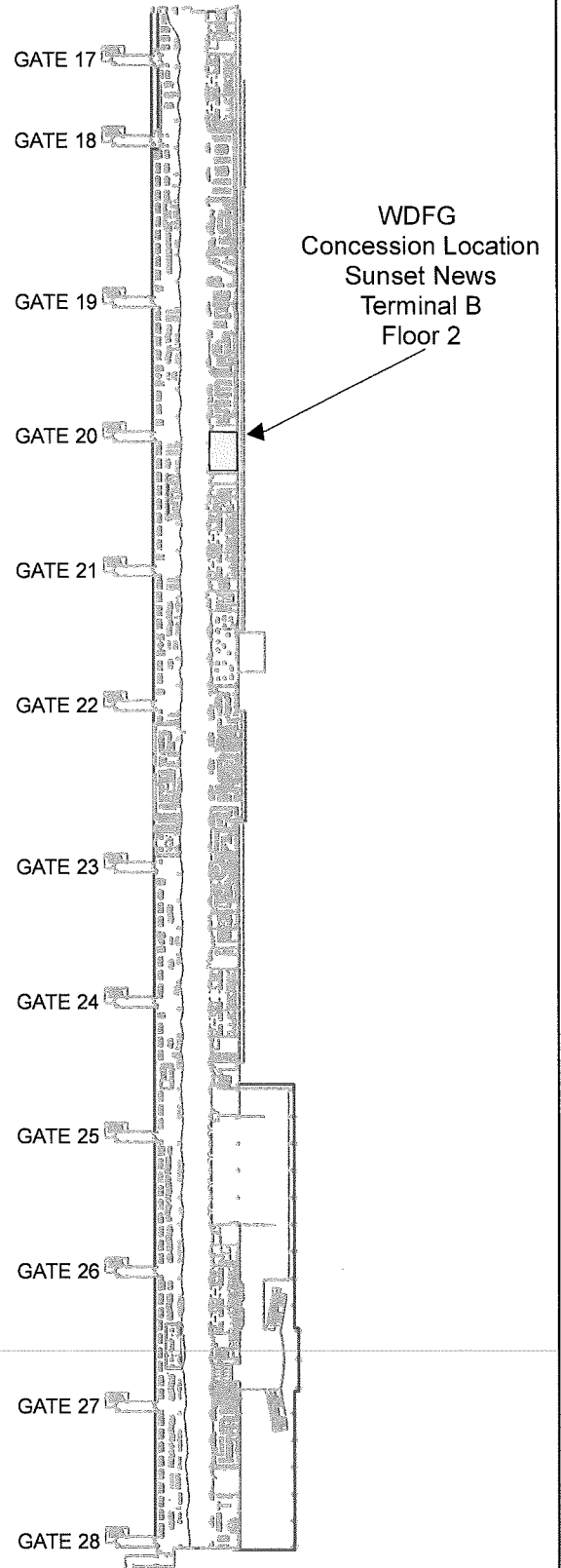
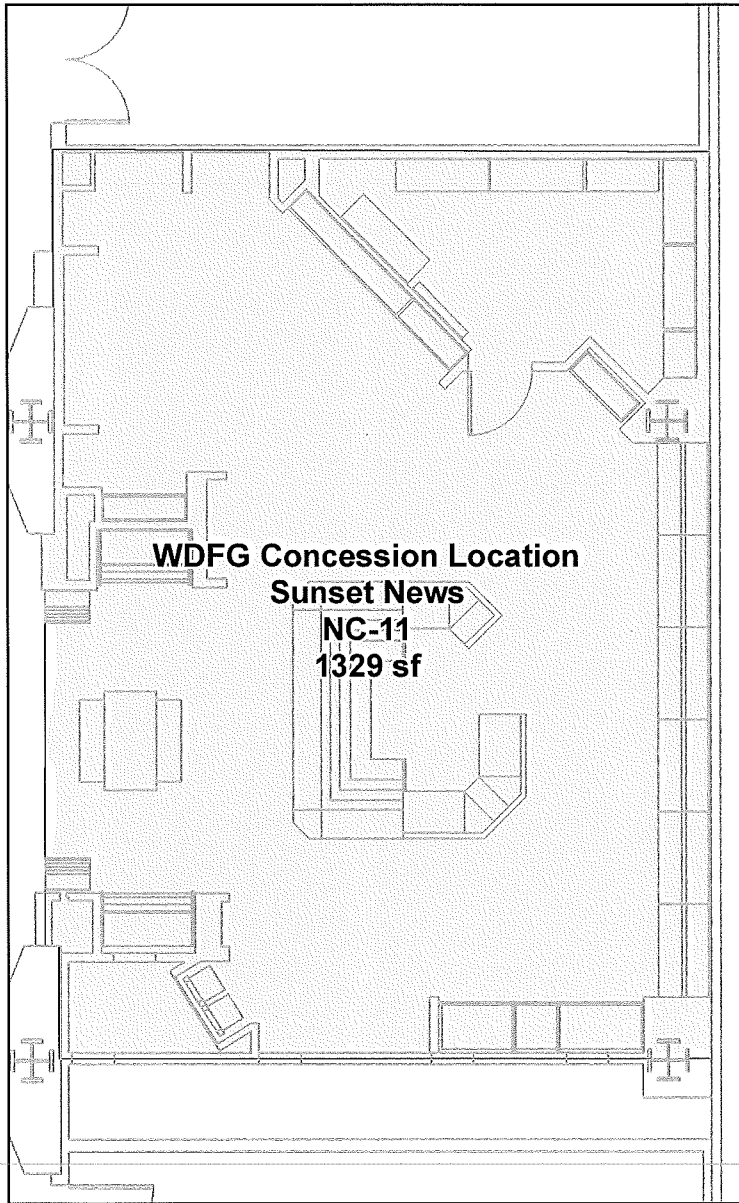


AMS-SJC JV
Terminal B Floor 2
R 10

NORMAN Y. MINETA
SAN JOSE
INTERNATIONAL

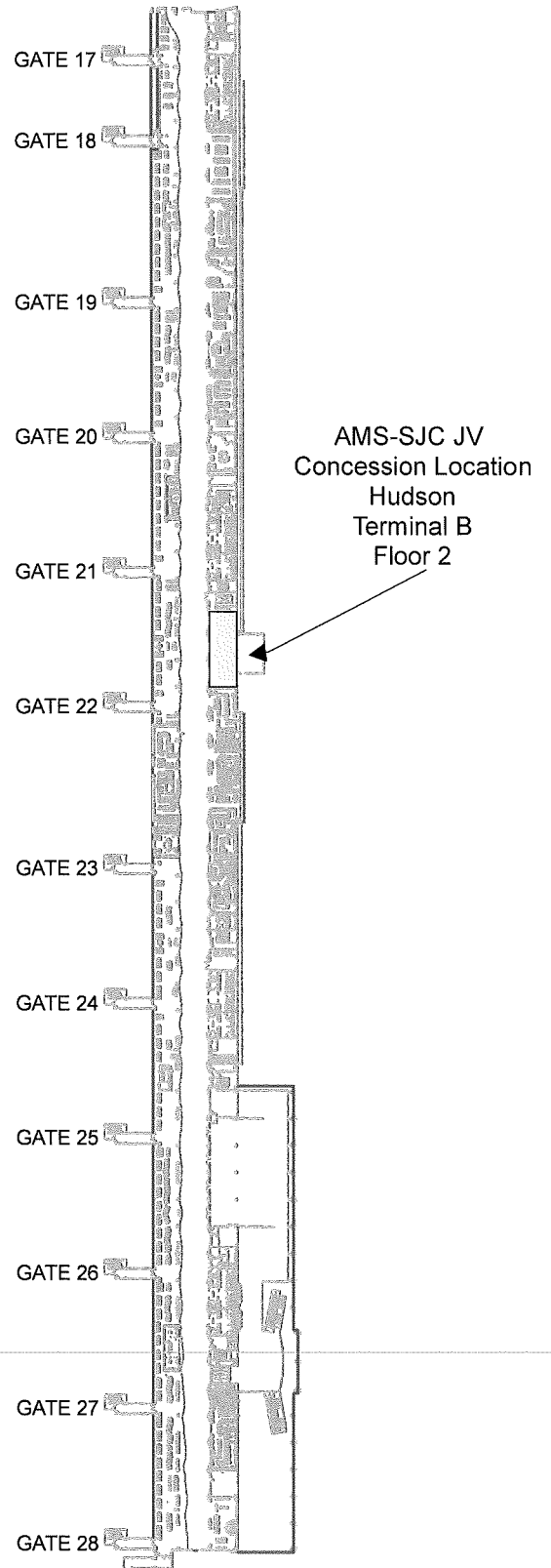
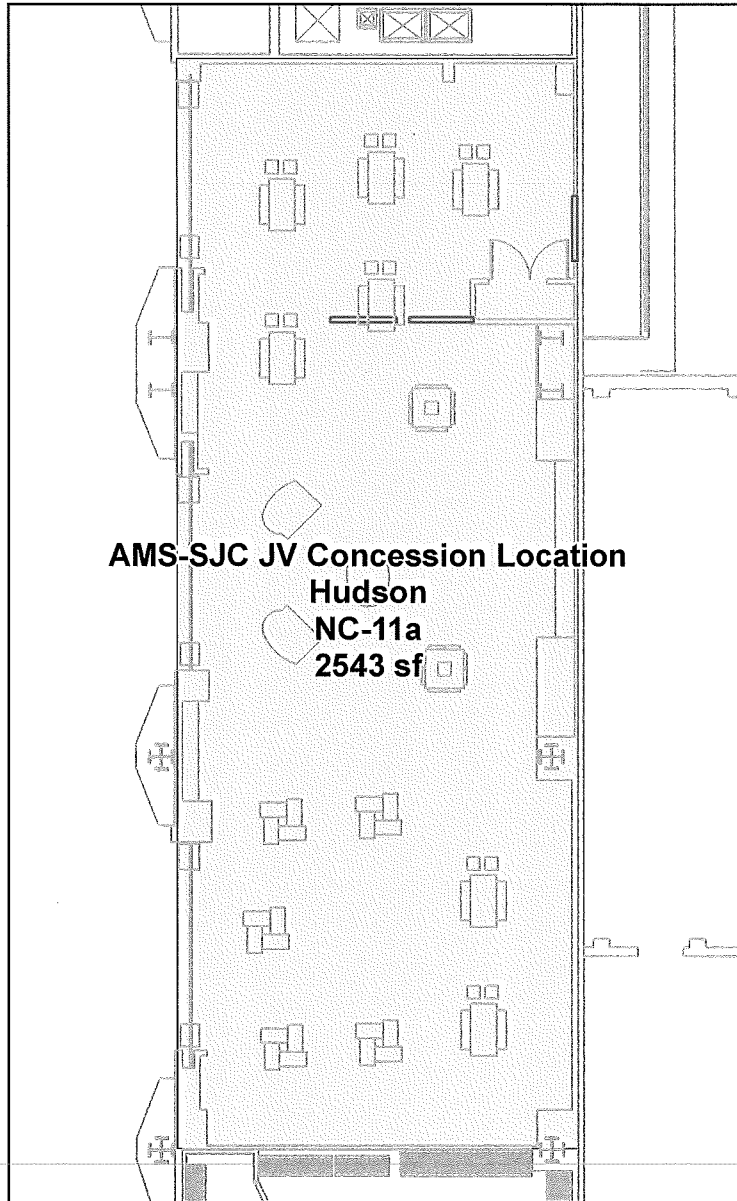


SIXTH REVISED EXHIBIT B



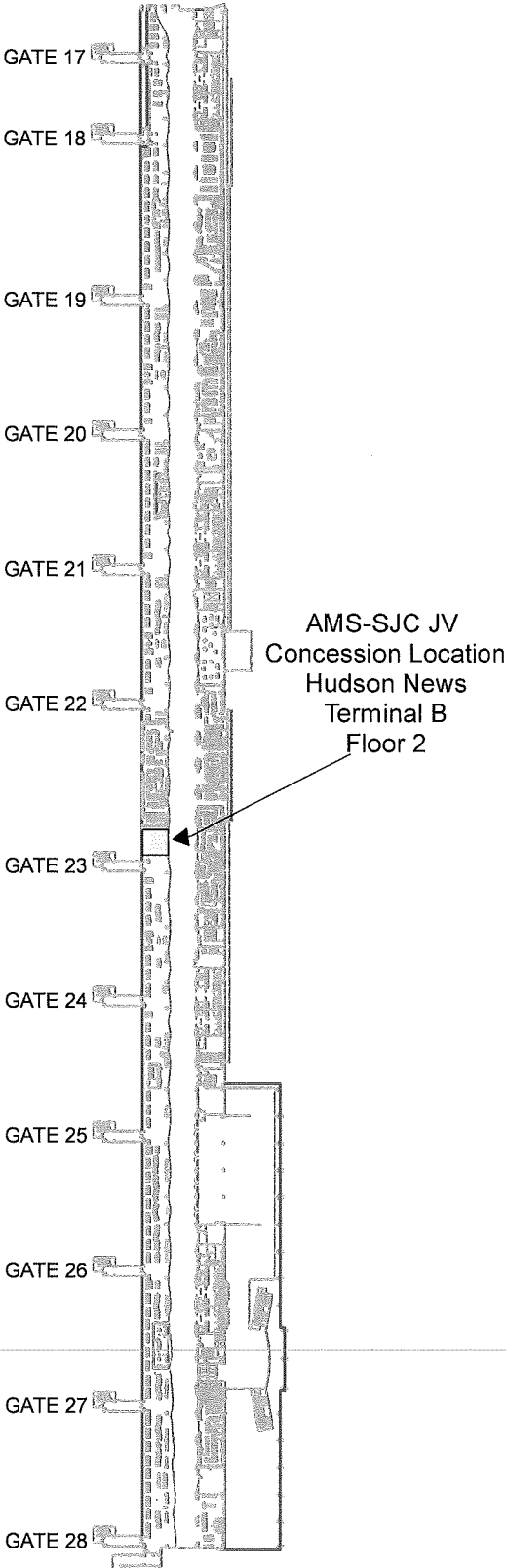
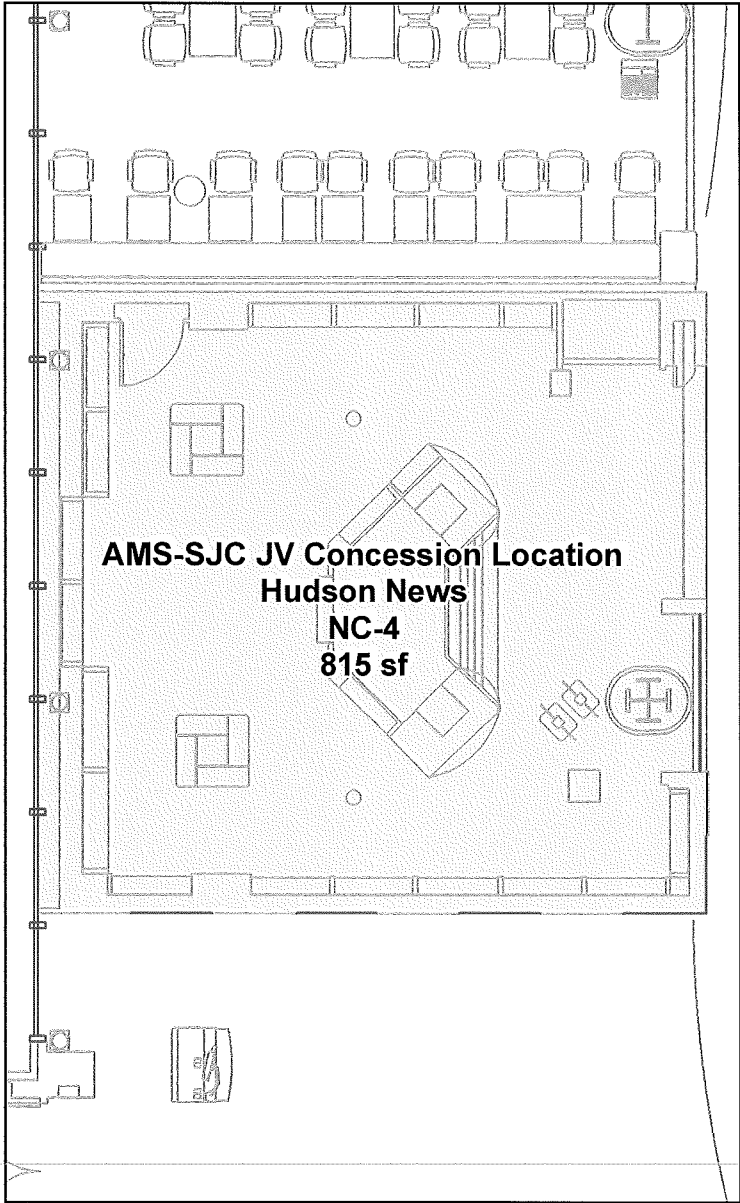
AMS-SJC JV
Terminal B Floor 2
B 20





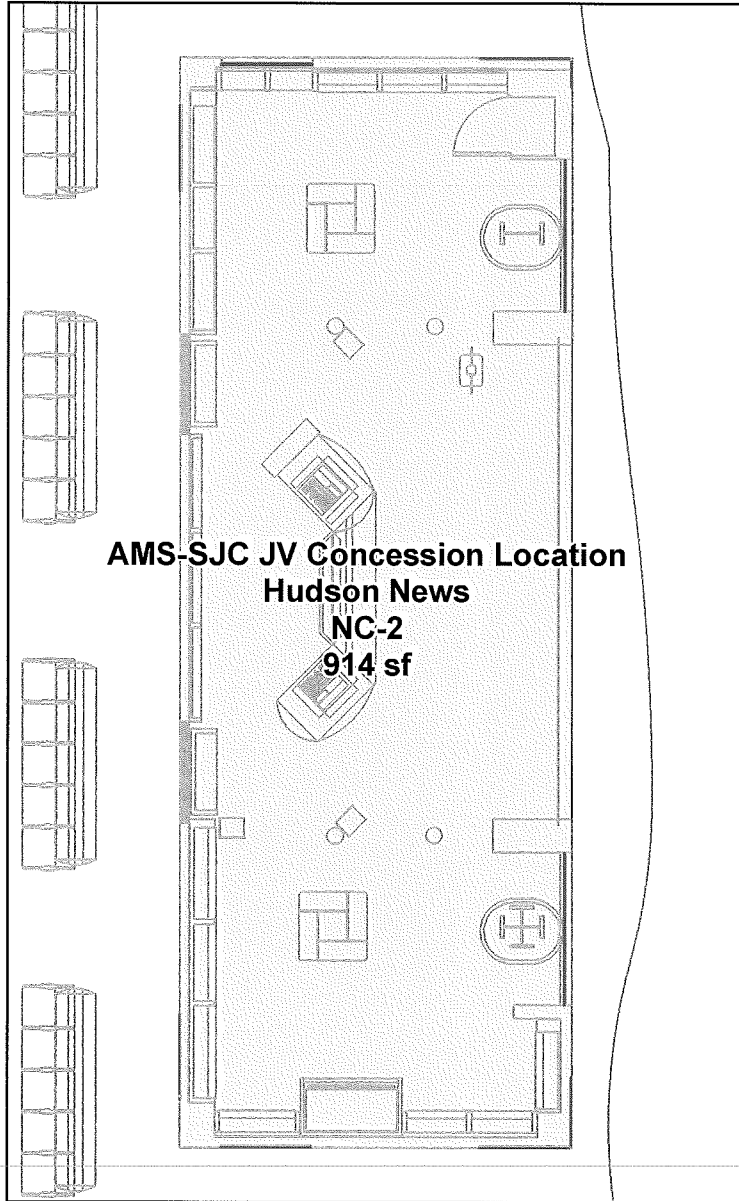
AMS-SJC JV
Terminal B Floor 2
R 21



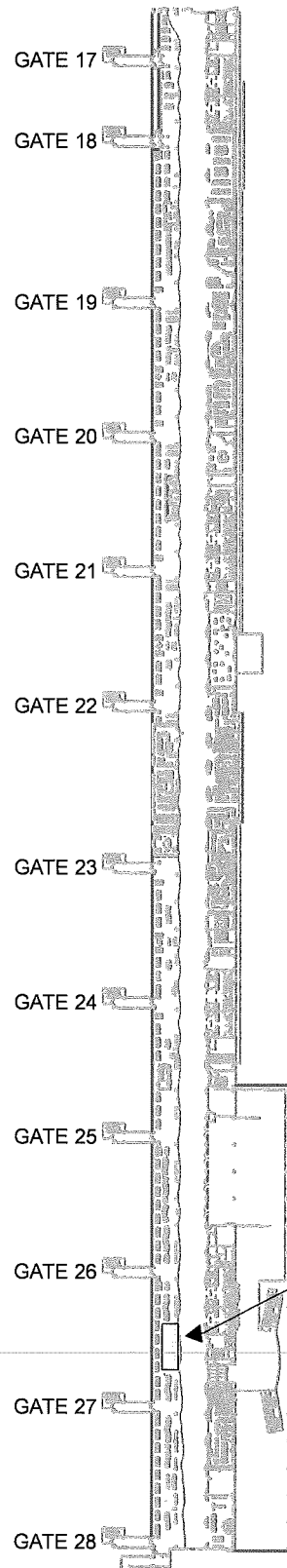


AMS-SJC JV
Terminal B Floor 2
R 22





**AMS-SJC JV Concession Location
Hudson News
NC-2
914 sf**



**AMS-SJC JV
Concession Location
Hudson News
Terminal B
Floor 2**

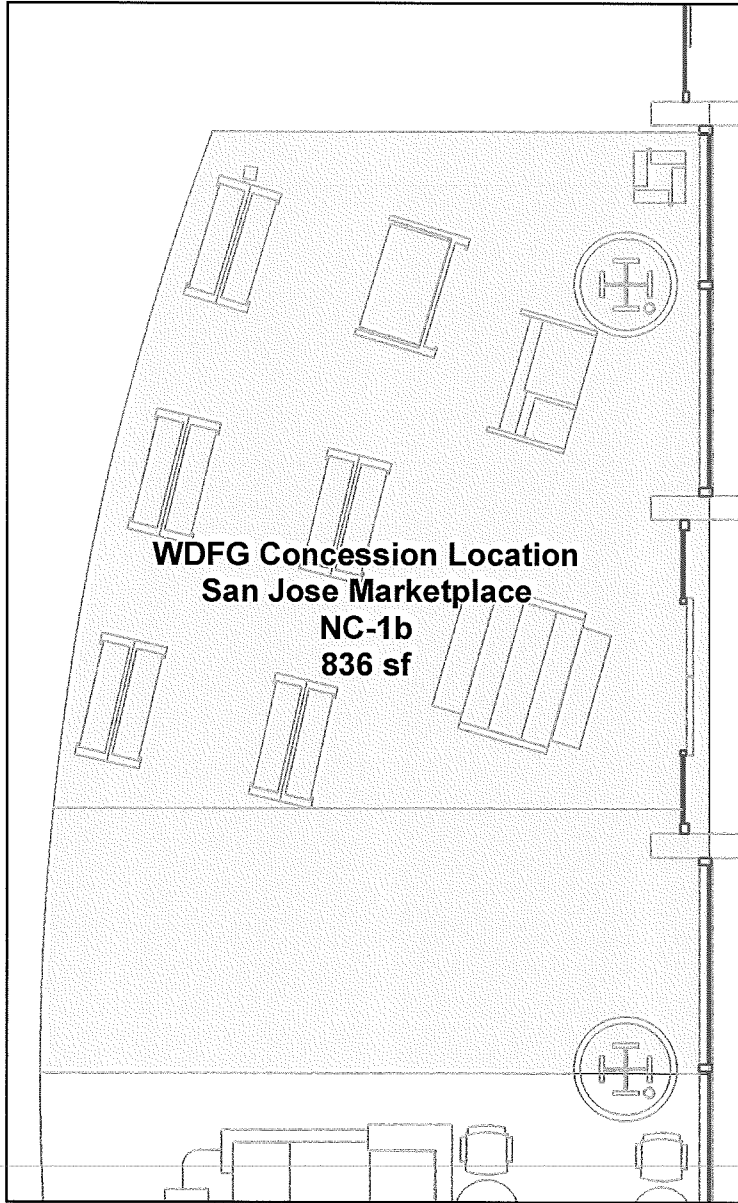


**AMS-SJC JV
Terminal B Floor 2
B-23**



Da

SIXTH REVISED EXHIBIT B



**WDFG Concession Location
San Jose Marketplace
NC-1b
836 sf**

WDFG
Concession Location
San Jose Marketplace
Terminal B
Floor 1

GATE 17

GATE 18

GATE 19

GATE 20

GATE 21

GATE 22

GATE 23

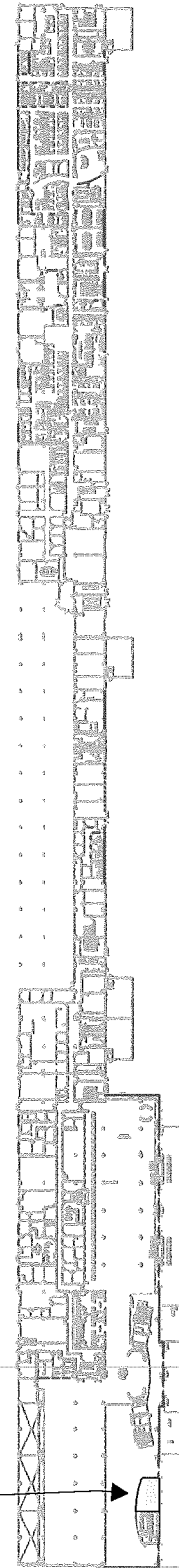
GATE 24

GATE 25

GATE 26

GATE 27

GATE 28

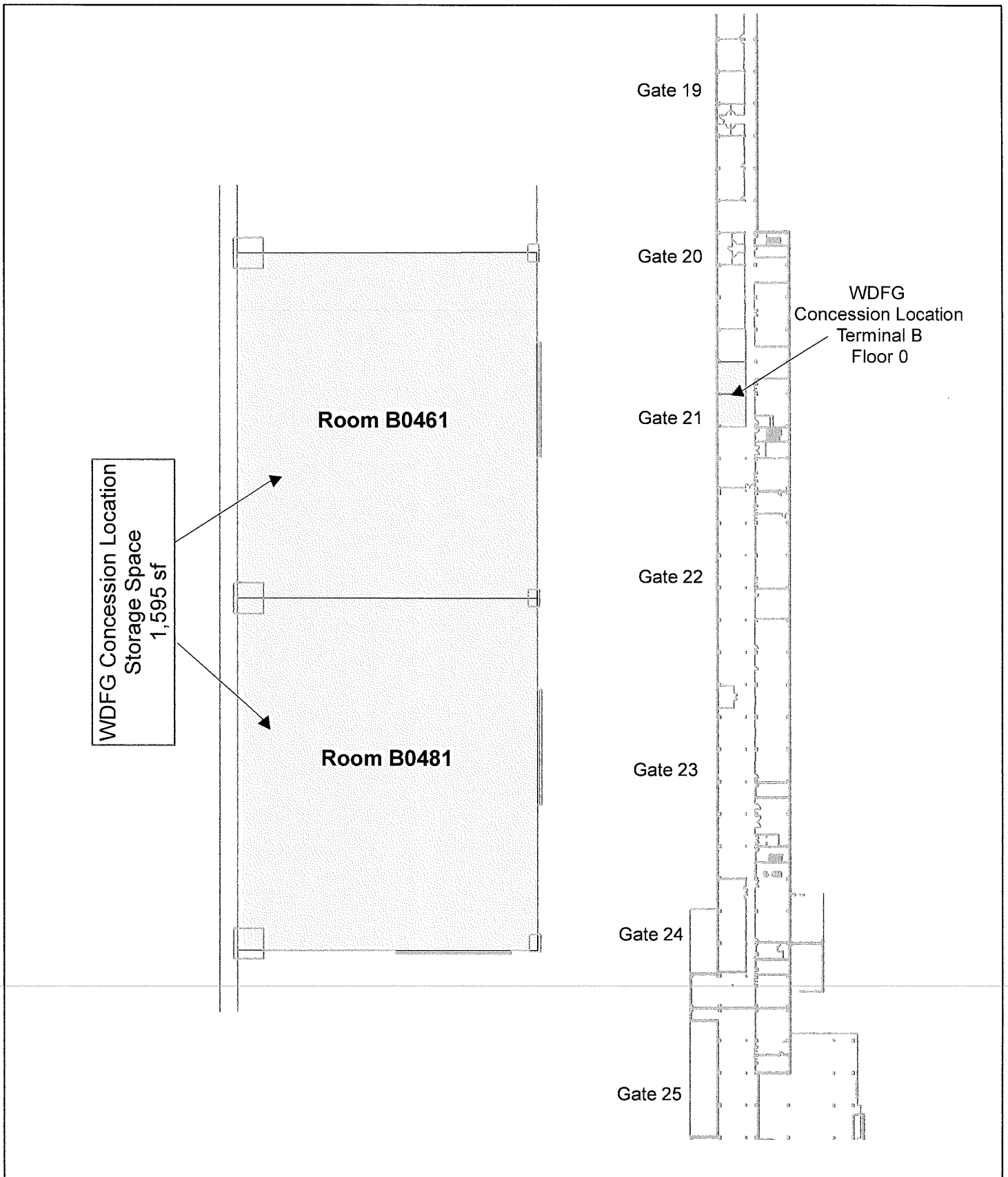


AMS-SJC JV
Terminal B Floor 1
B-24

NORMAN Y. MINETA
SAN JOSE
INTERNATIONAL
AIRPORT



SIXTH REVISED EXHIBIT B



AMS-SJC JV
Terminal B Floor 0
B.25

NORMAN Y. MINETA
SAN JOSE
INTERNATIONAL
AIRPORT



THIRD REVISED EXHIBIT C TENANT MIX

AMS SJC JV CONCESSION LOCATIONS

| Space Number | Sq Ft | Concept Name | AMS SJC JV Concession Location Expiration Date | Location |
|-----------------------------------|---------------|---|--|---------------|
| TA-15 | 532 | CNN Newsstand | 6/30/2024 | Post-Security |
| TA-17 | 748 | Discover San Jose | 6/30/2024 | Post-Security |
| TA-20 | 1,327 | Hudson News | 6/30/2024 | Post-Security |
| TA-25 | 337 | CNN Newsstand kiosk | 6/30/2024 | Pre-Security |
| TA-26 | 656 | Euro Cafe | 6/30/2024 | Pre-Security |
| NC-2 | 914 | Hudson News | 6/30/2024 | Post-Security |
| NC-4 | 815 | Hudson News | 6/30/2024 | Post-Security |
| NC-11a | 2,543 | Hudson News | 6/30/2024 | Post-Security |
| F2111 | 1,125 | DUFY | 6/30/2024 | Post-Security |
| A1460 | 1,602 | Duty Free Concession Support Storage Space | 6/30/2024 | Post-Security |
| F2261 | 366 | Hudson Grab and Go | 6/30/2024 | Post-Security |
| Total Concession Space | 10,965 | | | |

WDFG CONCESSION LOCATIONS

| Space Number | Sq Ft | Concept Name | WDFG Concession Location Expiration Date | Location |
|-----------------------------------|--------------|--------------------------|--|---------------|
| TA-+1b | 991 | Hudson News | 6/30/2026 | Post-Security |
| TA-13 | 536 | Fresh Attractions | 6/30/2026 | Post-Security |
| TA-19a, b | 421 | Tech On The Go | 6/30/2026 | Post-Security |
| TA-23 | 853 | Authors Bookstore | 6/30/2026 | Post-Security |
| NC-6,7 | 679 | Rip Curl | 6/30/2026 | Post-Security |
| NC-1b | 836 | San Jose Market Place | 6/30/2026 | Pre-Security |
| NC-8a | 393 | Tumi | 6/30/2026 | Post-Security |
| NC-11 | 1,329 | Sunset News | 6/30/2026 | Post-Security |
| B0461, B0481, | 1,595 | Concession Support Space | 6/30/2026 | Basement |
| Total Concession Space | 7,633 | | | |