

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** The Honorable City Council

**FROM:** Barry K. Hogan, Deputy City Manager   
**By:** City Attorney's Office

**DATE:** October 24, 2008 (CC Meeting of November 5, 2008)

**SUBJECT:** Consider Resolution Finding and Determining that the Public Interest, Convenience, and Necessity Require the Acquisition of Certain Property for Off-Site Public Access Road Purposes for Tract No. 5147, a 17-Lot Industrial Subdivision on 34.53 Acres, Located Approximately 1,300 Feet West of Gabbert Road, North of the Union Pacific Railroad Right-Of-Way Located in the City of Moorpark, County of Ventura, State of California

**SUMMARY**

State law requires that a Resolution of Necessity ("Resolution") be presented to the City Council at a hearing open to the public in order to initiate eminent domain proceedings for the acquisition of that property shown on the description and depiction collectively attached as Exhibits 1 and 2 to the proposed Resolution for an off-site access road, and accompanying slope easement, for tract no. 5147, a 17-lot industrial subdivision on 34.53 acres, located approximately 1,300 feet west of Gabbert Road, north of the Union Pacific Railroad right-of-way located in the City of Moorpark ("Moorpark"), County of Ventura, State of California.

**BACKGROUND**

A-B Properties ("Developer") owns property in Moorpark identified by Assessor's Parcel No. 500-0-340-225 ("A-B Property"). On December 16, 1998, the Moorpark City Council adopted Ordinance No. 250 (effective January 15, 1999), approving a Development Agreement between the City of Moorpark and A-B Properties ("A-B Development Agreement") in connection with General Plan Amendment (GPA) No. 97-02 and Zone Change (ZC) No. 97-06, for a 34.53-acre industrial development regarding the A-B Property. Tentative Tract No. 5147, a division of the A-B Property into 17 lots, was conditionally approved by the City Council on March 15, 2000, per Resolution No. 2000-1714.

Condition of Approval No. CED-33 of Resolution No. 2000-1714 and Section 6.21 of the A-B Development Agreement require that Developer construct an off-site 32-foot wide paved access road to serve as primary access, emergency access and for utility purposes, until the Improvements as defined in Section 6.22 of the A-B Development Agreement are constructed, or until other alternative access is provided via construction of a 2-lane portion of North Hills Parkway from the Property to Gabbert Road following Moorpark's approval of an amendment to the A-B Development Agreement. Following completion of the Improvements or the other alternative access, this access road to Gabbert Road would revert to emergency access purposes only.

The access road is to be located entirely on property owned by Hitch Ranch Partners located directly east from the A-B Property ("Hitch Property"). The entirety of the Hitch Property is encumbered by a right-of-way easement recorded January 4, 1968 in favor of Southern California Edison ("SCE"). On June 5, 2007, the Hitch Ranch Partners conveyed to Developer a 40-foot wide non-exclusive easement across the Hitch Property for public access road, emergency access and utility purposes ("Existing Access Easement") for the benefit of the property owned by Developer.

The property necessary for the paved access road for right-of-way and utility purposes the City Council is to consider acquiring, together with an easement for slope purposes, is described and depicted on Exhibits 1 and 2 attached to the proposed Resolution and incorporated herein by this reference ("Paved Access Road Interests"). The Paved Access Road Interests would be developed substantially along the Existing Access Easement. The legal description for the Paved Access Road Interests to be acquired is slightly different than the legal description of the recorded Grand Deed Easement in that the connection point onto the property owned by Developer is in a different, more northerly location.

SCE has allowed use of the Existing Access Easement for grading access, but has so far not permitted use for public access to the affected property. This prohibition makes it impossible for Developer to comply with the required conditions of approval without expanding the access rights in this area. Therefore, Developer has been unable to acquire the needed off-site right of way to complete construction of the Paved Access Road Interests over land owned by Hitch Ranch Partners and the easement holder SCE. The developer has requested that the City Council initiate eminent domain proceedings to obtain a public access easement.

Section 66462.5 of the Government Code provides that a city and a subdivider may, by agreement, provide for the acquisition of off-site interests from third parties by the city at the subdivider's expense, where such interests are required to satisfy map conditions.

**000040**

Section 7.4 of the A-B Development Agreement provides that, if requested in writing by Developer and limited to Moorpark's legal authority and section 66462.5 of the Government Code, Moorpark shall proceed to acquire, at Developer's sole cost and expense, easements or fee title to land in which Developer does not have title or interest to allow construction of public improvements required of Developer which are outside Developer's legal boundaries.

On January 23, 2008, the developer requested in writing that Moorpark acquire all property necessary to construct the Paved Access Road Interests pursuant to Section 7.4 of the A-B Development Agreement.

Following City Council approval on March 19, 2008, Moorpark and Developer on May 6, 2008 entered into a reimbursement agreement, authorized by Section 66462.5, in regard to the initiation of the process of acquisition. Pursuant to that agreement, the Council retains full and complete discretion to adopt or reject any proposed resolution of necessity. Any such rejection would not constitute a breach of the agreement, but would prohibit acquisition by eminent domain.

If Moorpark decides not to acquire the Paved Access Road Interests, the conditions of approval must be waived, and the development could not proceed until such time as legal access to Los Angeles Avenue and the "North Hills Parkway" is provided. This would essentially put the project on hold indefinitely.

## **DISCUSSION**

### **A. Facts**

Pursuant to, *inter alia*, Section 19, Article I of the California Constitution, Sections 37350 et seq., Sections 40401 et seq., and Sections 66462.5 et seq., of the California Government Code, Sections 5100 et seq., and 10102 et seq., of the California Streets and Highways Code, Section 1230.010 et seq., of the California Code of Civil Procedure, and other applicable law, Moorpark is authorized to acquire the Paved Access Road Interests, provided certain procedural steps are followed.

1. First, pursuant to Section 7267.2 of the California Government Code, Moorpark must make a written offer to the property owner, based upon an appraisal. Moorpark, through the firm of Burke, Williams & Sorensen, LLP, made an offer on September 2, 2008, to Mr. Richard S. Hambleton, Jr. of Hoffman, Vance & Worthington (representative to the Hitch Ranch Owners of Record) and SCE to purchase their respective interests in the Paved Access Road Interests. The offers were based upon an appraisal of the Paved Access Road Interests, and represent the full amount determined to

**000041**

be just compensation to the Hitch Ranch Owners of Record and SCE for the Paved Access Road Interests. A copy of each of these offer letters is attached as Exhibit 1. As of the date of the preparation of this report, Moorpark has yet to receive notice from the Hitch Ranch Owners of record of acceptance or rejection of Moorpark's offer. SCE responded to Moorpark's offer by letters dated September 25, 2008 and October 22, 2008 indicating SCE is taking Moorpark's offer into consideration. Copies of these letters are attached as Exhibits 4 and 5.

2. Since there has been no acceptance of Moorpark's offers, it is now necessary that an action in eminent domain be filed to acquire the Paved Access Road Interests. Prior to filing the action, Moorpark must hold a hearing on a Resolution, and provide the owner an opportunity to be heard at the hearing, provided the owner has filed a request to be heard in writing with Moorpark prior to the hearing. On October 8, 2008, Moorpark mailed to Hitch Ranch Owners of Record and SCE a Notice of Hearing to hold a Condemnation Hearing on November 5, 2008, regarding the proposed acquisition of the Paved Access Road Interests. A copy of each of the Notices is attached as Exhibit 2. The Notice of Hearing was mailed in accordance with the requirements of State law pertaining to eminent domain proceedings.
3. After conducting the public hearing, Moorpark must determine whether the public necessity requires that Moorpark adopt the Resolution authorizing condemnation proceedings for the purpose described in said Resolution.

B. Analysis

As to the Findings of the proposed Resolution, City staff has the following comments:

1. PUBLIC INTEREST AND NECESSITY: The public interest and necessity require the proposed project for which the Paved Access Road Interests will serve. The project, which consists of development consistent the with A-B Development Agreement in connection with General Plan Amendment (GPA) No. 97-02 and Zone Change (ZC) No. 97-06, for a 34.53-acre industrial development ("Project") includes the construction of the Paved Access Road Interests to satisfy conditions of the A-B Development Agreement. It is an adopted goal of the Moorpark General Plan that Moorpark would strive to "attain a balanced City growth pattern which includes a full mix of land uses." In that regard development of this land, adjacent to existing industrial development and along a projected arterial highway, assists in meeting that goal. The addition of this industrial development will also assist Moorpark in providing additional jobs within Moorpark and in meeting Moorpark's jobs/housing balance as required by

000042

Moorpark's adopted Housing Element of the Moorpark General Plan. Providing more local jobs within the community reduces the vehicle miles traveled, reduces congestion and improves air quality. The Paved Access Road Interests will provide the sole means of public access until the Improvements (as defined in Section 6.22 of the A-B Development Agreement) are constructed or until other alternative access is provided via construction of a 2-lane portion of North Hill Parkway from the Property to Gabbert Road following Moorpark's approval of an amendment to the A-B Development Agreement.

In its October 22, 2008 letter, SCE incorrectly contends any condemnation of the Paved Access Road Interests would be a subversion of the judicial process by using the eminent domain law to benefit a private developer. As noted above, Section 66462.5 of the Government Code allows Moorpark and Developer, by agreement, to provide for Moorpark's acquisition of the Paved Access Road Interests at Developer's expense, since the Paved Access Road Interests are required to satisfy Condition of Approval No. CED-33 of Resolution No. 2000-1714 and Section 6.21 of Development Agreement 1998-04 (Ordinance No. 250).

In its October 22, 2008 letter, SCE also contends the Paved Access Road Interests will not be put to a public use, and are merely to benefit a private developer. This is incorrect. The Paved Access Road Interests will be for use by the public to access the industrial development on the A-B Property. It is not essential that any considerable portion of the community directly enjoy or participate in a street improvement for it to constitute a public use. The public is benefited by a public road that will allow them to access to industrial and commercial businesses for services as well as for employment for those who work there.

2. PUBLIC GOOD VERSUS PRIVATE INJURY: The Project for which the Paved Access Road Interests is required is planned or located in the manner that will be most compatible with the greatest public good and the least private injury. The project has been designed and planned to be constructed to provide public access to the industrial development from Gabbert Road until such time as permanent public street access can be constructed through the addition of North Hills Parkway. Due to the topography of the area this access road is the only location that can reasonably serve the A-B Property in the interim. The Paved Access Road Interests essentially tracks an existing private, graded, dirt road and access easement already in use. Condemnation and use of this area will avoid costly grading if the road followed any other alignment on the property due to topography.

000043

3. ENVIRONMENTAL DETERMINATION: In its October 22, 2008 letter, SCE contends Moorpark has not conducted the required environmental review. SCE is incorrect. A Negative Declaration was prepared for the Project and subsequently reviewed and approved by the City Council on or about December 2, 1998 in accordance with the requirements of the California Environmental Quality Act (CEQA). It should be noted that the Negative Declaration also included the SCE property adjacent to A-B Property.
4. NEED FOR THIS PROPERTY FOR THE PROJECT: Until the Improvements (as defined in Section 6.22 of the A-B Development Agreement) are constructed or until other alternative access is provided via construction of a 2-lane portion of North Hill Parkway from the Property to Gabbert Road following Moorpark's approval of an amendment to the A-B Development Agreement, the Paved Access Road Interests will be the only means by which the public will be able to access the industrial development on the A-B Property. As noted above, if Moorpark decides not to acquire the paved access road, the conditions of approval must be waived, and the development could not proceed until such time as legal access to Los Angeles Avenue and the "North Hills Parkway" is provided. This would essentially put the project on hold indefinitely, delaying not only the private development opportunity, but the public's access to new jobs, and commercial and industrial service opportunities.
5. COMPATIBLE USE (CCP § 1240.510): The Paved Access Road Interests will not unreasonably interfere with or impair property appropriated by SCE for public use, whether said property is already in public use or set aside for a specific public purpose with the intention of using it for such purpose within a reasonable time. As noted above, SCE has an easement allowing it the right to use the entirety of the Hitch Property for operation and use of electric lines and equipment together with access for such purposes. The Paved Access Road Interests would be located substantially along the Existing Access Easement already granted to Developer. Additionally, SCE entered into a development agreement with Moorpark on February 10, 1999 ("SCE Development Agreement") in which SCE agreed, in Section 6.20 of said agreement, to allow for the construction and use of the Paved Access Road Interests. Any intended future use by SCE of the Hitch Property would be subject to the Existing Access Easement and the SCE Development Agreement. Moreover, the Paved Access Road Interests will only serve as primary access until a separate primary access is constructed and that, following completion of this separate access, the Paved Access Road Interests would thereafter be used for emergency access purposes only. Based on the foregoing, the acquisition, construction and use of the Paved Access Road Interests is compatible with SCE's existing or intended future public use of the property.

In its October 22, 2008 letter, SCE erroneously contends the Paved Access Road Interests will unreasonably interfere with SCE's electrical facilities. The grading activities associated with the Paved Access Road Interests have already substantially occurred, so SCE's issues related to dust accumulation are unfounded. The Paved Access Road is already in private use, so concerns related to SCE's access and clearances are equally unsupportable. SCE's planned transmission expansion must conform with Section 6.20 of the SCE Development Agreement, which allows for the construction and use of the Paved Access Road Interests, so SCE's claims of interference cannot lie. Further, several jurisdictions have requested evidentiary hearings and additional entitlement processing for SCE's proposed project including the County of Ventura, the City of Thousand Oaks, as well as Moorpark and A-B, so SCE's proposed project is by no means a certainty.

- 6 MORE NECESSARY USE (CCP § 1240.610): In the event that SCE contends Moorpark's use of the Paved Access Road Interests will unreasonably interfere with or impair the continuance of SCE's current or future public use of its property, or is unwilling to allow for joint use of the property inclusive of Moorpark's use of the Paved Access Road Interests, Moorpark may acquire the Paved Access Road Interests on grounds that Moorpark's public uses regarding the Paved Access Road Interests are more necessary and paramount public uses than the public use or purpose to which SCE is using the property, or intends on using the property within a reasonable time. Section 1240.650(a) provides, "[w]here property has been appropriated to public use by any person other than a public entity, the use thereof by a public entity for the same use or any other public use is a more necessary use than the use to which such property has already been appropriated." As noted by the Law Revision Commission in regard to Section 1240.650, "[t]he preference under Section 1240.650 is not merely one of public ownership over private ownership for the same use but includes any use. Thus, for example, a public entity may condemn the easement of a privately owned public utility not merely to perpetuate the utility use in public ownership but also to provide some separate and distinct use." It should be noted that California Public Utilities Code § 6262 provides that "[n]o franchise granted under this chapter in any way impairs or affects the right of the granting municipality to acquire the property of the grantee by purchase or condemnation, and nothing contained in such a franchise shall be construed to contract away, modify or abridge either for a term or in perpetuity the municipality's right of eminent domain in respect to any public utility."

The California Government Code urges public entities to make every reasonable effort to acquire expeditiously real property by negotiation. SCE has known about this proposed acquisition even before Moorpark first considered entering into the reimbursement agreement with Developer in March of 2008. In addition, on July 8, 2008, counsel for

**000045**

Moorpark and its appraiser met with SCE and its appraiser at the site, whereupon issues related to valuation were discussed. Moorpark's offer letter and summary appraisal were sent to SCE over two months ago. SCE has had sufficient time to complete its appraisal.

SCE's letter dated October 3, 2008 requested that this hearing be postponed until a later date to allow SCE and Moorpark time to continue their negotiations. The hearing was then put over until November 5, 2008. SCE's letter dated October 22, 2008 seeks further delays of this hearing. Neither letter, however, references that on October 2, 2008, SCE noticed its intent to commence construction of proposed Moorpark-Newbury 66kV Subtransmission Line without the benefit of a hearing before the California Public Utilities Commission. A copy of this notice is attached as Exhibit 6. Pursuant to SCE's notice, construction of the proposed subtransmission line is scheduled to commence on November 17, 2008. SCE's desire appears mainly to obtain authority to commence construction of its proposed subtransmission line prior to Moorpark's adoption of this Resolution of Necessity.

While SCE has known about Moorpark's proposed acquisition for a long time, SCE has yet to negotiate in any meaningful manner with Moorpark. Based on the foregoing, there does not appear to be any legitimate reason to further delay the hearing on this Resolution of Necessity. An adoption of a Resolution of Necessity does not mean that negotiations for the acquisition of the Paved Access Road Interests are at an end, and it is assumed the parties will continue in their negotiations if the Resolution of Necessity is adopted. Questions relating to value are not, however, relevant to this proceeding. Consequently, going forward with this hearing should not undermine the negotiation process.

### **FISCAL IMPACT**

There is no fiscal impact upon Moorpark directly as a consequence of City Council's action on this agenda item. The developer, AB Properties, has agreed to pay all costs relative to the processing of this eminent domain proceeding. Cost of acquisition and any costs to defend Moorpark, should legal action be taken against Moorpark for its actions, are also to be paid by Developer.

### **STAFF RECOMMENDATION - Roll Call Vote (2/3rds Affirmative Required)**

1. Open hearing, accept public testimony, and close hearing.
2. After review of relevant facts, adopt the Resolution of Necessity (Exhibit 3) to initiate eminent domain proceedings to acquire the Paved Access Road Interests.

**000046**

Honorable City Council  
November 5, 2008  
Page 9

Attachments:

1. Offer Letters
2. Notice of Hearing and Response
3. Resolution of Necessity
4. October 3, 2008 Letter from Southern California Edison (SCE)
5. October 22, 2008 Letter from Southern California Edison (SCE)
6. October 2, 2008 Notice of Proposed Construction

**000047**

September 2, 2008

Hitch Ranch Owners of Record  
c/o Mr. Richard S. Hambleton, Jr.  
Hoffman, Vance & Worthington  
1000 S. Seward Avenue  
Ventura, CA 93001-3735

Re: Offer to Purchase Interests In Land Over 40-Foot Strip Of Land  
Portion of APN 511-0-200-040  
City of Moorpark, CA

Dear Mr. Hambleton:

The City of Moorpark ("Moorpark") is considering constructing a public road for ingress, egress and utility purposes ("Road Project"). It has been determined that the Road Project will require the acquisition of a portion of your property identified by Ventura County Assessor Parcel Number 511-0-200-040.

Moorpark has obtained a preliminary title report showing your client, Hitch Ranch Owners of Record (collectively, "Owner"), to be the vested owner of real property within the Road Project area. See Attachment B to Appraisal Summary enclosed herein. We understand you to be the property manager for Owner, and hold a power of attorney in that regard. You have requested this correspondence be sent to you as opposed to sending this to each individual owner of record.

The interests to be acquired ("Interests") consist of a non-exclusive appurtenant easement and right of way for public access road, emergency access and utility purposes, together with an easement for slope purposes, and are described and depicted on Exhibits "C" and "D" to the enclosed appraisal summary. The Interests shall serve as the primary access to that property owned by A-B Properties described as all of lots 1 through 17 inclusive per Tract No. 5147, Miscellaneous Records 158 MR 37, Recorded as Document # 20070820-00162805-0 with the County Recorder ("Property") until such time as the Improvements (as defined in Section 6.22 of the Development Agreement By and Between the City of Moorpark and A-B Properties) are constructed or until other alternative access is provided via construction of a 2-lane portion of Northhills Parkway from the Property to Gabbert Road following Moorpark's approval of an amendment to said Development Agreement, after which the paved

**CC ATTACHMENT 1**

**000048**

Mr. Richard S. Hambleton, Jr.  
September 2, 2008  
Page 2

access road shall become an emergency access only for the Property. The Interests to be acquired shall also allow for the installation, repair, replacement, maintenance and operation of subsurface water, sewer, electric, gas, cable, and telephone utilities, and shall additionally allow for 2 empty conduits for potential future utility use, that serve the Property.

It is the policy of Moorpark to acquire property only when it is essential to do so, and through voluntary purchase, if possible. While Moorpark has the power of eminent domain, condemnation has not been authorized with respect to the Interests as of this date, and cannot occur until Moorpark's City Council formally acts. Nothing in this letter is meant to pre-commit Moorpark's City Council or otherwise limit the options available to it.

California law requires that before making an offer for the acquisition of real property for the Road Project, Moorpark must: obtain an appraisal to determine the fair market value of the real property being acquired; establish an amount which it believes to be just compensation for that property; and make an offer to the owner for an amount not less than the just compensation so determined. Moorpark has, accordingly, had the Interests appraised by an independent, professional appraiser to determine its fair market value, as defined in California Code of Civil Procedure section 1263.320. It was appraised on August 13, 2008 in accordance with commonly accepted appraisal standards and included consideration of the highest and best use of the land, the land's current use and any improvements located thereon. The appraisal has been completed and reviewed, and Moorpark has determined an amount, which constitutes the full amount believed by Moorpark to be just compensation for the property taken and any damages thereto.

Using a date of valuation of July 8, 2008, the total just compensation to Owner for the taking of the Interests was determined by the appraiser to be nominal. The basis for the computation of this amount is explained in the Appraisal Summary Statement enclosed herewith. This amount includes consideration of the amount of damage, if any, to the remainder, and disregards any change in the fair market value of the property to be acquired caused by the Road Project.

Based on the foregoing, Moorpark hereby offers you the sum of ONE THOUSAND AND 00/100 (\$1,000.00) for the acquisition of the Interests. In acquiring the Interests, Moorpark will pay all usual fees, charges, and costs that arise out of this transaction.

Mr. Richard S. Hambleton, Jr.  
September 2, 2008  
Page 3

This offer is subject to your ability to convey clear title to the Interests (i.e., free of encumbrances or liens, other than liens for taxes and any utility encumbrances acceptable to Moorpark). If more than one person has an interest in the Interests Moorpark is seeking to acquire, all parties with such interests must accept this offer. If you decide to accept this offer, it is recommended that you promptly contact any persons to whom you may be making payments under trust deeds, or other liens, and reach an agreement with them as to the amount of money, if any, they will demand in escrow to clear the Interests of these liens and encumbrances. In the event there are liens and encumbrances, you should either:

- Pay to owners of liens and encumbrances, out of the approved compensation paid by Moorpark, the amount needed to terminate leases or cancel trust deeds, mortgages, or other liens affecting the Interests acquired; or
- Arrange for holders of leases, trust deeds, mortgages, or other liens to quitclaim their interest, if any, in the Interests to Moorpark.

The amount of the offer is additionally predicated on the assumption that there exists no hazardous substance, product, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 United States Code Section 9601, *et seq.*, on the Property, and that the Property is free of hazardous substances (as that term is defined under California Health and Safety Code Section 33459(b)) and all other subsurface soil contamination. The amount offered is also subject to an environmental site inspection, and the cost to remediate any identified problems may affect the valuation of the subject Property. In the event that any facts or circumstances arise which indicate the presence of such subsurface contamination, Moorpark reserves the right to rescind or modify the offer stated above at any time prior to its written acceptance, to reflect the estimated or actual costs to remediate the Property to the satisfaction and approval of all applicable regulatory agencies. Further, in the event Moorpark purchases the Property and afterwards discovers such soil contamination, Moorpark reserves all rights and remedies it may have against you and all prior owners to seek damages or other obligations Moorpark incurs as a result of the contamination, as may be permitted or authorized by any law, including, but not limited to, CERCLA (42 U.S.C. §9601 *et seq.*), the Hazardous Waste Control Law (California Health and Safety Code §25100 *et seq.*), the Porter Cologne Act (California Water Code §13000 *et seq.*), California Health and Safety Code §25280 *et seq.*, §33459 *et seq.*, and provisions of Proposition 65.

Mr. Richard S. Hambleton, Jr.  
September 2, 2008  
Page 4

Please be advised that the amount offered does not reflect any consideration of or allowance for any relocation assistance payments to which you or any occupant of the subject Interests may be entitled. Please also note that this offer is subject to the ratification of an agreement for purchase and sale by the City Council, the City Council's adoption of a resolution of necessity, or both.

If you are not satisfied with Moorpark's offer, you are encouraged to present to us any material you believe to be relevant to the value of the Interests, which material will be carefully considered by Moorpark. If, in Moorpark's opinion, the additional information warrants a change in the offer, Moorpark's offer will be adjusted accordingly.

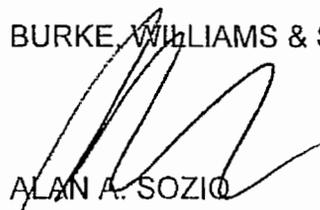
Please be advised that you are entitled to a reasonable amount, not to exceed five thousand dollars (\$5,000.00), for an independent appraisal conducted by an appraiser licensed by the Office of Real Estate Appraisers.

If for any reason you do not accept Moorpark's offer, please be advised that the matters included within this letter, as well as the attached summary statement, fall within the provisions of, inter alia, Section 1152 and 1154 of the California Evidence Code, Section 1255.060 of the Code of Civil Procedure, and Sections 7267.1 and 7267.2 of the Government Code, and are not admissible in evidence in any legal proceeding.

Should you have any questions regarding this offer or have information regarding the value of your Property, please feel free to contact me at (213) 236-2819.

Sincerely,

BURKE, WILLIAMS & SORENSEN, LLP



ALAN A. SOZIO

AAS:amc  
Enclosure

## APPRAISAL SUMMARY

### LEGAL DESCRIPTION OF AFFECTED PROPERTY:

See attachment A.

### PROPERTY DESCRIPTION:

The subject larger parcel is identified by Ventura County Assessor's Parcel Number 511-0-200-040.

PROPERTY OWNERS: See attachment B.

PROPERTY LOCATION: Off Gabbert Rd., north of Los Angeles Ave. in the City of Moorpark, California

### INTERESTS TO BE ACQUIRED:

A non-exclusive appurtenant easement and right of way for public access road, emergency access and utility purposes, together with an easement for slope purposes, and which are described and depicted on Attachments "C" and "D" attached hereto. The Interests shall serve as the primary access to that property owned by A-B Properties described as all of lots 1 through 17 inclusive per Tract No. 5147, Miscellaneous Records 158 MR 37, Recorded as Document # 20070820-00162805-0 with the County Recorder ("Property") until such time as the Improvements (as defined in Section 6.22 of the Development Agreement by and Between the City of Moorpark and A-B Properties) are constructed or until other alternative access is provided via construction of a 2-lane portion of Northhills Parkway from the Property to Gabbert Road following City's approval of an amendment to said Development Agreement, after which the paved access road shall become an emergency access only for the Property. The Interests to be acquired shall also allow for the installation, repair, replacement, maintenance and operation of subsurface water, sewer, electric, gas, cable, and telephone utilities, and shall additionally allow for 2 empty conduits for potential future utility use, that serve the Property.

### MARKET VALUE DEFINITION:

The fair market value of property acquired as defined in Section 1263.320 of the California Code of Civil Procedures is "the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available."

PRESENT USE: Vacant Land

ZONING: A-E (Agricultural Exclusive)

HIGHEST & BEST USE: Utilize For Agricultural Uses, Farm Or Other Animal Uses That Conform To Current Zoning Or Hold For Future Development

APPRAISAL DATE: August 13, 2008

DATE OF VALUE: July 8, 2008

**MARKET VALUE OF THE SUBJECT PROPERTY:**

**MARKET DATA/COST APPROACH:  
Land Sales Summary**

SALE	LOCATION	SALE DATE	PRICE	SITE SIZE	UNADJUSTED \$/ACRE-LAND
1	Worth Way Camarillo, CA	12/12/07	\$1,250,000	48.11 acres	\$25,982.00
2	2055 E. La Loma Somis, CA	06/07/06	\$1,045,000	43.04 acres	\$24,280.00
3	10490 Santa Rosa Rd. Camarillo, CA	03/31/06	\$3,000,000	132.38 acres	\$22,662.00

**Adjusted Land Value:**

\$16,000 per acre

**Value of the Larger Parcel (Before Condition):**

33.57 acres @ \$16,000/acre = \$537,260

Rounded to \$537,000

**Value of Part Taken as Part of the Larger Parcel:**

The part taken comprises 1.355 acres. However, the entirety of the part taken is already subject to an existing Right-of-Way easement recorded January 4, 1968 in favor of Southern California Edison Company ("SCE"). In addition, in the "before condition" (condition of the property before the interest described is acquired) there is a recorded Grant Deed (Easement). The grantee is A-B Properties, a California General Partnership. The easement includes a 40.00 foot wide non-exclusive appurtenant easement for public access road, emergency access and utility purposes over Grantor's real property for the benefit of the A-B Property, including any future subdivide portions thereof. When a second easement is sought on land already burdened by an existing easement, the owner of the servient land is limited to the difference in value of the land before and after the imposition of the second easement; and, if no substantial difference in value is shown, only nominal damages will be awarded. Here, no additional adverse utility adjustments are determined to be warranted for the taking of the 1.355 acre easement. Hence, the estimated value of the part taken is determined to be nominal.

## SEVERANCE DAMAGES

### To Underlying Fee Owner:

In the before condition, there is a recorded grant deed on the affected property (for a 40.00 foot wide non-exclusive appurtenant easement for public access road, emergency access and utility purposes, together with an easement for slope purposes). In addition, due to the SCE easement, there are large utility improvements, which are considered to be an adverse visual influence. The SCE right of way easement also decreases the privacy and quiet enjoyment of the affected property. Taking the aforementioned into consideration, the loss to the remainder as a result of the interest to be acquired by the City of Moorpark is considered to be nominal (estimated at no greater than \$1,000).

We have also considered offsets for benefits to the affected property from the interest to be acquired by the City of Moorpark. According to the California Code of Civil Procedure (section 1263.410), "compensation for injury to the remainder is the amount of the damage to the remainder reduced by the amount of the benefit to the remainder. If the amount of the benefit to the remainder equals or exceeds the amount of the damage to the remainder, no compensation shall be awarded under this article".

The amount of benefit is established by determining any reasonable certain increase in the market value of the remaining property caused by the proposed public road easement. Due to the recorded grant deed on the affected property (for a 40.00 foot wide non-exclusive appurtenant easement for public access road, emergency access and utility purposes, together with an easement for slope purposes), there is no additional projected benefit, to the remainder of the affected property, as a result of the additional interest to be acquired by the City of Moorpark (no offsets for benefits are warranted).

### Valuation Summary -- Affected Property

Market Value of the Affected Property in the Before Condition	\$ 537,000
Less:	
Value of the Part Taken (Public Road Easement) \$ 0	(\$ 0)
Market Value of the Remainder in the Before Condition	\$ 537,000
Less: Damages to the Remainder: \$ 1,000	(\$ 1,000)
Value of the Remainder in the After Condition:	\$ 536,000

Just Compensation: \$ 1,000

## VALUATION OF SEVERANCE DAMAGES –To Southern California Edison:

The holder of an easement is entitled to damages when the easement is taken or damaged for public use. The severance damages to SCE's Right-of-Way easement has been considered herein.

Parcel 511-0-200-055 (located adjacent to the proposed 40-foot strip of land, to be taken through eminent domain) is owned by Southern California Edison. According to a Right-Of-Way easement, recorded January 4, 1968, Southern California Edison Company has the "permanent and exclusive easement and rights of way to construct, operate, use, maintain, inspect, repair, renew, replace, reconstruct, enlarge, alter, add to, improve, relocate and/or remove, at any time and from time to time, electric lines, equipment etc., together with the easement and right of way for roads, ingress, egress and other convenient purposes..." Southern California Edison also has "the right to clear and keep clear said easements and rights of way", including "parking of automobiles, trucks or other mechanical equipment, for protection from fire and other hazards and from interference with ingress and egress and with the unobstructed use of said easements and rights of way" (see Right-Of-Way easement for additional details).

Edison has constructed improvements on this Right-Of-Way. There are two 220 KV lines into the substation (on the adjacent property) as well as three 220 KV lines (north-south) and two 66 KV lines (north-south). The proposed 40-foot strip of land to be taken through eminent domain is within the area described within SCE's Right-Of-Way easement. SCE claims that said 40-foot strip of land to be taken through eminent domain, impacts the utility of their exclusive easement, could limit their future expansion plans, limits operation and maintenance of the existing lines and could impact public safety.

With regard to SCE's safety concerns, SCE has previously approved numerous building projects under high voltage lines. See November 18, 2007 Los Angeles Times article (Edison Zaps Lease-Build Program).

More specific to the subject property, there is a Development Agreement between the City of Moorpark and Southern California Edison, recorded March 5, 1999. According to the agreement, it was the intent of Southern California Edison ("Developer") to develop their property (referred to as Exhibit A). According to Section 6.20 of the Development Agreement "developer shall construct a thirty-two (32) foot wide paved access road to the Property to serve as the primary access until such time as the Improvements referenced in Section 6.22 are constructed. At such time as the Improvements in Section 6.21 are opened to the public, the paved access road shall become an emergency access only for the Property. The paved access road shall be located generally following the existing unpaved access road to the Property with the final location of said paved access road to be determined by the City at its sole and unfettered discretion".

Based upon improvements, which have regularly been constructed under SCE high voltage lines as well as SCE's own plans to develop the subject property (it is assumed that SCE deemed this project safe), it has been assumed that there are no public safety issues.

The potential impact of the 40-foot strip of land to be taken through eminent domain, on Edison's utility of their exclusive easement (including future expansion plan limitations and the impact on Edison's maintenance of the existing lines) has also been considered. In the before condition, Edison entered into an agreement to construct a thirty-two (32) foot wide paved access

road to serve as the primary access until such time as the Improvements referenced in Section 6.22 are constructed. At such time as the Improvements in Section 6.21 are opened to the public, the paved access road shall become an emergency access only for the Property.

According to Section 6.14 of the agreement "prior to any subdivision or new use of the property, Developer agrees to acquire and construct, at their sole cost, dedicated public access to the properties, as approved by the City Council. Secondary access to comply with City and public safety requirement shall also be provided at their sole cost".

The City of Moorpark agreed to rezone the adjacent SCE property from AE to M-2 (Limited Industrial), with limitations, to enable Southern California Edison to develop their property. The burdens of the Agreement are binding upon, and the benefits of the Agreement inure to, each Party and each successive successor in interest thereto and constitute covenants that run with the property.

In addition, in the "before condition" there is a recorded Grant Deed (Easement) in favor of A-B Properties, a California General Partnership. The easement includes a 40.00 foot wide non-exclusive appurtenant easement for public access road, emergency access and utility purposes, together with an easement for slope purposes over the subject property for the benefit of the A-B Properties, including any future subdivide portions thereof.

The severance damage as it relates to Southern California Edison is calculated as the difference in the before and after value of the easement and not what has been gained by the public agency. The damages to the remainder in the after condition as well as offsets for benefits to the affected property from the proposed public road easement have also been considered.

Based upon the foregoing, the before condition includes an existing paved access road, which appears to negate the Edison claims that a 40-foot access road being taken impacts the utility of their existing exclusive easement. It does not appear that the additional 8-foot width which would result from the 32-foot access road referenced in the Development Agreement, places additional limitations on SCE's utility of its Right of Way Easement.

In addition, any loss in value as a result of shared access after the public road is constructed (the SCE easement rights in the before condition are exclusive) will likely be balanced by superior accessibility for SCE after the road is constructed. This determination is based upon typical real estate access and does not consider any business losses that SCE could claim. Furthermore, the proposed 40-foot strip of land to be taken through eminent domain is considered to be temporary and will ultimately be utilized as emergency access only.

Taking the aforementioned into consideration, the severance damages to Southern California Edison as a result of the second public road easement is determined to be nominal, and for the purpose of this appraisal the Just Compensation is estimated to be \$ 1,000.

TOTAL JUST COMPENSATION TO BE AWARDED

	Valuation Of Part Taken	\$ -0-
+	Severance Damages To The Remainder	
	--to underlying fee owner	\$1,000
	--to SCE	\$1,000

ATTACHMENT "A"

LEGAL DESCRIPTION - AFFECTED PROPERTY

GRANTOR PROPERTY

The East half of the Southeast quarter of Section 6, Township 2 North, Range 19 West, Rancho Simi, in the County of Ventura, State of California, as shown on map entitled, "Map of the Lands of Rancho Simi, in Ventura and Los Angeles Counties, California", and recorded on book 3, page 7 of Maps, in the office of the County Recorder of said County and particularly described as follows:

Beginning at a point in the centerline of that certain public road, 60 feet wide locally known as and called "Los Angeles Avenue" at the corner common to Sections 5, 6, 7 and 8 of Township 2 North, Range 19 West, Rancho Simi, as shown on the above described map, said point of beginning being the Southwest corner of Tract "O" as shown on map entitled, "Map of a Part of Tract "L" of Rancho Simi, Ventura County, California, showing the Townsite of Moorpark and lands of Mandeleine A. Poindexter, a resubdivision of Fremont Tract" and recorded in book 5, page 5 of Maps, in the office of the County Recorder of Ventura County; thence from said point of beginning.

- 1st: North 40 chains to the Southeast corner of Lot 56 of Vallette Tract, as per map recorded in book 3, page 41 of Maps, in the office of the County Recorder of said County; thence at right angles.
- 2nd West 20 chains to the Southwest corner of said Lot 56 of Vallette Tract, at the Northeast corner of that certain parcel of land conveyed to Mary Frances Estes, by deed dated October 22, 1902 and recorded in book 87, page 120 of Deeds; thence at right angles.
- 3rd South 40 chains along the East line of said lands of Mary Frances Estes to a point in the centerline of said Los Angeles Avenue; thence along same
- 4th East 20 chains to the point of beginning.

EXCEPT THEREFROM that portion lying Southerly of the Northerly line of that certain strip 100 feet wide described in the deed to the Southern Pacific Railroad Company, recorded November 13, 1899 in book 58, page 595 of Deeds.

{APN: 500-0-340-040, Reference Only}

ATTACHMENT "B"

OWNERSHIP INFORMATION – AFFECTED PROPERTY

HITCH OWNERSHIP INFORMATION

<u>Vesting</u>	<u>Percentage Ownership</u>
JOHN REID MILLIGAN, a married man acting as to his separate property, as to an undivided _____%:	6.9444
Michael S. and Marshall C. Milligan as Co-Trustees under Trust Agreement dated September 18, 1957 for the benefit of A.A. Milligan, as to an undivided _____%:	8.3333
JOHN R. MILLIGAN, as Trustee under Trust Agreement dated September 18, 1957, with Julia Levy Milligan as Trustor for the benefit of John Levy Milligan, as to an undivided _____%:	8.3333
THE RICHARD H. JONES LTD PARTNERSHIP, a Colorado Limited Partnership, as to an undivided _____%:	12.5000
JOHN R. MILLIGAN, as Trustee under Trust Agreement dated October 26, 1962, with Anna Eugenie Waterman as Trustor for the benefit of John Levy Milligan, as to an undivided _____%:	2.7778
Michael S. and Marshall C. Milligan as Co-Trustees under Trust Agreement dated October 26, 1962, with Anna Eugenie Waterman as Trustor for the benefit of A.A. Milligan, as to an undivided _____%:	2.7778
RICHARD S. HAMBLETON, JR., as Trustee of the MCM Trust, dated December 14, 1990, as to an undivided _____%:	6.9444
JULIA MILLIGAN SUMMERS, a married woman acting as to her separate property, as to an undivided _____%:	6.9445
SUSAN C. BAVO, as Trustee of the Susan C. Bavo Trust, dated October 26, 1993, as to an undivided _____%:	6.2500
Alison Jones Pomatto and Alan J. Pomatto, co-Trustees of the Pomatto Living Trust, dated August 3, 1985, as to an undivided _____%:	12.5000
Louis David Bavo as Trustee of the Palmyre Lucie Bavo Trust dated December 28, 1983, as to an undivided _____%:	9.3750
Louis David Bavo as Trustee of the Nicola Kathleen Bavo Trust dated December 28, 1983, as to an undivided _____%:	9.3750
KIMBERLEY JEANNE MILLIGAN, as Trustee of the Kimberley J. Milligan Trust dated May 16, 1995, as to an undivided _____%:	6.9444
	100.000%

UPDATED: 5/16/07  
h:\home\hvw master\hitch-percentages.xls

ATTACHMENT "C"

LEGAL DESCRIPTION

THOSE PORTIONS OF LOT L IN RANCHO SIMI, IN THE COUNTY OF VENTRUA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 3 PAGES 7, OF MISCELLANEOUS MAP, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;

STRIP 1

BEING A STRIP OF LAND, 40.00 FEET IN WIDTH, THE CENTERLINE BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTERLINE INTERSECTION OF GABBERT ROAD AND LOS ANGELES AVENUE AS SAID INTERSECTION IS SHOWN ON THE MAP OF TRACT NO. 5147 FILED IN BOOK 158, PAGE 39 OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY; THENCE ALONG THE CENTERLINE OF SAID GABBERT ROAD, NORTH 00°01'58" EAST, 1803.57 FEET; THENCE LEAVING SAID CENTERLINE, NORTH 89°58'02" WEST, 20.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID RIGHT OF WAY LINE, THE FOLLOWING SEVEN (7) COURSES:

- 1) NORTH 89°58'02" WEST, 12.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 84.00 FEET;
- 2) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 70°59'08" AN ARC LENGTH OF 104.07 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 84.00 FEET, A RADIAL LINE FROM SAID BEGINNING OF CURVE BEARS NORTH 70°57'10" WEST;
- 3) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 57°12'01" AN ARC LENGTH OF 83.86 FEET TO A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY OF THE NORTHERLY LINE OF PARCEL "B" OF INSTRUMENT NO. 21211 RECORDED APRIL 26, 1962 IN BOOK 2141 PAGE 558;
- 4) ALONG SAID PARALLEL LINE, SOUTH 76°14'51" WEST, 833.49 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 137.00 FEET;
- 5) LEAVING SAID PARALLEL LINE, NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 64°02'41" AN ARC LENGTH OF 153.14 FEET;
- 6) NORTH 39°42'28" WEST, 138.86 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 145.00 FEET;
- 7) NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59°02'59" AN ARC LENGTH OF 149.44 FEET TO THE EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 19 WEST, SAN BERNARDINO MERIDIAN.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD AND TO TERMINATE IN EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6.

**LEGAL DESCRIPTION**

TOGETHER WITH AN EASEMENT FOR SLOPE PURPOSES ADJACENT TO THE ABOVE DESCRIBED 40 FOOT STRIP OF LAND NECESSARY FOR THE CONSTRUCTION OF AN IMPROVED ROAD, IN, UNDER AND ACROSS SAID 40 FOOT STRIP OF LAND.

TOGETHER WITH

PARCEL "A"

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 00°01'58" EAST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE NORTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID NORTHERLY LINE, SOUTH 89°58'02" EAST, 4.00 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH

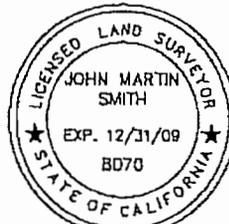
PARCEL "B"

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, SOUTH 00°01'58" WEST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE SOUTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID SOUTHERLY LINE, NORTH 89°58'02" WEST, 4.00 FEET TO THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 3 SQUARE FEET, MORE OR LESS.

THE ABOVE LEGAL DESCRIPTION IS DELINEATED ON EXHIBIT "B" AND IS MADE A PART HEREOF FOR REFERENCE PURPOSES.

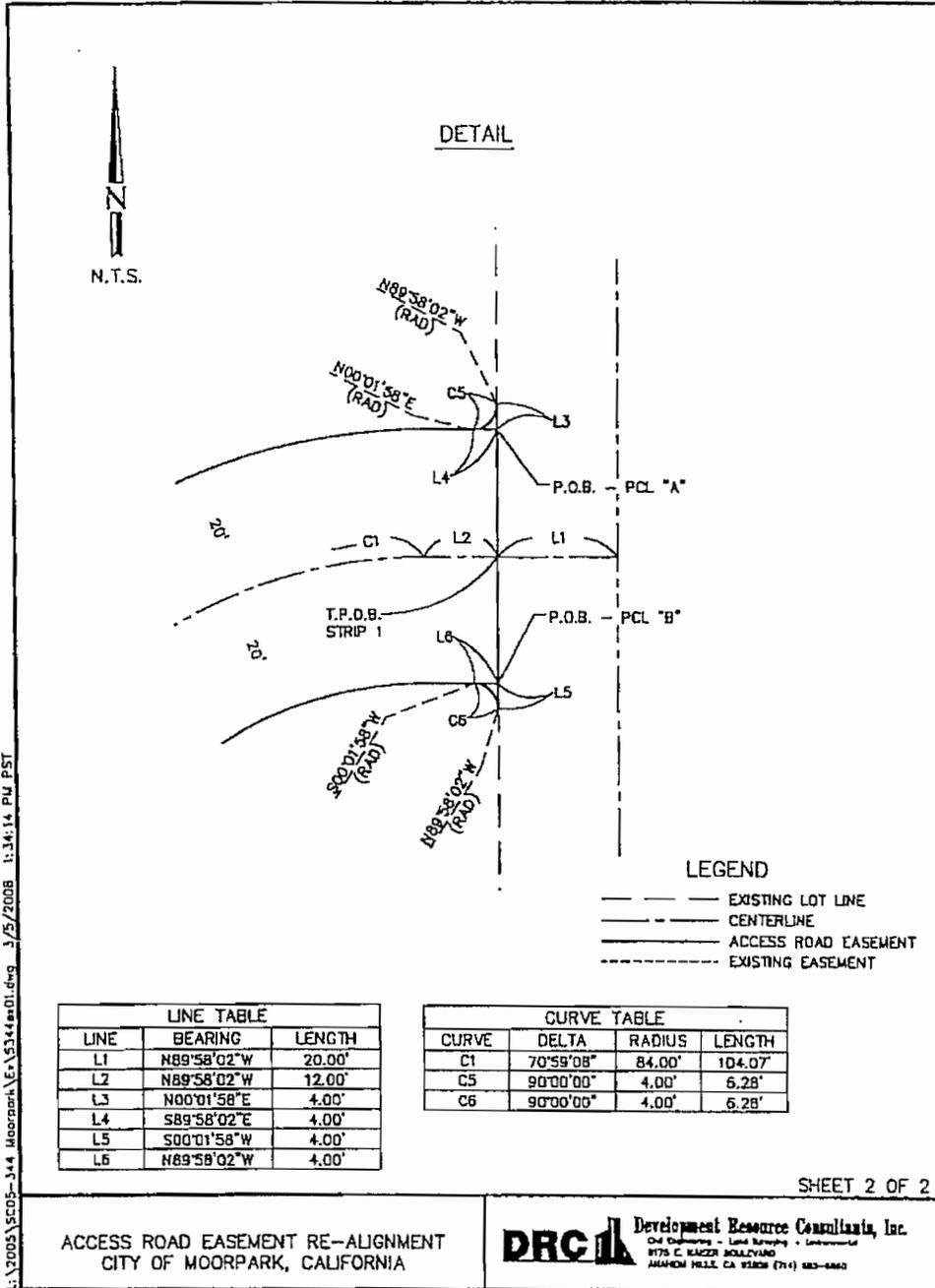
  
\_\_\_\_\_  
JOHN M. SMITH, P.L.S. 8070  
LICENSE EXPIRES 12/31/09  
DATE PREPARED: 03/05/08





PROPERTY DESCRIPTION AND ANALYSIS

40-FOOT PUBLIC ROAD EASEMENT



L:\2005\SC05-344 Moorpark EA\53.44.mxd 3/5/2008 1:34:14 PM PST

September 2, 2008

Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
Southern California Edison  
P.O. Box 800  
2244 Walnut Grove Ave.  
Rosemead, California 91770

Re: Offer To Purchase Interest In Land Over 40-Foot Strip Of Land  
Portion of APN 511-0-200-040  
Moorpark, CA

Dear Mr. Matthews and Ms. Anabtawi:

The City of Moorpark ("Moorpark") is considering constructing a public road for ingress, egress and utility purposes ("Road Project"). It has been determined that the Road Project will require the acquisition of a portion of your interests in property identified by Ventura County Assessor Parcel Number 511-0-200-040.

The property interests required for this Road Project ("Interests") consist of a non-exclusive appurtenant easement and right of way for public access road, emergency access and utility purposes, together with an easement for slope purposes, and are described and depicted on Attachments "C" and "D" to the enclosed appraisal summary. The Interests shall serve as the primary access to that property owned by A-B Properties described as all of lots 1 through 17 inclusive per Tract No. 5147, Miscellaneous Records 158 MR 37, Recorded as Document # 20070820-00162805-0 with the County Recorder ("Property") until such time as the Improvements (as defined in Section 6.22 of the Development Agreement by and Between the City of Moorpark and A-B Properties) are constructed or until other alternative access is provided via construction of a 2-lane portion of Northhills Parkway from the Property to Gabbert Road following Moorpark's approval of an amendment to said Development Agreement, after which the paved access road shall become an emergency access only for the Property. The Interests to be acquired shall also allow for the installation, repair, replacement, maintenance and operation of subsurface water, sewer, electric, gas, cable, and telephone utilities, and shall additionally allow for 2 empty conduits for potential future utility use, that serve the Property.

Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
September 2, 2008  
Page 2

Moorpark has obtained a preliminary title report showing that Southern California Edison holds easement rights on and over the property identified by Ventura County Assessor Parcel Number 511-0-200-040.

It is the policy of Moorpark to acquire private property only when it is essential to do so, and through voluntary purchase, if possible. While Moorpark has the power of eminent domain, condemnation has not been authorized with respect to the Interests as of this date, and cannot occur until Moorpark's City Council formally acts. Nothing in this letter is meant to pre-commit Moorpark's City Council or otherwise limit the options available to it.

California law requires that before making an offer for the acquisition of real property, Moorpark must: obtain an appraisal to determine the fair market value of the real property being acquired; establish an amount which it believes to be just compensation for that property; and make an offer to the owner for an amount not less than the just compensation so determined. Moorpark has, accordingly, had the Interests appraised by an independent, professional appraiser to determine its fair market value, as defined in California Code of Civil Procedure section 1263.320. It was appraised on August 13, 2008 in accordance with commonly accepted appraisal standards and included consideration of the highest and best use of the land, the land's current use and any improvements located thereon. Pursuant to Southern California Edison's request, Moorpark's appraiser met with representatives from Southern California Edison at which time Southern California Edison presented material it believed to be relevant to the value of the property, which material was carefully considered by the appraiser. The appraisal has been completed and reviewed, and Moorpark has determined an amount, which constitutes the full amount believed by Moorpark to be just compensation for the property taken and any damages thereto.

Using a date of valuation of July 8, 2008, the total just compensation to Southern California Edison for the taking of the Interests was determined by the appraiser to be ONE THOUSAND AND 00/100 (\$1,000.00). The basis for the computation of this amount is explained in the Appraisal Summary Statement enclosed herewith. This amount includes consideration of the amount of damage, if any, to the remainder, and disregards any change in the fair market value of the property to be acquired caused by the Road Project.

Based on the foregoing, Moorpark hereby offers you the sum of ONE THOUSAND AND 00/100 (\$1,000.00) as just compensation for the acquisition of the Interests. In acquiring the Interests, Moorpark will pay all usual fees, charges, and

Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
September 2, 2008  
Page 3

costs that arise out of this transaction. If this offer is acceptable to you, please so indicate to the undersigned in writing. Upon your acceptance, Moorpark will prepare and forward to you the appropriate documents to complete the transaction. Please note that this offer is subject to the ratification of an agreement for purchase and sale by the City Council.

The amount of the offer is additionally predicated on the assumption that there exists no hazardous substance, product, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 United States Code Section 9601, *et seq.*, on the Property, and that the Property is free of hazardous substances (as that term is defined under California Health and Safety Code Section 33459(b)) and all other subsurface soil contamination. The amount offered is also subject to an environmental site inspection, and the cost to remediate any identified problems may affect the valuation of the subject property. In the event that any facts or circumstances arise which indicate the presence of such subsurface contamination, Moorpark reserves the right to rescind or modify the offer stated above at any time prior to its written acceptance, to reflect the estimated or actual costs to remediate the property to the satisfaction and approval of all applicable regulatory agencies. Further, in the event Moorpark purchases the Property and afterwards discovers such soil contamination, Moorpark reserves all rights and remedies it may have against you and all prior owners to seek damages or other obligations Moorpark incurs as a result of the contamination, as may be permitted or authorized by any law, including, but not limited to, CERCLA (42 U.S.C. §9601 *et seq.*), the Hazardous Waste Control Law (California Health and Safety Code §25100 *et seq.*), the Porter Cologne Act (California Water Code §13000 *et seq.*), California Health and Safety Code §25280 *et seq.*, §33459 *et seq.*, and provisions of Proposition 65.

Please be advised that the amount offered does not reflect any consideration of or allowance for any relocation assistance payments to which you or any occupant of the subject property may be entitled.

Please be advised that Section 1263.025 of the Code of Civil Procedure requires that Moorpark offer to pay the reasonable costs, not to exceed five thousand dollars (\$5,000.00), of an independent appraisal ordered by the owner of a property that Moorpark offers to purchase under a threat of eminent domain. The independent appraisal shall be conducted by an appraiser licensed by the Office of Real Estate Appraisers.

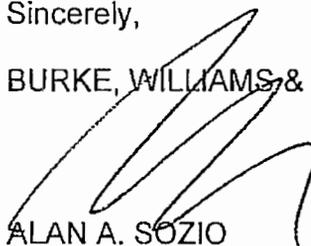
Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
September 2, 2008  
Page 4

If for any reason you do not accept Moorpark's offer, please be advised that the matters included within this letter, as well as the attached summary statement, fall within the provisions of, *inter alia*, Section 1152 and 1154 of the California Evidence Code, Section 1255.060 of the Code of Civil Procedure, and Sections 7267.1 and 7267.2 of the Government Code, and are not admissible in evidence in any legal proceeding.

Should you have any questions regarding this offer or have information regarding the value of your property, please do not hesitate to contact me at the address, telephone number or email address set forth above.

Sincerely,

BURKE, WILLIAMS & SORENSEN, LLP



ALAN A. SOZIO

AAS:amc  
Enclosures

## APPRAISAL SUMMARY

### LEGAL DESCRIPTION OF AFFECTED PROPERTY:

See attachment A.

### PROPERTY DESCRIPTION:

The subject larger parcel is identified by Ventura County Assessor's Parcel Number 511-0-200-040.

PROPERTY OWNERS: See attachment B.

PROPERTY LOCATION: Off Gabbert Rd., north of Los Angeles Ave. in the City of Moorpark, California

### INTERESTS TO BE ACQUIRED:

A non-exclusive appurtenant easement and right of way for public access road, emergency access and utility purposes, together with an easement for slope purposes, and which are described and depicted on Attachments "C" and "D" attached hereto. The Interests shall serve as the primary access to that property owned by A-B Properties described as all of lots 1 through 17 inclusive per Tract No. 5147, Miscellaneous Records 158 MR 37, Recorded as Document # 20070820-00162805-0 with the County Recorder ("Property") until such time as the Improvements (as defined in Section 6.22 of the Development Agreement by and Between the City of Moorpark and A-B Properties) are constructed or until other alternative access is provided via construction of a 2-lane portion of Northhills Parkway from the Property to Gabbert Road following City's approval of an amendment to said Development Agreement, after which the paved access road shall become an emergency access only for the Property. The Interests to be acquired shall also allow for the installation, repair, replacement, maintenance and operation of subsurface water, sewer, electric, gas, cable, and telephone utilities, and shall additionally allow for 2 empty conduits for potential future utility use, that serve the Property.

### MARKET VALUE DEFINITION:

The fair market value of property acquired as defined in Section 1263.320 of the California Code of Civil Procedures is "the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available."

**PRESENT USE:** Vacant Land  
**ZONING:** A-E (Agricultural Exclusive)  
**HIGHEST & BEST USE:** Utilize For Agricultural Uses, Farm Or Other Animal Uses That Conform To Current Zoning Or Hold For Future Development  
**APPRAISAL DATE:** August 13, 2008  
**DATE OF VALUE:** July 8, 2008

**MARKET VALUE OF THE SUBJECT PROPERTY:**

**MARKET DATA/COST APPROACH:**  
**Land Sales Summary**

SALE	LOCATION	SALE DATE	PRICE	SITE SIZE	UNADJUSTED \$/ACRE-LAND
1	Worth Way Camarillo, CA	12/12/07	\$1,250,000	48.11 acres	\$25,982.00
2	2055 E. La Loma Somis, CA	06/07/06	\$1,045,000	43.04 acres	\$24,280.00
3	10490 Santa Rosa Rd. Camarillo, CA	03/31/06	\$3,000,000	132.38 acres	\$22,662.00

**Adjusted Land Value:**

\$16,000 per acre

**Value of the Larger Parcel (Before Condition):**

33.57 acres @ \$16,000/acre = \$537,260

Rounded to \$537,000

**Value of Part Taken as Part of the Larger Parcel:**

The part taken comprises 1.355 acres. However, the entirety of the part taken is already subject to an existing Right-of-Way easement recorded January 4, 1968 in favor of Southern California Edison Company ("SCE"). In addition, in the "before condition" (condition of the property before the interest described is acquired) there is a recorded Grant Deed (Easement). The grantee is A-B Properties, a California General Partnership. The easement includes a 40.00 foot wide non-exclusive appurtenant easement for public access road, emergency access and utility purposes over Grantor's real property for the benefit of the A-B Property, including any future subdivide portions thereof. When a second easement is sought on land already burdened by an existing easement, the owner of the servient land is limited to the difference in value of the land before and after the imposition of the second easement; and, if no substantial difference in value is shown, only nominal damages will be awarded. Here, no additional adverse utility adjustments are determined to be warranted for the taking of the 1.355 acre easement. Hence, the estimated value of the part taken is determined to be nominal.

## SEVERANCE DAMAGES

### To Underlying Fee Owner:

In the before condition, there is a recorded grant deed on the affected property (for a 40.00 foot wide non-exclusive appurtenant easement for public access road, emergency access and utility purposes, together with an easement for slope purposes). In addition, due to the SCE easement, there are large utility improvements, which are considered to be an adverse visual influence. The SCE right of way easement also decreases the privacy and quiet enjoyment of the affected property. Taking the aforementioned into consideration, the loss to the remainder as a result of the interest to be acquired by the City of Moorpark is considered to be nominal (estimated at no greater than \$1,000).

We have also considered offsets for benefits to the affected property from the interest to be acquired by the City of Moorpark. According to the California Code of Civil Procedure (section 1263.410), "compensation for injury to the remainder is the amount of the damage to the remainder reduced by the amount of the benefit to the remainder. If the amount of the benefit to the remainder equals or exceeds the amount of the damage to the remainder, no compensation shall be awarded under this article".

The amount of benefit is established by determining any reasonable certain increase in the market value of the remaining property caused by the proposed public road easement. Due to the recorded grant deed on the affected property (for a 40.00 foot wide non-exclusive appurtenant easement for public access road, emergency access and utility purposes, together with an easement for slope purposes), there is no additional projected benefit, to the remainder of the affected property, as a result of the additional interest to be acquired by the City of Moorpark (no offsets for benefits are warranted).

### Valuation Summary – Affected Property

Market Value of the Affected Property in the Before Condition	\$ 537,000
Less:	
Value of the Part Taken (Public Road Easement) \$ 0	(\$ 0)
Market Value of the Remainder in the Before Condition	\$ 537,000
Less: Damages to the Remainder: \$ 1,000	(\$ 1,000)
Value of the Remainder in the After Condition:	\$ 536,000

Just Compensation: \$ 1,000

## VALUATION OF SEVERANCE DAMAGES –To Southern California Edison:

The holder of an easement is entitled to damages when the easement is taken or damaged for public use. The severance damages to SCE's Right-of-Way easement has been considered herein.

Parcel 511-0-200-055 (located adjacent to the proposed 40-foot strip of land, to be taken through eminent domain) is owned by Southern California Edison. According to a Right-Of-Way easement, recorded January 4, 1968, Southern California Edison Company has the "permanent and exclusive easement and rights of way to construct, operate, use, maintain, inspect, repair, renew, replace, reconstruct, enlarge, alter, add to, improve, relocate and/or remove, at any time and from time to time, electric lines, equipment etc., together with the easement and right of way for roads, ingress, egress and other convenient purposes..." Southern California Edison also has "the right to clear and keep clear said easements and rights of way", including "parking of automobiles, trucks or other mechanical equipment, for protection from fire and other hazards and from interference with ingress and egress and with the unobstructed use of said easements and rights of way" (see Right-Of-Way easement for additional details).

Edison has constructed improvements on this Right-Of-Way. There are two 220 KV lines into the substation (on the adjacent property) as well as three 220 KV lines (north-south) and two 66 KV lines (north-south). The proposed 40-foot strip of land to be taken through eminent domain is within the area described within SCE's Right-Of-Way easement. SCE claims that said 40-foot strip of land to be taken through eminent domain, impacts the utility of their exclusive easement, could limit their future expansion plans, limits operation and maintenance of the existing lines and could impact public safety.

With regard to SCE's safety concerns, SCE has previously approved numerous building projects under high voltage lines. See November 18, 2007 Los Angeles Times article (Edison Zaps Lease-Build Program).

More specific to the subject property, there is a Development Agreement between the City of Moorpark and Southern California Edison, recorded March 5, 1999. According to the agreement, it was the intent of Southern California Edison ("Developer") to develop their property (referred to as Exhibit A). According to Section 6.20 of the Development Agreement "developer shall construct a thirty-two (32) foot wide paved access road to the Property to serve as the primary access until such time as the Improvements referenced in Section 6.22 are constructed. At such time as the Improvements in Section 6.21 are opened to the public, the paved access road shall become an emergency access only for the Property. The paved access road shall be located generally following the existing unpaved access road to the Property with the final location of said paved access road to be determined by the City at its sole and unfettered discretion".

Based upon improvements, which have regularly been constructed under SCE high voltage lines as well as SCE's own plans to develop the subject property (it is assumed that SCE deemed this project safe), it has been assumed that there are no public safety issues.

The potential impact of the 40-foot strip of land to be taken through eminent domain, on Edison's utility of their exclusive easement (including future expansion plan limitations and the impact on Edison's maintenance of the existing lines) has also been considered. In the before condition, Edison entered into an agreement to construct a thirty-two (32) foot wide paved access

road to serve as the primary access until such time as the Improvements referenced in Section 6.22 are constructed. At such time as the Improvements in Section 6.21 are opened to the public, the paved access road shall become an emergency access only for the Property.

According to Section 6.14 of the agreement "prior to any subdivision or new use of the property, Developer agrees to acquire and construct, at their sole cost, dedicated public access to the properties, as approved by the City Council. Secondary access to comply with City and public safety requirement shall also be provided at their sole cost".

The City of Moorpark agreed to rezone the adjacent SCE property from AE to M-2 (Limited Industrial), with limitations, to enable Southern California Edison to develop their property. The burdens of the Agreement are binding upon, and the benefits of the Agreement inure to, each Party and each successive successor in interest thereto and constitute covenants that run with the property.

In addition, in the "before condition" there is a recorded Grant Deed (Easement) in favor of A-B Properties, a California General Partnership. The easement includes a 40.00 foot wide non-exclusive appurtenant easement for public access road, emergency access and utility purposes, together with an easement for slope purposes over the subject property for the benefit of the A-B Properties, including any future subdivide portions thereof.

The severance damage as it relates to Southern California Edison is calculated as the difference in the before and after value of the easement and not what has been gained by the public agency. The damages to the remainder in the after condition as well as offsets for benefits to the affected property from the proposed public road easement have also been considered.

Based upon the foregoing, the before condition includes an existing paved access road, which appears to negate the Edison claims that a 40-foot access road being taken impacts the utility of their existing exclusive easement. It does not appear that the additional 8-foot width which would result from the 32-foot access road referenced in the Development Agreement, places additional limitations on SCE's utility of its Right of Way Easement.

In addition, any loss in value as a result of shared access after the public road is constructed (the SCE easement rights in the before condition are exclusive) will likely be balanced by superior accessibility for SCE after the road is constructed. This determination is based upon typical real estate access and does not consider any business losses that SCE could claim. Furthermore, the proposed 40-foot strip of land to be taken through eminent domain is considered to be temporary and will ultimately be utilized as emergency access only.

Taking the aforementioned into consideration, the severance damages to Southern California Edison as a result of the second public road easement is determined to be nominal, and for the purpose of this appraisal the Just Compensation is estimated to be \$ 1,000.

**TOTAL JUST COMPENSATION TO BE AWARDED**

	Valuation Of Part Taken	\$ -0-
+	Severance Damages To The Remainder	
	--to underlying fee owner	\$1,000
	--to SCE	\$1,000

ATTACHMENT "A"

*LEGAL DESCRIPTION - AFFECTED PROPERTY*

---  
GRANTOR PROPERTY

The East half of the Southeast quarter of Section 6, Township 2 North, Range 19 West, Rancho Simi, in the County of Ventura, State of California, as shown on map entitled, "Map of the Lands of Rancho Simi, in Ventura and Los Angeles Counties, California", and recorded on book 3, page 7 of Maps, in the office of the County Recorder of said County and particularly described as follows:

Beginning at a point in the centerline of that certain public road, 60 feet wide locally known as and called "Los Angeles Avenue" at the corner common to Sections 5, 6, 7 and 8 of Township 2 North, Range 19 West, Rancho Simi, as shown on the above described map, said point of beginning being the Southwest corner of Tract "Q" as shown on map entitled, "Map of a Part of Tract "L" of Rancho Simi, Ventura County, California, showing the Townsite of Moorpark and lands of Mandeleine R. Poindexter, a resubdivision of Fremont Tract" and recorded in book 5, page 5 of Maps, in the office of the County Recorder of Ventura County; thence from said point of beginning.

- 1st: North 40 chains to the Southeast corner of Lot 56 of Vallette Tract, as per map recorded in book 3, page 41 of Maps, in the office of the County Recorder of said County; thence at right angles,
- 2nd West 20 chains to the Southwest corner of said Lot 56 of Vallette Tract, at the Northeast corner of that certain parcel of land conveyed to Mary Frances Estes, by deed dated October 22, 1902 and recorded in book 87, page 120 of Deeds; thence at right angles,
- 3rd South 40 chains along the East line of said lands of Mary Frances Estes to a point in the centerline of said Los Angeles Avenue; thence along same
- 4th East 20 chains to the point of beginning.

EXCEPT THEREFROM that portion lying Southerly of the Northerly line of that certain strip 100 feet wide described in the deed to the Southern Pacific Railroad Company, recorded November 13, 1899 in book 58, page 596 of Deeds.

{APN: 500-0-340-040, Reference Only}

ATTACHMENT "B"

OWNERSHIP INFORMATION – AFFECTED PROPERTY

HITCH OWNERSHIP INFORMATION

<u>Vesting</u>	<u>Percentage Ownership</u>
JOHN REID MILLIGAN, a married man acting as to his separate property, as to an undivided _____%;	6.9444
Michael S. and Marshall C. Milligan as Co-Trustees under Trust Agreement dated September 18, 1957 for the benefit of A.A. Milligan, as to an undivided _____%;	8.3333
JOHN R. MILLIGAN, as Trustee under Trust Agreement dated September 18, 1957, with Julia Levy Milligan as Trustor for the benefit of John Levy Milligan, as to an undivided _____%;	8.3333
THE RICHARD H. JONES LTD PARTNERSHIP, a Colorado Limited Partnership, as to an undivided _____%;	12.5000
JOHN R. MILLIGAN, as Trustee under Trust Agreement dated October 26, 1962, with Anna Eugenie Waterman as Trustor for the benefit of John Levy Milligan, as to an undivided _____%;	2.7778
Michael S. and Marshall C. Milligan as Co-Trustees under Trust Agreement dated October 26, 1962, with Anna Eugenie Waterman as Trustor for the benefit of A.A. Milligan, as to an undivided _____%;	2.7778
RICHARD S. HAMBLETON, JR., as Trustee of the MCM #1 Trust dated December 14, 1990, as to an undivided _____%;	6.9444
JULIA MILLIGAN SUMMERS, a married woman acting as to her separate property, as to an undivided _____%;	6.9445
SUSAN C. BAVO, as Trustee of the Susan C. Bavo Trust, dated October 26, 1993, as to an undivided _____%;	6.2500
Alison Jones Pomatto and Alan J. Pomatto, co-Trustees of the Pomatto Living Trust, dated August 3, 1985, as to an undivided _____%;	12.5000
Louis David Bavo as Trustee of the Palmyre Lucie Bavo Trust dated December 28, 1983, as to an undivided _____%;	9.3750
Louis David Bavo as Trustee of the Nicole Kathleen Bavo Trust dated December 28, 1983, as to an undivided _____%;	9.3750
KIMBERLEY JEANNE MILLIGAN, as Trustee of the Kimberley J. Milligan Trust dated May 16, 1995, as to an undivided _____%;	6.9444
	100.000%

UPDATED: 5/16/07  
h:\homelhwv master\hitch-percentages.xls

## ATTACHMENT "C"

### LEGAL DESCRIPTION

THOSE PORTIONS OF LOT L IN RANCHO SIMI, IN THE COUNTY OF VENTRUA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 3 PAGES 7, OF MISCELLANEOUS MAP, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;

#### STRIP 1

BEING A STRIP OF LAND, 40.00 FEET IN WIDTH, THE CENTERLINE BEING DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE CENTERLINE INTERSECTION OF GABBERT ROAD AND LOS ANGELES AVENUE AS SAID INTERSECTION IS SHOWN ON THE MAP OF TRACT NO. 5147 FILED IN BOOK 158, PAGE 39 OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY; THENCE ALONG THE CENTERLINE OF SAID GABBERT ROAD, NORTH 00°01'58" EAST, 1803.57 FEET; THENCE LEAVING SAID CENTERLINE, NORTH 89°58'02" WEST, 20.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID RIGHT OF WAY LINE, THE FOLLOWING SEVEN (7) COURSES:

- 1) NORTH 89°58'02" WEST, 12.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 84.00 FEET;
- 2) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 70°59'08" AN ARC LENGTH OF 104.07 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 84.00 FEET, A RADIAL LINE FROM SAID BEGINNING OF CURVE BEARS NORTH 70°57'10" WEST;
- 3) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 57°12'01" AN ARC LENGTH OF 83.86 FEET TO A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY OF THE NORTHERLY LINE OF PARCEL "B" OF INSTRUMENT NO. 21211 RECORDED APRIL 26, 1962 IN BOOK 2141 PAGE 558;
- 4) ALONG SAID PARALLEL LINE, SOUTH 76°14'51" WEST, 833.49 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 137.00 FEET;
- 5) LEAVING SAID PARALLEL LINE, NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 64°02'41" AN ARC LENGTH OF 153.14 FEET;
- 6) NORTH 39°42'28" WEST, 138.86 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 145.00 FEET;
- 7) NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59°02'59" AN ARC LENGTH OF 149.44 FEET TO THE EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 19 WEST, SAN BERNARDINO MERIDIAN.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD AND TO TERMINATE IN EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6.

**LEGAL DESCRIPTION**

TOGETHER WITH AN EASEMENT FOR SLOPE PURPOSES ADJACENT TO THE ABOVE DESCRIBED 40 FOOT STRIP OF LAND NECESSARY FOR THE CONSTRUCTION OF AN IMPROVED ROAD, IN, UNDER AND ACROSS SAID 40 FOOT STRIP OF LAND.

TOGETHER WITH

PARCEL "A"

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 00°01'58" EAST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE NORTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID NORTHERLY LINE, SOUTH 89°58'02" EAST, 4.00 FEET TO THE TRUE POINT OF BEGINNING.

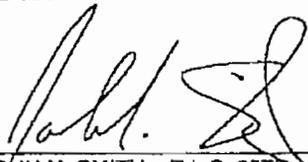
TOGETHER WITH

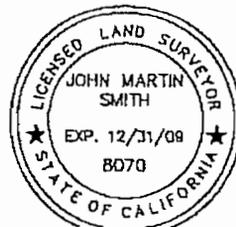
PARCEL "B"

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, SOUTH 00°01'58" WEST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE SOUTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID SOUTHERLY LINE, NORTH 89°58'02" WEST, 4.00 FEET TO THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 3 SQUARE FEET, MORE OR LESS.

THE ABOVE LEGAL DESCRIPTION IS DELINEATED ON EXHIBIT "B" AND IS MADE A PART HEREOF FOR REFERENCE PURPOSES.

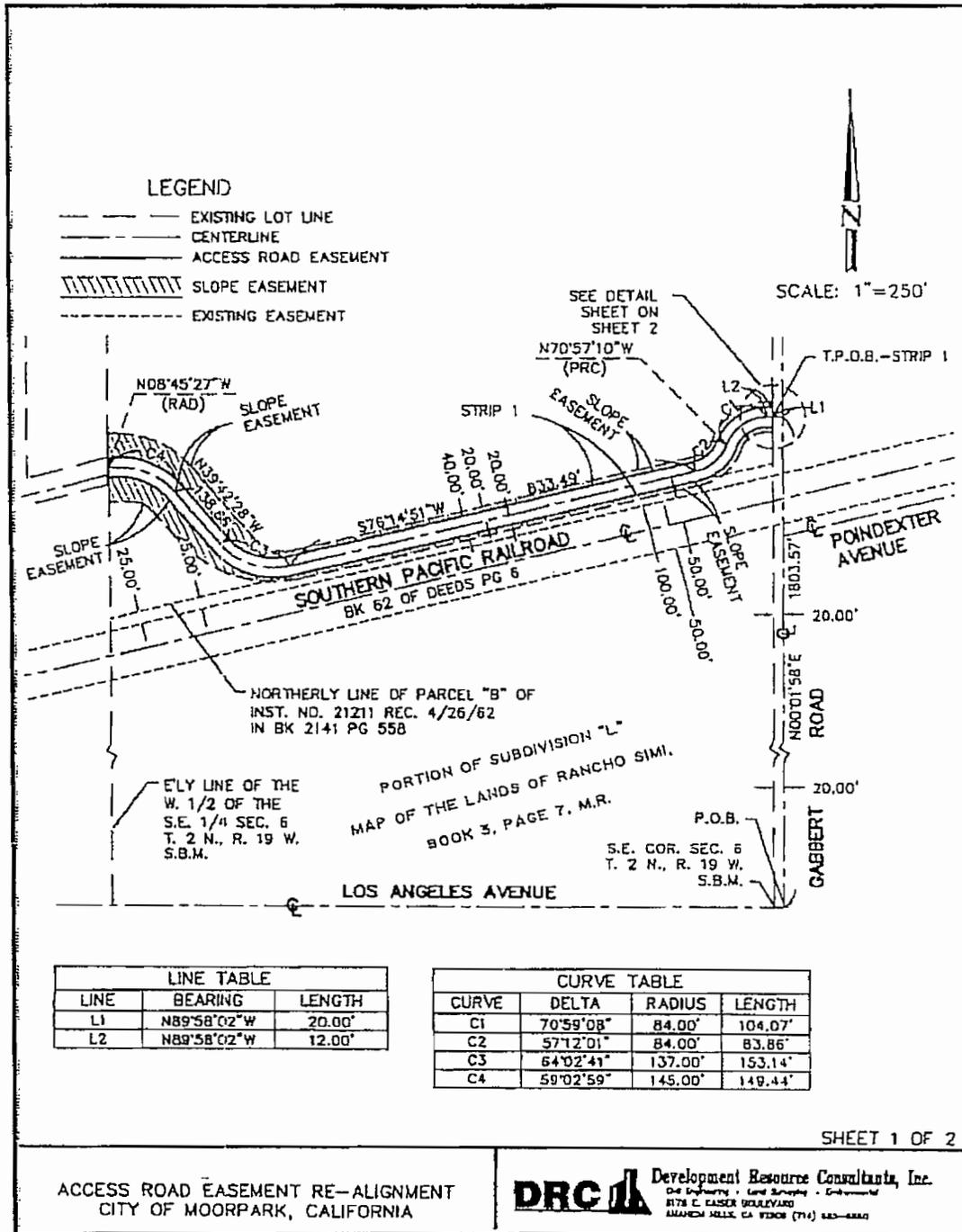
  
\_\_\_\_\_  
JOHN M. SMITH, P.L.S. 8070  
LICENSE EXPIRES 12/31/09  
DATE PREPARED: 03/05/08



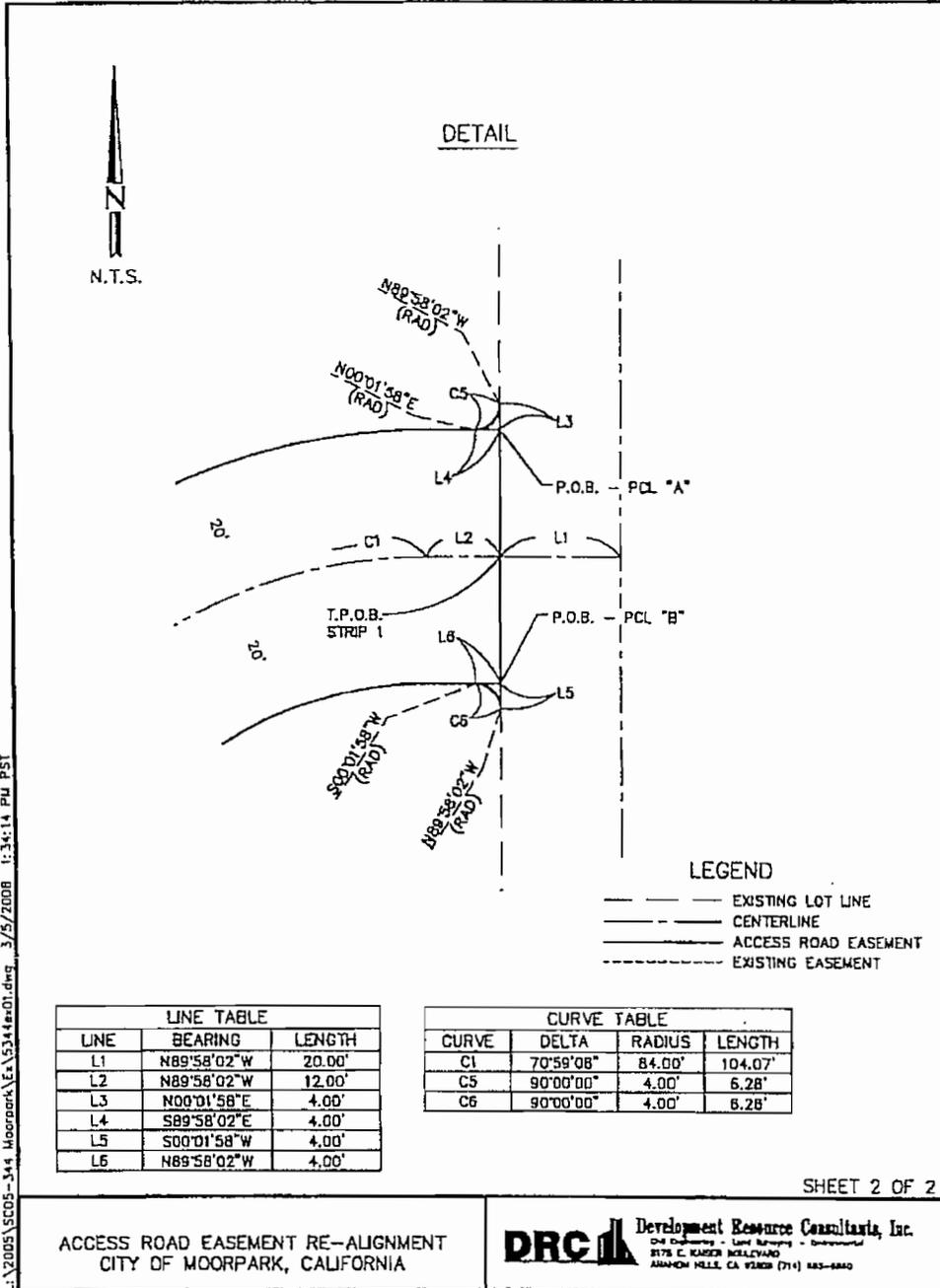
ATTACHMENT "D"

PROPERTY DESCRIPTION AND ANALYSIS

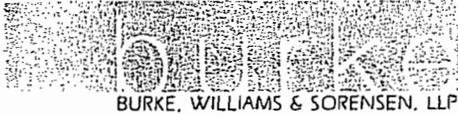
40-FOOT PUBLIC ROAD EASEMENT AND SLOPE EASEMENT



40-FOOT PUBLIC ROAD EASEMENT



L:\2005\SC05-344\_Moorpark\EA\5344e01.dwg, 3/5/2008, 1:34:14 PM, PST



444 South Flower Street - Suite 2400  
Los Angeles, California 90071-2953  
voice 213.236.0600 - fax 213 236 2700  
www.bwslaw.com

Writer's Direct Dial: (213) 236-2819  
Our File No: 01359-0187  
asozio@bwslaw.com

September 22, 2008

**VIA CERTIFIED MAIL**

Mr. Richard S. Hambleton, Jr.  
Hoffman, Vance & Worthington  
1000 S. Seward Ave.  
Ventura, CA 93001-3735

Re: Interests In Land Over 40-Foot Strip Of Land  
Portion of APN 511-0-200-040

**NOTICE OF HEARING IN CONSIDERATION OF THE INTENTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, A GENERAL LAW CITY, TO ADOPT A RESOLUTION OF NECESSITY FOR THE ACQUISITION FOR PUBLIC PURPOSES OF CERTAIN PROPERTY FOR OFF-SITE ACCESS ROAD PURPOSES FOR TRACT NO. 5147, A 17-LOT INDUSTRIAL SUBDIVISION ON 34.53 ACRES, LOCATED APPROXIMATELY 1,300 FEET WEST OF GABBERT ROAD, NORTH OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY LOCATED IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA**

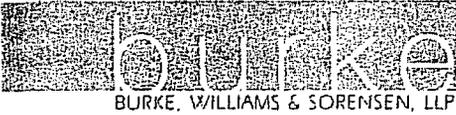
Dear Mr. Hambleton:

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure Section 1230.010 *et. seq.*, that the City Council of the City of Moorpark ("City") intends to consider the adoption of a Resolution of Necessity for acquisition by eminent domain, of certain interests in real property located within the County of Ventura, State of California, for public use relative to paved public roads and utility purposes, and all uses appurtenant thereto.

The interests to be acquired ("Interests") consist of a non-exclusive appurtenant easement and right of way for public access road, emergency access and utility purposes, together with an easement for slope purposes, and are described and depicted on Exhibits "1" and "2" attached hereto. The Interests shall serve as the primary access to that property owned by A-B Properties described as all of lots 1 through 17, inclusive, per Tract No. 5147, Miscellaneous Records 158 MR 37, Recorded as Document # 20070820-00162805-0 with the County Recorder ("Property") until such

**CC ATTACHMENT 2**

**000082**



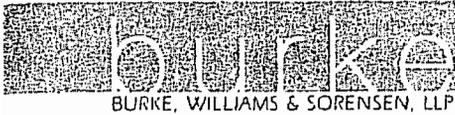
Mr. Richard S. Hambleton, Jr.  
September 22, 2008  
Page 2

time as the Improvements (as defined in Section 6.22 of the Development Agreement By and Between the City of Moorpark and A-B Properties) are constructed or until other alternative access is provided via construction of a 2-lane portion of North Hill Parkway from the Property to Gabbert Road following Moorpark's approval of an amendment to said Development Agreement, after which the paved access road shall become an emergency access only for the Property. The Interests to be acquired shall also allow for the installation, repair, replacement, maintenance and operation of subsurface water, sewer, electric, gas, cable, and telephone utilities, and shall additionally allow for 2 empty conduits for potential future utility use that serve the Property.

A hearing will be held on October 15, 2008 at 7:00 p.m., or as soon thereafter as the City Council can hear said matter, at the Council Chambers, located in the Community Center at 799 Moorpark Avenue, Moorpark, California 93021. If the resolution is adopted at this meeting, it will authorize the City to acquire the Interests by eminent domain for the construction of, and public use relative to, paved public roads and utility purposes, and all uses appurtenant thereto to satisfy conditions of the Development Agreement between A-B Properties and the City (hereinafter, the "Project").

Please take further notice that you have a right to appear and be heard at said hearing on the following matters and issues, and to have the City Council give judicious consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:

- a. Whether the public interest, convenience and necessity require the acquisition by the City of the Interests for the proposed Project;
- b. Whether the proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c. Whether the Interests sought to be acquired by eminent domain and described in the Resolution of Necessity are necessary for the proposed Project;
- d. Whether the offer required by Government Code Section 7267.2(a), together with the accompanying statement and summary of the basis for the amount established as just compensation, was actually made and whether said offer and statement/summary were in a form and contained all of the factual information required by Government Code Section 7267.2(a);
- e. Whether the City has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the "right to take") to



Mr. Richard S. Hambleton, Jr.  
September 22, 2008  
Page 3

acquire the Interests described herein, as well as any other matter regarding the right to take the Interests by eminent domain;

f. Whether the City has statutory authority to acquire the Interests by eminent domain;

g. Whether the City has fully complied with all the provisions of California's Environmental Quality Act in regard to the proposed Project;

h. Whether the necessary notification of the Notice of Hearing, as required by the California Code of Civil Procedure, Sec. 1245.235, was given in regard to the Interests;

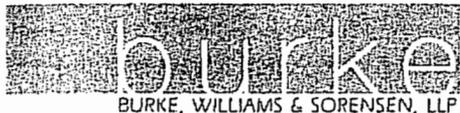
i. Whether the public uses to which the Interests are to be applied by the City, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure Section 1240.610, than the use to which the property is appropriated; and

j. Whether the public uses to which the Interests are to be applied by the City, as described above, will not unreasonably interfere with or impair the continuance of the public use as it exists or may reasonably be expected to exist in the future pursuant to Code of Civil Procedure, Section 1240.510.

A copy of the proposed Resolution of Necessity will be available, upon your request, for inspection at the office of the City Clerk at 799 Moorpark Avenue, Moorpark, California 93021, five (5) days after this Notice is mailed and prior to the hearing at the place of the hearing.

The amount of the compensation to be paid for the acquisition of the Interests is not a matter or issue being heard by the City Council at this time. Your nonappearance at this noticed hearing will not prevent you from claiming greater compensation, as may be determined by a court of law in accordance with the laws of the State of California. This Notice is not intended to foreclose future negotiations between you and the City on the amount of compensation to be paid for the Interests.

If you desire to be heard, please be advised that a written request must be actually received by the City Clerk within fifteen (15) days after this Notice is mailed. The date of mailing appears at the end of this Notice. A failure to file a written request to appear and be heard within fifteen (15) days after the Notice is mailed will result in waiver of the right to appear and be heard on the above matters and issues that are the subject of the hearing. If you elect not to appear and not to be heard, you will only be



Mr. Richard S. Hambleton, Jr.  
September 22, 2008  
Page 4

foreclosed from raising in a court of law the issues that are the subject of this noticed hearing and that are concerned with the right to take the property by eminent domain.

Should you have any questions regarding this hearing, please have your attorneys contact the undersigned at (213) 236-0600.

Very truly yours,

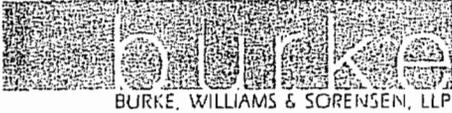
BURKE, WILLIAMS & SORENSEN, LLP

A handwritten signature in black ink, appearing to read "Alan A. Sozio". The signature is fluid and cursive, with a long horizontal stroke at the end.

ALAN A. SOZIO

AAS:amc  
Enclosures

Date of Mailing: September 22, 2008



## EXHIBIT 1

### LEGAL DESCRIPTION

THOSE PORTIONS OF LOT L IN RANCHO SIMI, IN THE COUNTY OF VENTRUA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 3 PAGES 7, OF MISCELLANEOUS MAP, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;

#### STRIP 1

BEING A STRIP OF LAND, 40.00 FEET IN WIDTH, THE CENTERLINE BEING DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE CENTERLINE INTERSECTION OF GABBERT ROAD AND LOS ANGELES AVENUE AS SAID INTERSECTION IS SHOWN ON THE MAP OF TRACT NO. 5147 FILED IN BOOK 158, PAGE 39 OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY; THENCE ALONG THE CENTERLINE OF SAID GABBERT ROAD, NORTH 00°01'58" EAST, 1803.57 FEET; THENCE LEAVING SAID CENTERLINE, NORTH 89°58'02" WEST, 20.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID RIGHT OF WAY LINE, THE FOLLOWING SEVEN (7) COURSES:

- 1) NORTH 89°58'02" WEST, 12.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 84.00 FEET;
- 2) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 70°59'08" AN ARC LENGTH OF 104.07 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 84.00 FEET, A RADIAL LINE FROM SAID BEGINNING OF CURVE BEARS NORTH 70°57'10" WEST;
- 3) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 57°12'01" AN ARC LENGTH OF 83.86 FEET TO A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY OF THE NORTHERLY LINE OF PARCEL "B" OF INSTRUMENT NO. 21211 RECORDED APRIL 26, 1962 IN BOOK 2141 PAGE 558;
- 4) ALONG SAID PARALLEL LINE, SOUTH 76°14'51" WEST, 833.49 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 137.00 FEET;
- 5) LEAVING SAID PARALLEL LINE, NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 64°02'41" AN ARC LENGTH OF 153.14 FEET;
- 6) NORTH 39°42'28" WEST, 138.86 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 145.00 FEET;
- 7) NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59°02'59" AN ARC LENGTH OF 149.44 FEET TO THE EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 19 WEST, SAN BERNARDINO MERIDIAN.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD AND TO TERMINATE IN EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6.

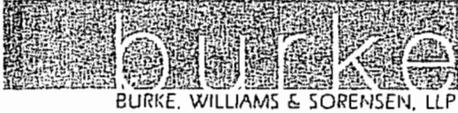


EXHIBIT 1

LEGAL DESCRIPTION

TOGETHER WITH AN EASEMENT FOR SLOPE PURPOSES ADJACENT TO THE ABOVE DESCRIBED 40 FOOT STRIP OF LAND NECESSARY FOR THE CONSTRUCTION OF AN IMPROVED ROAD, IN, UNDER AND ACROSS SAID 40 FOOT STRIP OF LAND.

TOGETHER WITH

PARCEL "A"

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 00°01'58" EAST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE NORTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID NORTHERLY LINE, SOUTH 89°58'02" EAST, 4.00 FEET TO THE TRUE POINT OF BEGINNING.

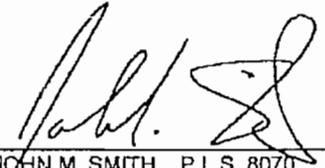
TOGETHER WITH

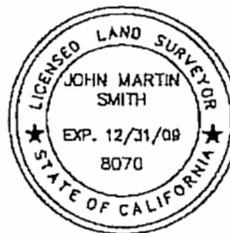
PARCEL "B"

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, SOUTH 00°01'58" WEST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE SOUTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID SOUTHERLY LINE, NORTH 89°58'02" WEST, 4.00 FEET TO THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 3 SQUARE FEET, MORE OR LESS.

THE ABOVE LEGAL DESCRIPTION IS DELINEATED ON EXHIBIT "B" AND IS MADE A PART HEREOF FOR REFERENCE PURPOSES.

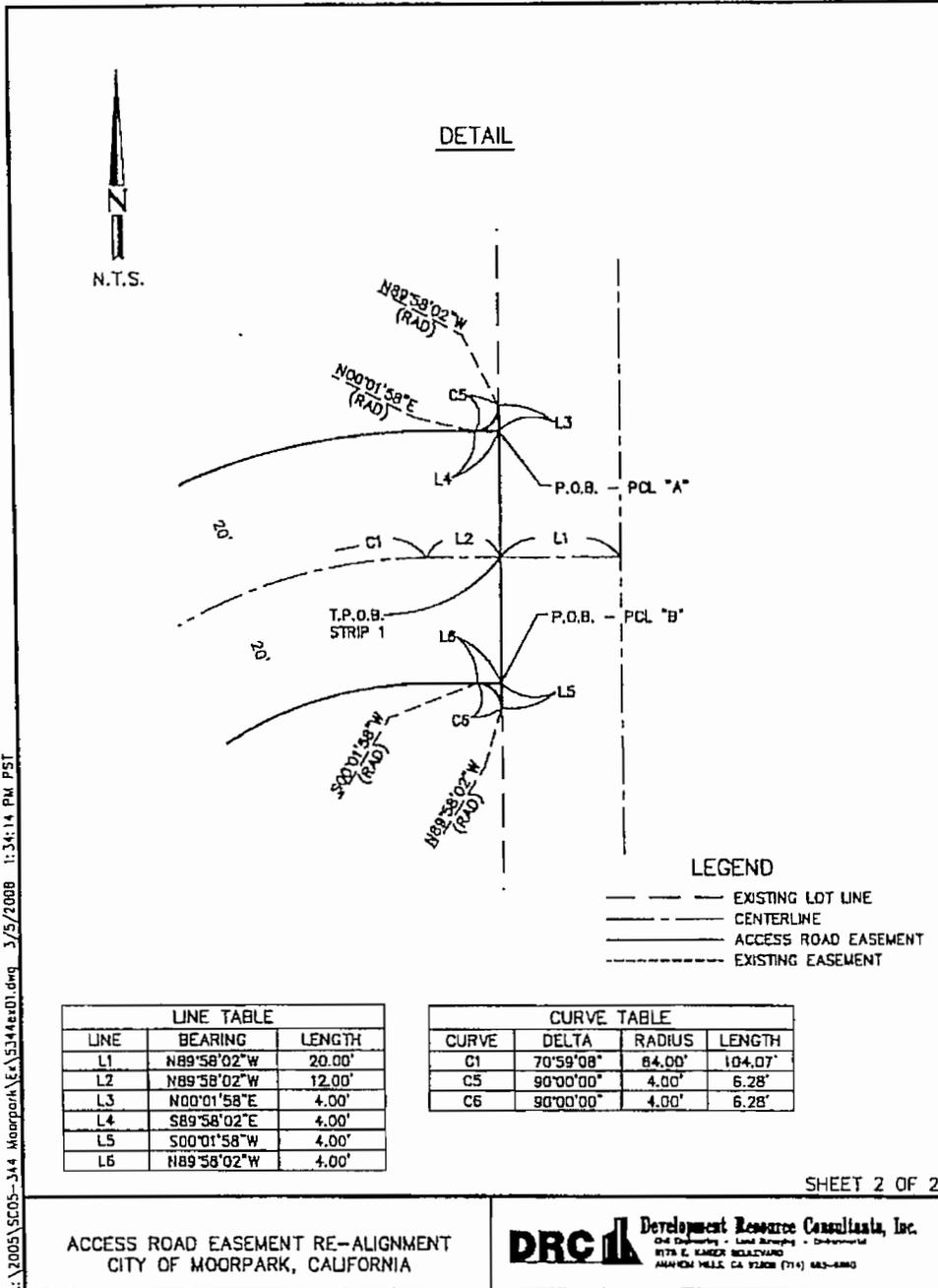
  
\_\_\_\_\_  
JOHN M. SMITH, P.L.S. 8070  
LICENSE EXPIRES 12/31/09  
DATE PREPARED: 03/05/08



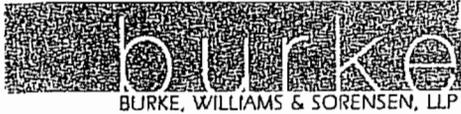


**EXHIBIT 2**

**40-FOOT PUBLIC ROAD EASEMENT**



I:\2005\SC05-344 Moorpark\Ex\5344ax01.dwg 3/5/2008 1:34:14 PM PST



444 South Flower Street - Suite 2400  
Los Angeles, California 90071-2953  
voice 213.236.0600 - fax 213.236.2700  
www.bwslaw.com

Writer's Direct Dial: (213) 236-2819  
Our File No: 01359-1087  
asozi@bwslaw.com

September 22, 2008

**VIA CERTIFIED MAIL**

Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
Southern California Edison  
P.O. Box 800  
2244 Walnut Grove Ave.  
Rosemead, California 91770

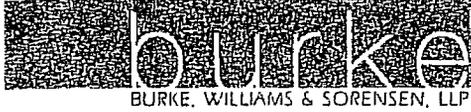
Re: Interests In Land Over 40-Foot Strip Of Land  
Portion of APN 511-0-200-040

**NOTICE OF HEARING IN CONSIDERATION OF THE INTENTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, A GENERAL LAW CITY, TO ADOPT A RESOLUTION OF NECESSITY FOR THE ACQUISITION FOR PUBLIC PURPOSES OF CERTAIN PROPERTY FOR OFF-SITE ACCESS ROAD PURPOSES FOR TRACT NO. 5147, A 17-LOT INDUSTRIAL SUBDIVISION ON 34.53 ACRES, LOCATED APPROXIMATELY 1,300 FEET WEST OF GABBERT ROAD, NORTH OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY LOCATED IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA**

Dear Mr. Matthews and Ms. Anabtawi:

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure Section 1230.010 *et. seq.*, that the City Council of the City of Moorpark ("City") intends to consider the adoption of a Resolution of Necessity for acquisition by eminent domain, of certain interests in real property located within the County of Ventura, State of California, for public use relative to paved public roads and utility purposes, and all uses appurtenant thereto.

The interests to be acquired ("Interests") consist of a non-exclusive appurtenant easement and right of way for public access road, emergency access and utility purposes, together with an easement for slope purposes, and are described and depicted on Exhibits "1" and "2" attached hereto. The Interests shall serve as the primary access to that property owned by A-B Properties described as all of lots 1 through 17, inclusive, per Tract No. 5147, Miscellaneous Records 158 MR 37, Recorded as Document # 20070820-00162805-0 with the County Recorder ("Property") until such time as the Improvements (as defined in Section 6.22 of the Development Agreement



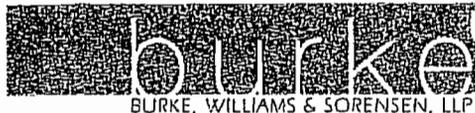
Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
September 22, 2008  
Page 2

By and Between the City of Moorpark and A-B Properties) are constructed or until other alternative access is provided via construction of a 2-lane portion of North Hill Parkway from the Property to Gabbert Road following Moorpark's approval of an amendment to said Development Agreement, after which the paved access road shall become an emergency access only for the Property. The Interests to be acquired shall also allow for the installation, repair, replacement, maintenance and operation of subsurface water, sewer, electric, gas, cable, and telephone utilities, and shall additionally allow for 2 empty conduits for potential future utility use that serve the Property.

A hearing will be held on October 15, 2008 at 7:00 p.m., or as soon thereafter as the City Council can hear said matter, at the Council Chambers, located in the Community Center at 799 Moorpark Avenue, Moorpark, California 93021. If the resolution is adopted at this meeting, it will authorize the City to acquire the Interests by eminent domain for the construction of, and public use relative to, paved public roads and utility purposes, and all uses appurtenant thereto to satisfy conditions of the Development Agreement between A-B Properties and the City (hereinafter, the "Project").

Please take further notice that you have a right to appear and be heard at said hearing on the following matters and issues, and to have the City Council give judicious consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:

- a. Whether the public interest, convenience and necessity require the acquisition by the City of the Interests for the proposed Project;
- b. Whether the proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c. Whether the Interests sought to be acquired by eminent domain and described in the Resolution of Necessity are necessary for the proposed Project;
- d. Whether the offer required by Government Code Section 7267.2(a), together with the accompanying statement and summary of the basis for the amount established as just compensation, was actually made and whether said offer and statement/summary were in a form and contained all of the factual information required by Government Code Section 7267.2(a);
- e. Whether the City has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the "right to take") to



Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
September 22, 2008  
Page 3

acquire the Interests described herein, as well as any other matter regarding the right to take the Interests by eminent domain;

f. Whether the City has statutory authority to acquire the Interests by eminent domain;

g. Whether the City has fully complied with all the provisions of California's Environmental Quality Act in regard to the proposed Project;

h. Whether the necessary notification of the Notice of Hearing, as required by the California Code of Civil Procedure, Sec. 1245.235, was given in regard to the Interests;

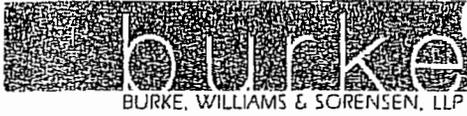
i. Whether the public uses to which the Interests are to be applied by the City, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure Section 1240.610, than the use to which the property is appropriated; and

j. Whether the public uses to which the Interests are to be applied by the City, as described above, will not unreasonably interfere with or impair the continuance of the public use as it exists or may reasonably be expected to exist in the future pursuant to Code of Civil Procedure, Section 1240.510.

A copy of the proposed Resolution of Necessity will be available, upon your request, for inspection at the office of the City Clerk at 799 Moorpark Avenue, Moorpark, California 93021, five (5) days after this Notice is mailed and prior to the hearing at the place of the hearing.

The amount of the compensation to be paid for the acquisition of the Interests is not a matter or issue being heard by the City Council at this time. Your nonappearance at this noticed hearing will not prevent you from claiming greater compensation, as may be determined by a court of law in accordance with the laws of the State of California. This Notice is not intended to foreclose future negotiations between you and the City on the amount of compensation to be paid for the Interests.

If you desire to be heard, please be advised that a written request must be actually received by the City Clerk within fifteen (15) days after this Notice is mailed. The date of mailing appears at the end of this Notice. A failure to file a written request to appear and be heard within fifteen (15) days after the Notice is mailed will result in waiver of the right to appear and be heard on the above matters and issues that are the subject of the hearing. If you elect not to appear and not to be heard, you will only be



Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
September 22, 2008  
Page 4

foreclosed from raising in a court of law the issues that are the subject of this noticed hearing and that are concerned with the right to take the property by eminent domain.

Should you have any questions regarding this hearing, please contact the undersigned at (213) 236-0600.

Very truly yours,

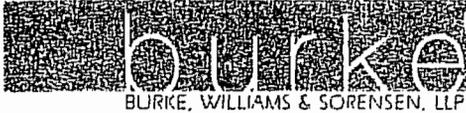
BURKE, WILLIAMS & SORENSEN, LLP

A handwritten signature in black ink, appearing to read "Alan A. Sozio". The signature is fluid and cursive, written over the printed name below it.

ALAN A. SOZIO

AAS:amc  
Enclosure

Date of Mailing: September 22, 2008



## EXHIBIT 1

### LEGAL DESCRIPTION

THOSE PORTIONS OF LOT L IN RANCHO SIMI, IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 3 PAGES 7, OF MISCELLANEOUS MAP, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;

#### STRIP 1

BEING A STRIP OF LAND, 40.00 FEET IN WIDTH, THE CENTERLINE BEING DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE CENTERLINE INTERSECTION OF GABBERT ROAD AND LOS ANGELES AVENUE AS SAID INTERSECTION IS SHOWN ON THE MAP OF TRACT NO. 5147 FILED IN BOOK 158, PAGE 39 OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY; THENCE ALONG THE CENTERLINE OF SAID GABBERT ROAD, NORTH 00°01'58" EAST, 1803.57 FEET; THENCE LEAVING SAID CENTERLINE, NORTH 89°58'02" WEST, 20.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID RIGHT OF WAY LINE, THE FOLLOWING SEVEN (7) COURSES:

- 1) NORTH 89°58'02" WEST, 12.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 84.00 FEET;
- 2) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 70°59'08" AN ARC LENGTH OF 104.07 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 84.00 FEET, A RADIAL LINE FROM SAID BEGINNING OF CURVE BEARS NORTH 70°57'10" WEST;
- 3) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 57°12'01" AN ARC LENGTH OF 83.86 FEET TO A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY OF THE NORTHERLY LINE OF PARCEL "B" OF INSTRUMENT NO. 21211 RECORDED APRIL 26, 1962 IN BOOK 2141 PAGE 558;
- 4) ALONG SAID PARALLEL LINE, SOUTH 76°14'51" WEST, 833.48 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 137.00 FEET;
- 5) LEAVING SAID PARALLEL LINE, NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 64°02'41" AN ARC LENGTH OF 153.14 FEET;
- 6) NORTH 39°42'28" WEST, 138.86 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 145.00 FEET;
- 7) NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59°02'59" AN ARC LENGTH OF 149.44 FEET TO THE EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 19 WEST, SAN BERNARDINO MERIDIAN.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD AND TO TERMINATE IN EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6.

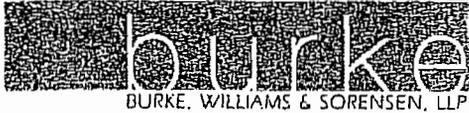


EXHIBIT 1

LEGAL DESCRIPTION

TOGETHER WITH AN EASEMENT FOR SLOPE PURPOSES ADJACENT TO THE ABOVE DESCRIBED 40 FOOT STRIP OF LAND NECESSARY FOR THE CONSTRUCTION OF AN IMPROVED ROAD, IN, UNDER AND ACROSS SAID 40 FOOT STRIP OF LAND.

TOGETHER WITH

PARCEL "A"

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 00°01'58" EAST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE NORTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID NORTHERLY LINE, SOUTH 89°58'02" EAST, 4.00 FEET TO THE TRUE POINT OF BEGINNING.

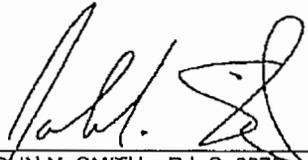
TOGETHER WITH

PARCEL "B"

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, SOUTH 00°01'58" WEST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE SOUTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID SOUTHERLY LINE, NORTH 89°58'02" WEST, 4.00 FEET TO THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 3 SQUARE FEET, MORE OR LESS.

THE ABOVE LEGAL DESCRIPTION IS DELINEATED ON EXHIBIT "B" AND IS MADE A PART HEREOF FOR REFERENCE PURPOSES.

  
\_\_\_\_\_  
JOHN M. SMITH, P.L.S. 8070  
LICENSE EXPIRES 12/31/09  
DATE PREPARED: 03/05/08

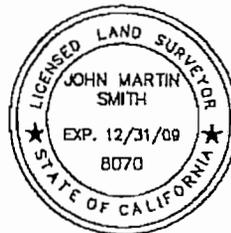
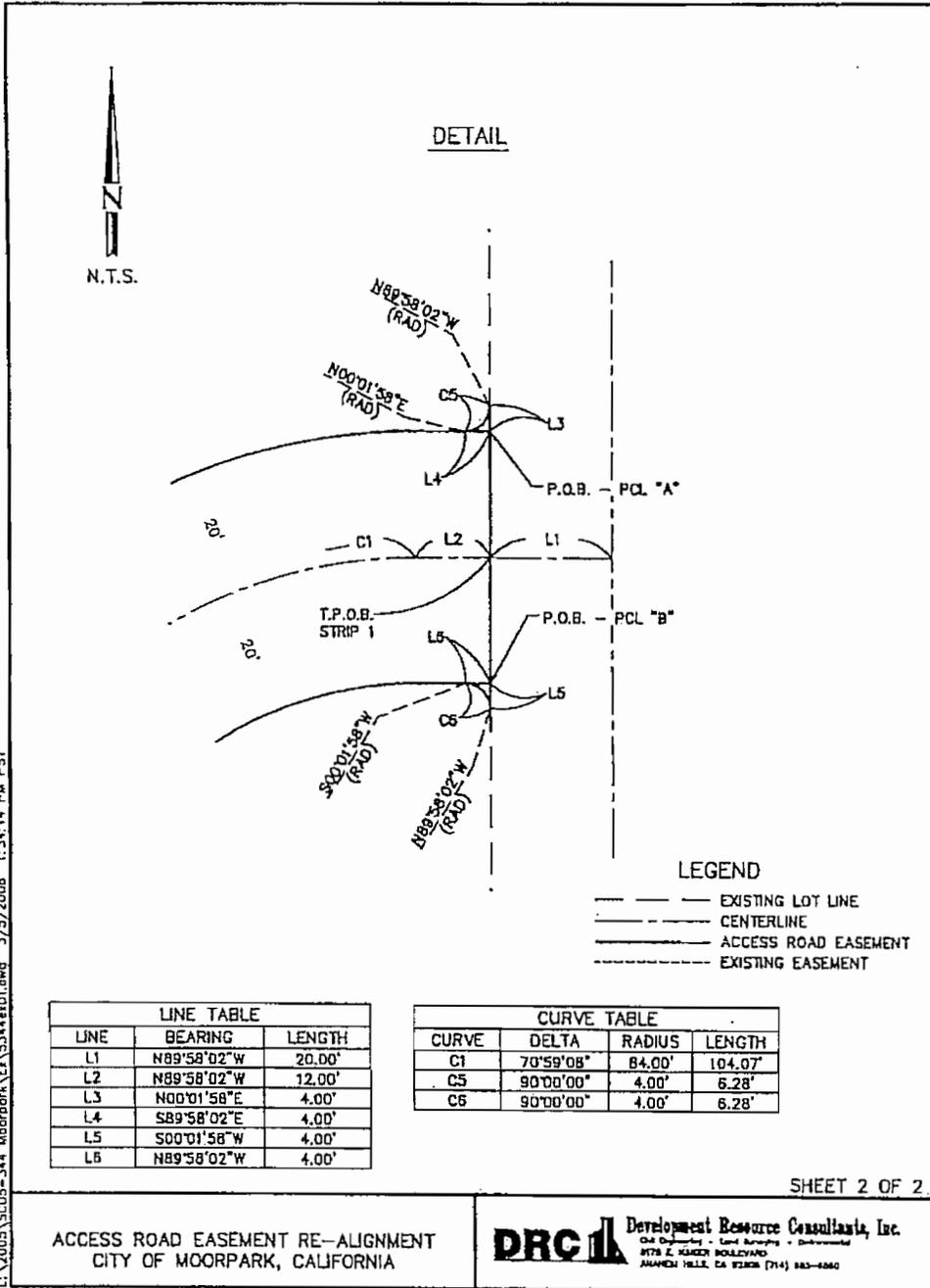




EXHIBIT 2

40-FOOT PUBLIC ROAD EASEMENT



L:\2005\SC05-344 Moorpark\CA\5344.dwg 3/5/2008 1:34:14 PM PST



144 South Flower Street - Suite 2400  
Los Angeles, California 90071-2953  
voice 213.236.0600 - fax 213.236.2700  
www.bwslaw.com

Writer's Direct Dial: (213) 236-2819  
Our File No: 01359-0187  
asozio@bwslaw.com

October 8, 2008

**VIA CERTIFIED MAIL**

Mr. Richard S. Hambleton, Jr.  
Hoffman, Vance & Worthington  
1000 S. Seward Ave.  
Ventura, CA 93001-3735

Re: Interests In Land Over 40-Foot Strip Of Land  
Portion of APN 511-0-200-040

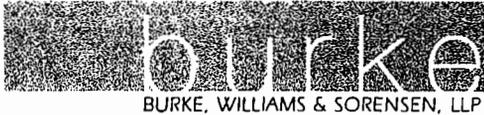
**CHANGE OF HEARING DATE**  
**TO**  
**NOVEMBER 5, 2008**

**NOTICE OF HEARING IN CONSIDERATION OF THE INTENTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, A GENERAL LAW CITY, TO ADOPT A RESOLUTION OF NECESSITY FOR THE ACQUISITION FOR PUBLIC PURPOSES OF CERTAIN PROPERTY FOR OFF-SITE ACCESS ROAD PURPOSES FOR TRACT NO. 5147, A 17-LOT INDUSTRIAL SUBDIVISION ON 34.53 ACRES, LOCATED APPROXIMATELY 1,300 FEET WEST OF GABBERT ROAD, NORTH OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY LOCATED IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA**

Dear Mr. Hambleton:

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure Section 1230.010 *et. seq.*, that the City Council of the City of Moorpark ("City") intends to consider the adoption of a Resolution of Necessity for acquisition by eminent domain, of certain interests in real property located within the County of Ventura, State of California, for public use relative to paved public roads and utility purposes, and all uses appurtenant thereto.

The interests to be acquired ("Interests") consist of a non-exclusive appurtenant easement and right of way for public access road, emergency access and utility purposes, together with an easement for slope purposes, and are described and



Mr. Richard S. Hambleton, Jr.  
October 8, 2008  
Page 2

depicted on Exhibits "1" and "2" attached hereto. The Interests shall serve as the primary access to that property owned by A-B Properties described as all of lots 1 through 17, inclusive, per Tract No. 5147, Miscellaneous Records 158 MR 37, Recorded as Document # 20070820-00162805-0 with the County Recorder ("Property") until such time as the Improvements (as defined in Section 6.22 of the Development Agreement By and Between the City of Moorpark and A-B Properties) are constructed or until other alternative access is provided via construction of a 2-lane portion of North Hill Parkway from the Property to Gabbert Road following Moorpark's approval of an amendment to said Development Agreement, after which the paved access road shall become an emergency access only for the Property. The Interests to be acquired shall also allow for the installation, repair, replacement, maintenance and operation of subsurface water, sewer, electric, gas, cable, and telephone utilities, and shall additionally allow for 2 empty conduits for potential future utility use that serve the Property.

Please be advised that, in response to Southern California Edison Company's written request to postpone the initially-scheduled hearing of October 15, 2008, the hearing will now be held on **November 5, 2008** at 7:00 p.m., or as soon thereafter as the City Council can hear said matter, at the Council Chambers, located in the Community Center at 799 Moorpark Avenue, Moorpark, California 93021. If the resolution is adopted at this meeting, it will authorize the City to acquire the Interests by eminent domain for the construction of, and public use relative to, paved public roads and utility purposes, and all uses appurtenant thereto to satisfy conditions of the Development Agreement between A-B Properties and the City (hereinafter, the "Project").

Please take further notice that you have a right to appear and be heard at said hearing on the following matters and issues, and to have the City Council give judicious consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:

- a. Whether the public interest, convenience and necessity require the acquisition by the City of the Interests for the proposed Project;
- b. Whether the proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c. Whether the Interests sought to be acquired by eminent domain and described in the Resolution of Necessity are necessary for the proposed Project;
- d. Whether the offer required by Government Code Section 7267.2(a), together with the accompanying statement and summary of the basis for the amount

Mr. Richard S. Hambleton, Jr.  
October 8, 2008  
Page 3

established as just compensation, was actually made and whether said offer and statement/summary were in a form and contained all of the factual information required by Government Code Section 7267.2(a);

e. Whether the City has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the "right to take") to acquire the Interests described herein, as well as any other matter regarding the right to take the Interests by eminent domain;

f. Whether the City has statutory authority to acquire the Interests by eminent domain;

g. Whether the City has fully complied with all the provisions of California's Environmental Quality Act in regard to the proposed Project;

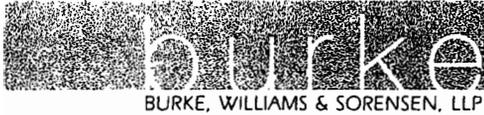
h. Whether the necessary notification of the Notice of Hearing, as required by the California Code of Civil Procedure, Sec. 1245.235, was given in regard to the Interests;

i. Whether the public uses to which the Interests are to be applied by the City, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure Section 1240.610, than the use to which the property is appropriated; and

j. Whether the public uses to which the Interests are to be applied by the City, as described above, will not unreasonably interfere with or impair the continuance of the public use as it exists or may reasonably be expected to exist in the future pursuant to Code of Civil Procedure, Section 1240.510.

A copy of the proposed Resolution of Necessity will be available, upon your request, for inspection at the office of the City Clerk at 799 Moorpark Avenue, Moorpark, California 93021, five (5) days after this Notice is mailed and prior to the hearing at the place of the hearing.

The amount of the compensation to be paid for the acquisition of the Interests is not a matter or issue being heard by the City Council at this time. Your nonappearance at this noticed hearing will not prevent you from claiming greater compensation, as may be determined by a court of law in accordance with the laws of the State of California. This Notice is not intended to foreclose future negotiations between you and the City on the amount of compensation to be paid for the Interests.



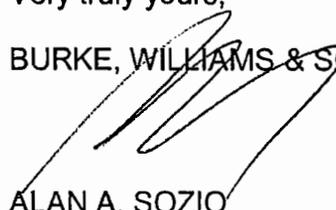
Mr. Richard S. Hambleton, Jr.  
October 8, 2008  
Page 4

If you desire to be heard, please be advised that a written request must be actually received by the City Clerk within fifteen (15) days after this Notice is mailed. The date of mailing appears at the end of this Notice. A failure to file a written request to appear and be heard within fifteen (15) days after the Notice is mailed will result in waiver of the right to appear and be heard on the above matters and issues that are the subject of the hearing. If you elect not to appear and not to be heard, you will only be foreclosed from raising in a court of law the issues that are the subject of this noticed hearing and that are concerned with the right to take the property by eminent domain.

Should you have any questions regarding this hearing, please have your attorneys contact the undersigned at (213) 236-0600.

Very truly yours,

BURKE, WILLIAMS & SORENSEN, LLP



ALAN A. SOZIO

AAS:amc  
Enclosures

Date of Mailing: October 8, 2008



## EXHIBIT 1

### LEGAL DESCRIPTION

THOSE PORTIONS OF LOT L IN RANCHO SIMI, IN THE COUNTY OF VENTRUA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 3 PAGES 7, OF MISCELLANEOUS MAP, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;

#### STRIP 1

BEING A STRIP OF LAND, 40.00 FEET IN WIDTH, THE CENTERLINE BEING DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE CENTERLINE INTERSECTION OF GABBERT ROAD AND LOS ANGELES AVENUE AS SAID INTERSECTION IS SHOWN ON THE MAP OF TRACT NO. 5147 FILED IN BOOK 158, PAGE 39 OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY; THENCE ALONG THE CENTERLINE OF SAID GABBERT ROAD, NORTH  $00^{\circ}01'58''$  EAST, 1803.57 FEET; THENCE LEAVING SAID CENTERLINE, NORTH  $89^{\circ}58'02''$  WEST, 20.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD, SAID POINT BEING THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID RIGHT OF WAY LINE, THE FOLLOWING SEVEN (7) COURSES:

- 1) NORTH  $89^{\circ}58'02''$  WEST, 12.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 84.00 FEET;
- 2) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $70^{\circ}59'08''$  AN ARC LENGTH OF 104.07 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 84.00 FEET, A RADIAL LINE FROM SAID BEGINNING OF CURVE BEARS NORTH  $70^{\circ}57'10''$  WEST;
- 3) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $57^{\circ}12'01''$  AN ARC LENGTH OF 83.86 FEET TO A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY OF THE NORTHERLY LINE OF PARCEL "B" OF INSTRUMENT NO. 21211 RECORDED APRIL 26, 1962 IN BOOK 2141 PAGE 558;
- 4) ALONG SAID PARALLEL LINE, SOUTH  $76^{\circ}14'51''$  WEST, 833.49 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 137.00 FEET;
- 5) LEAVING SAID PARALLEL LINE, NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $64^{\circ}02'41''$  AN ARC LENGTH OF 153.14 FEET;
- 6) NORTH  $39^{\circ}42'28''$  WEST, 138.86 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 145.00 FEET;
- 7) NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF  $59^{\circ}02'59''$  AN ARC LENGTH OF 149.44 FEET TO THE EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 19 WEST, SAN BERNARDINO MERIDIAN.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD AND TO TERMINATE IN EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6.



## EXHIBIT 1

### LEGAL DESCRIPTION

TOGETHER WITH AN EASEMENT FOR SLOPE PURPOSES ADJACENT TO THE ABOVE DESCRIBED 40 FOOT STRIP OF LAND NECESSARY FOR THE CONSTRUCTION OF AN IMPROVED ROAD, IN, UNDER AND ACROSS SAID 40 FOOT STRIP OF LAND.

#### TOGETHER WITH

##### PARCEL "A"

**BEGINNING** AT THE INTERSECTION OF THE NORTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 00°01'58" EAST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE NORTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID NORTHERLY LINE, SOUTH 89°58'02" EAST, 4.00 FEET TO THE **TRUE POINT OF BEGINNING**.

#### TOGETHER WITH

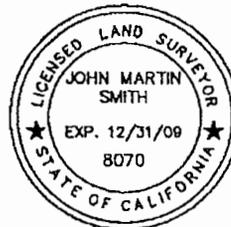
##### PARCEL "B"

**BEGINNING** AT THE INTERSECTION OF THE SOUTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, SOUTH 00°01'58" WEST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE SOUTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID SOUTHERLY LINE, NORTH 89°58'02" WEST, 4.00 FEET TO THE **TRUE POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL CONTAINS 3 SQUARE FEET, MORE OR LESS.

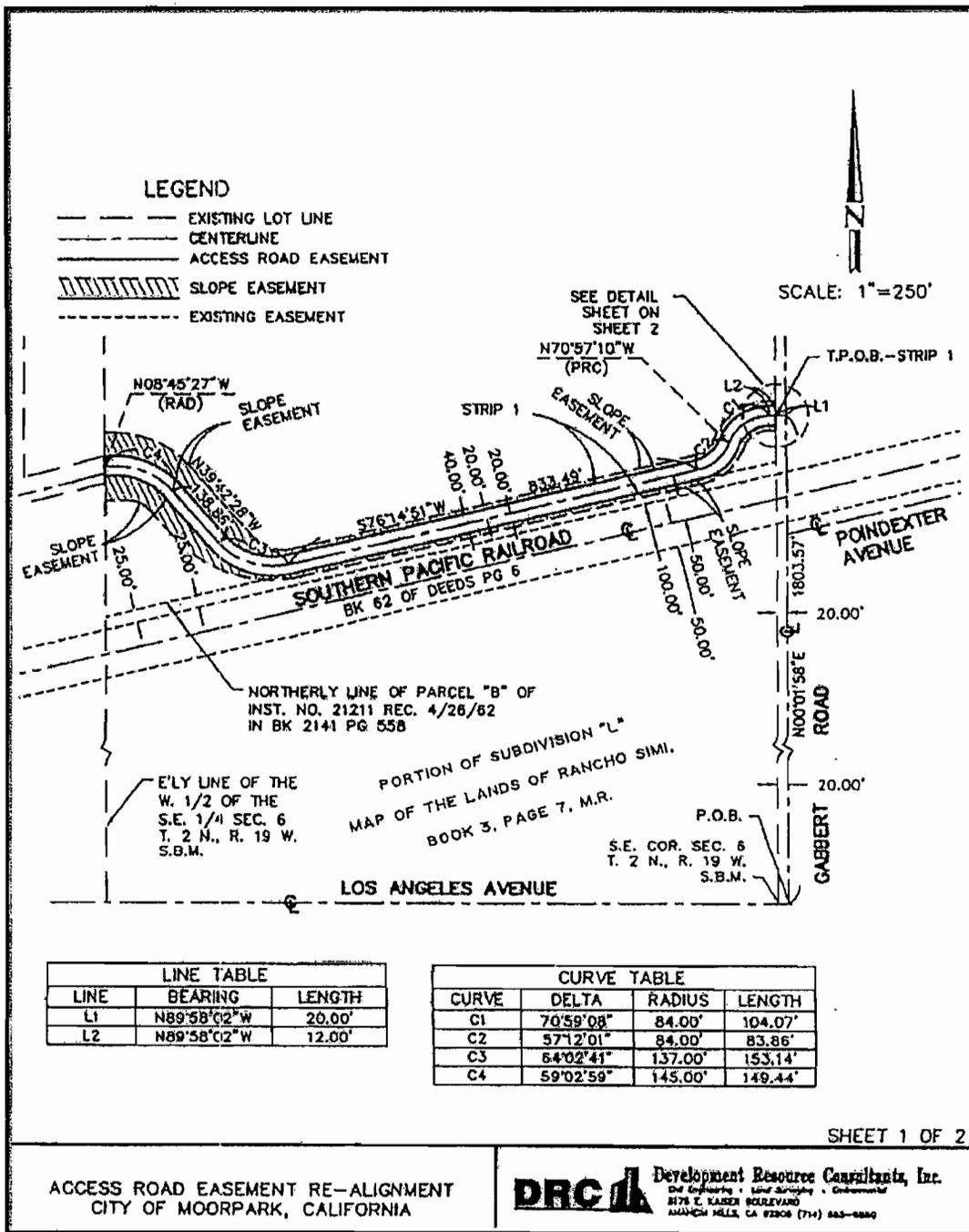
THE ABOVE LEGAL DESCRIPTION IS DELINEATED ON EXHIBIT "B" AND IS MADE A PART HEREOF FOR REFERENCE PURPOSES.

  
\_\_\_\_\_  
JOHN M. SMITH, P.L.S. 8070  
LICENSE EXPIRES 12/31/09  
DATE PREPARED: 03/05/08



**EXHIBIT 2**

**40-FOOT PUBLIC ROAD EASEMENT AND SLOPE EASEMENT**



LINE TABLE		
LINE	BEARING	LENGTH
L1	N89°58'02"W	20.00'
L2	N89°58'02"W	12.00'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	70°59'08"	84.00'	104.07'
C2	57°12'01"	84.00'	83.86'
C3	64°02'41"	137.00'	153.14'
C4	59°02'59"	145.00'	149.44'

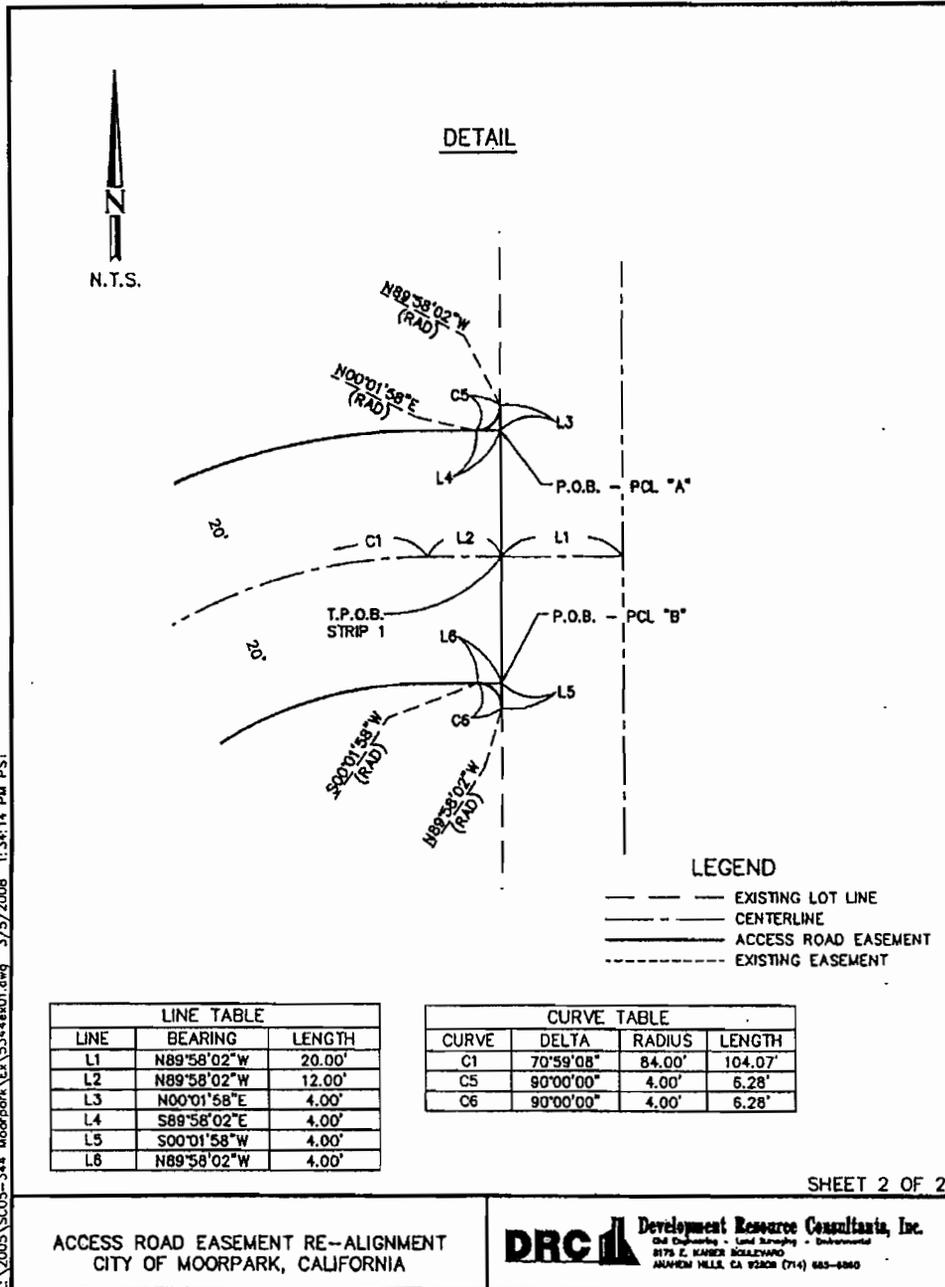
SHEET 1 OF 2

ACCESS ROAD EASEMENT RE-ALIGNMENT  
CITY OF MOORPARK, CALIFORNIA

**DRC** Development Resource Consultants, Inc.  
277 Engineering • Land Surveying • Civil  
8775 E. KASEM BOULEVARD  
ANIMAS HILLS, CA 92506 (714) 883-8880

**EXHIBIT 2**

**40-FOOT PUBLIC ROAD EASEMENT**



L:\2005\SC05-344 Moorpark\EA\5344ex01.dwg 3/5/2008 1:34:14 PM PST



44 South Flower Street - Suite 2400  
Los Angeles, California 90071-2953  
voice 213.236.0600 - fax 213.236.2700  
www.bwslaw.com

Writer's Direct Dial: (213) 236-2819  
Our File No: 01359-1087  
asozio@bwslaw.com

October 8, 2008

**VIA CERTIFIED MAIL**

Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
Southern California Edison  
P.O. Box 800  
2244 Walnut Grove Ave.  
Rosemead, California 91770

Re: Interests In Land Over 40-Foot Strip Of Land  
Portion of APN 511-0-200-040

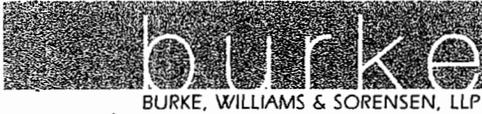
**CHANGE OF HEARING DATE**  
**TO**  
**NOVEMBER 5, 2008**

**NOTICE OF HEARING IN CONSIDERATION OF THE INTENTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, A GENERAL LAW CITY, TO ADOPT A RESOLUTION OF NECESSITY FOR THE ACQUISITION FOR PUBLIC PURPOSES OF CERTAIN PROPERTY FOR OFF-SITE ACCESS ROAD PURPOSES FOR TRACT NO. 5147, A 17-LOT INDUSTRIAL SUBDIVISION ON 34.53 ACRES, LOCATED APPROXIMATELY 1,300 FEET WEST OF GABBERT ROAD, NORTH OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY LOCATED IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA**

Dear Mr. Matthews and Ms. Anabtawi:

YOU ARE HEREBY NOTIFIED, pursuant to Code of Civil Procedure Section 1230.010 *et. seq.*, that the City Council of the City of Moorpark ("City") intends to consider the adoption of a Resolution of Necessity for acquisition by eminent domain, of certain interests in real property located within the County of Ventura, State of California, for public use relative to paved public roads and utility purposes, and all uses appurtenant thereto.

The interests to be acquired ("Interests") consist of a non-exclusive appurtenant easement and right of way for public access road, emergency access and utility purposes, together with an easement for slope purposes, and are described and



Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
October 8, 2008  
Page 2

depicted on Exhibits "1" and "2" attached hereto. The Interests shall serve as the primary access to that property owned by A-B Properties described as all of lots 1 through 17, inclusive, per Tract No. 5147, Miscellaneous Records 158 MR 37, Recorded as Document # 20070820-00162805-0 with the County Recorder ("Property") until such time as the Improvements (as defined in Section 6.22 of the Development Agreement By and Between the City of Moorpark and A-B Properties) are constructed or until other alternative access is provided via construction of a 2-lane portion of North Hill Parkway from the Property to Gabbert Road following Moorpark's approval of an amendment to said Development Agreement, after which the paved access road shall become an emergency access only for the Property. The Interests to be acquired shall also allow for the installation, repair, replacement, maintenance and operation of subsurface water, sewer, electric, gas, cable, and telephone utilities, and shall additionally allow for 2 empty conduits for potential future utility use that serve the Property.

Please be advised that, in response to Southern California Edison Company's written request to postpone the initially-scheduled hearing of October 15, 2008, the hearing will now be held on **November 5, 2008** at 7:00 p.m., or as soon thereafter as the City Council can hear said matter, at the Council Chambers, located in the Community Center at 799 Moorpark Avenue, Moorpark, California 93021. If the resolution is adopted at this meeting, it will authorize the City to acquire the Interests by eminent domain for the construction of, and public use relative to, paved public roads and utility purposes, and all uses appurtenant thereto to satisfy conditions of the Development Agreement between A-B Properties and the City (hereinafter, the "Project").

Please take further notice that you have a right to appear and be heard at said hearing on the following matters and issues, and to have the City Council give judicious consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:

- a. Whether the public interest, convenience and necessity require the acquisition by the City of the Interests for the proposed Project;
- b. Whether the proposed Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c. Whether the Interests sought to be acquired by eminent domain and described in the Resolution of Necessity are necessary for the proposed Project;
- d. Whether the offer required by Government Code Section 7267.2(a), together with the accompanying statement and summary of the basis for the amount



Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
October 8, 2008  
Page 3

established as just compensation, was actually made and whether said offer and statement/summary were in a form and contained all of the factual information required by Government Code Section 7267.2(a);

e. Whether the City has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the "right to take") to acquire the Interests described herein, as well as any other matter regarding the right to take the Interests by eminent domain;

f. Whether the City has statutory authority to acquire the Interests by eminent domain;

g. Whether the City has fully complied with all the provisions of California's Environmental Quality Act in regard to the proposed Project;

h. Whether the necessary notification of the Notice of Hearing, as required by the California Code of Civil Procedure, Sec. 1245.235, was given in regard to the Interests;

i. Whether the public uses to which the Interests are to be applied by the City, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure Section 1240.610, than the use to which the property is appropriated; and

j. Whether the public uses to which the Interests are to be applied by the City, as described above, will not unreasonably interfere with or impair the continuance of the public use as it exists or may reasonably be expected to exist in the future pursuant to Code of Civil Procedure, Section 1240.510.

A copy of the proposed Resolution of Necessity will be available, upon your request, for inspection at the office of the City Clerk at 799 Moorpark Avenue, Moorpark, California 93021, five (5) days after this Notice is mailed and prior to the hearing at the place of the hearing.

The amount of the compensation to be paid for the acquisition of the Interests is not a matter or issue being heard by the City Council at this time. Your nonappearance at this noticed hearing will not prevent you from claiming greater compensation, as may be determined by a court of law in accordance with the laws of the State of California. This Notice is not intended to foreclose future negotiations between you and the City on the amount of compensation to be paid for the Interests.



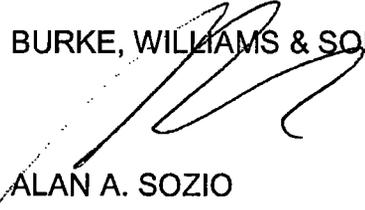
Walker A. Matthews III, Esq.  
Linda Anabtawi, Esq.  
October 8, 2008  
Page 4

If you desire to be heard, please be advised that a written request must be actually received by the City Clerk within fifteen (15) days after this Notice is mailed. The date of mailing appears at the end of this Notice. A failure to file a written request to appear and be heard within fifteen (15) days after the Notice is mailed will result in waiver of the right to appear and be heard on the above matters and issues that are the subject of the hearing. If you elect not to appear and not to be heard, you will only be foreclosed from raising in a court of law the issues that are the subject of this noticed hearing and that are concerned with the right to take the property by eminent domain.

Should you have any questions regarding this hearing, please contact the undersigned at (213) 236-0600.

Very truly yours,

BURKE, WILLIAMS & SORENSEN, LLP



ALAN A. SOZIO

AAS:amc  
Enclosure

Date of Mailing: October 8, 2008

**EXHIBIT 1**

**LEGAL DESCRIPTION**

THOSE PORTIONS OF LOT L IN RANCHO SIMI, IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 3 PAGES 7, OF MISCELLANEOUS MAP, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;

**STRIP 1**

BEING A STRIP OF LAND, 40.00 FEET IN WIDTH, THE CENTERLINE BEING DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE CENTERLINE INTERSECTION OF GABBERT ROAD AND LOS ANGELES AVENUE AS SAID INTERSECTION IS SHOWN ON THE MAP OF TRACT NO. 5147 FILED IN BOOK 158, PAGE 39 OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY; THENCE ALONG THE CENTERLINE OF SAID GABBERT ROAD, NORTH 00°01'58" EAST, 1803.57 FEET; THENCE LEAVING SAID CENTERLINE, NORTH 89°58'02" WEST, 20.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD, SAID POINT BEING THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID RIGHT OF WAY LINE, THE FOLLOWING SEVEN (7) COURSES:

- 1) NORTH 89°58'02" WEST, 12.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 84.00 FEET;
- 2) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 70°59'08" AN ARC LENGTH OF 104.07 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 84.00 FEET, A RADIAL LINE FROM SAID BEGINNING OF CURVE BEARS NORTH 70°57'10" WEST;
- 3) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 57°12'01" AN ARC LENGTH OF 83.86 FEET TO A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY OF THE NORTHERLY LINE OF PARCEL "B" OF INSTRUMENT NO. 21211 RECORDED APRIL 26, 1962 IN BOOK 2141 PAGE 558;
- 4) ALONG SAID PARALLEL LINE, SOUTH 76°14'51" WEST, 833.49 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 137.00 FEET;
- 5) LEAVING SAID PARALLEL LINE, NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 64°02'41" AN ARC LENGTH OF 153.14 FEET;
- 6) NORTH 39°42'28" WEST, 138.86 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 145.00 FEET;
- 7) NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59°02'59" AN ARC LENGTH OF 149.44 FEET TO THE EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 19 WEST, SAN BERNARDINO MERIDIAN.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD AND TO TERMINATE IN EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6.



**EXHIBIT 1**

**LEGAL DESCRIPTION**

**TOGETHER WITH AN EASEMENT FOR SLOPE PURPOSES ADJACENT TO THE ABOVE DESCRIBED 40 FOOT STRIP OF LAND NECESSARY FOR THE CONSTRUCTION OF AN IMPROVED ROAD, IN, UNDER AND ACROSS SAID 40 FOOT STRIP OF LAND.**

**TOGETHER WITH**

**PARCEL "A"**

**BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 00°01'58" EAST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE NORTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID NORTHERLY LINE, SOUTH 89°58'02" EAST, 4.00 FEET TO THE TRUE POINT OF BEGINNING.**

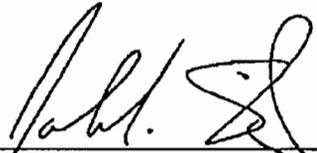
**TOGETHER WITH**

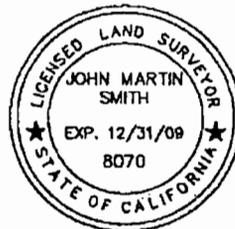
**PARCEL "B"**

**BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, SOUTH 00°01'58" WEST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE SOUTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID SOUTHERLY LINE, NORTH 89°58'02" WEST, 4.00 FEET TO THE TRUE POINT OF BEGINNING.**

**THE ABOVE DESCRIBED PARCEL CONTAINS 3 SQUARE FEET, MORE OR LESS.**

**THE ABOVE LEGAL DESCRIPTION IS DELINEATED ON EXHIBIT "B" AND IS MADE A PART HEREOF FOR REFERENCE PURPOSES.**

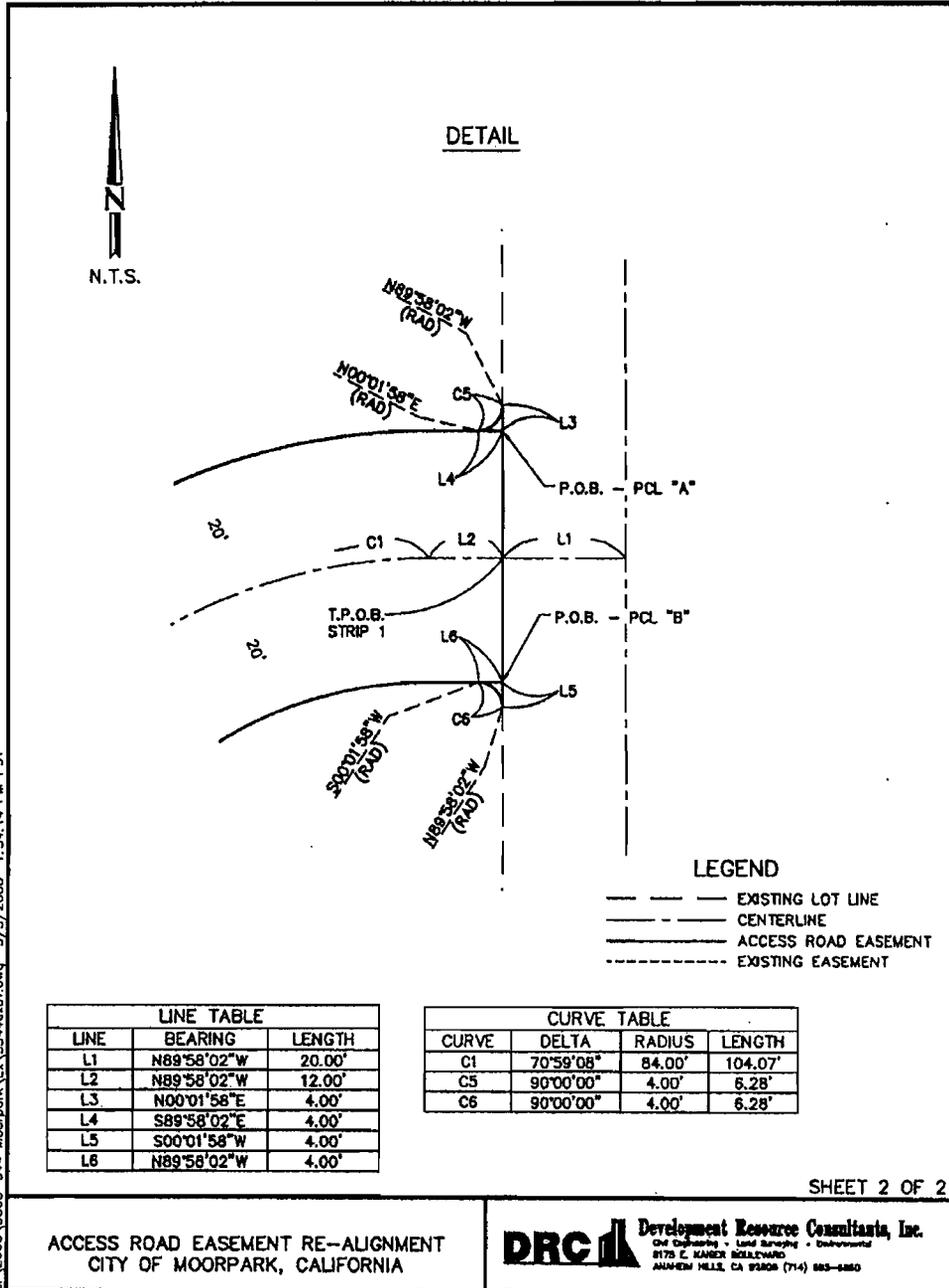
  
\_\_\_\_\_  
JOHN M. SMITH, P.L.S. 8070  
LICENSE EXPIRES 12/31/09  
DATE PREPARED: 03/05/08





**EXHIBIT 2**

**40-FOOT PUBLIC ROAD EASEMENT**



L:\2005\SC05-344\_Moorpark\EA\_S344e01.dwg 3/5/2008 1:34:14 PM PST

RESOLUTION NO. 2008-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, FINDING AND DETERMINING THAT THE PUBLIC INTEREST, CONVENIENCE, AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN PROPERTY FOR OFF-SITE PUBLIC ACCESS ROAD PURPOSES FOR TRACT NO. 5147, A 17-LOT INDUSTRIAL SUBDIVISION ON 34.53 ACRES, LOCATED APPROXIMATELY 1,300 FEET WEST OF GABBERT ROAD, NORTH OF THE UNION PACIFIC RAILROAD RIGHT-OF-WAY LOCATED IN THE CITY OF MOORPARK, COUNTY OF VENTURA, STATE OF CALIFORNIA

WHEREAS, Section 66462.5 of the Government Code provides that a city and a subdivider may, by agreement, provide for the acquisition of off-site interests from third parties by the city at the subdivider's expense, where such interests are required to satisfy map conditions; and

WHEREAS, on December 16, 1998, the City Council adopted Ordinance No. 250 (effective January 15, 1999), approving a Development Agreement between the City of Moorpark and A-B Properties in connection with General Plan Amendment (GPA) No. 97-02 and Zone Change (ZC) No. 97-06, for a 34.53-acre industrial development, with Section 6.21 of the Development Agreement requiring improvement of a 32-foot wide paved access road to the property; and

WHEREAS, on March 15, 2000, the City Council adopted Resolution No. 2000-1714, conditionally approving Tentative Tract No. 5147 for this 34.53 acre property, allowing its division into 17 lots, with Condition No. CED-33 requiring improvement of a 32-foot wide paved access road to the property; and

WHEREAS, on January 23, 2008, A-B Properties requested in writing that the City of Moorpark acquire all property necessary to construct the 32-foot wide paved access road as described and shown in Exhibits 1 and 2 attached hereto; and

WHEREAS, following City Council authorization on March 19, 2008, the City and A-B Properties on May 6, 2008 entered into a reimbursement agreement in regard to the initiation of the process of acquisition of said property; and

WHEREAS, on November 5, 2008, the Moorpark City Council held a duly noticed hearing at a public meeting in order to initiate eminent domain proceedings for the acquisition of the property described and shown in Exhibits 1 and 2.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council of the City of Moorpark (hereafter "City"), after consideration of the Agenda Report, staff presentation, discussion, oral testimony, and evidence presented at the public meeting on October 15, 2008, hereby finds, determines, and declares as follows:

- a. The public interest, convenience, and necessity require Tract 5147 to require the acquisition by City of certain interests in and to certain real property located within the County of Ventura, State of California, for public use relative to paved public roads and utility purposes, and all uses appurtenant thereto; and
- b. The interests to be acquired ("Interests") consist of a non-exclusive appurtenant easement and right of way for public access road, emergency access and utility purposes, together with an easement for slope purposes, and are described and depicted on Exhibits 1 and 2 attached hereto. The Interests shall serve as the primary access to that property owned by A-B Properties described as all of lots 1 through 17, inclusive, per Tract No. 5147, Miscellaneous Records 158 MR 37, Recorded as Document # 20070820-00162805-0 with the County Recorder ("Property") until such time as the Improvements (as defined in Section 6.22 of the Development Agreement By and Between the City of Moorpark and A-B Properties) are constructed or until other alternative access is provided via construction of a 2-lane portion of North Hill Parkway from the Property to Gabbert Road following Moorpark's approval of an amendment to said Development Agreement, after which the paved access road shall become an emergency access only for the Property. The Interests to be acquired shall also allow for the installation, repair, replacement, maintenance and operation of subsurface water, sewer, electric, gas, cable, and telephone utilities, and shall additionally allow for 2 empty conduits for potential future utility use, that serve the Property.
- c. The project, which consists of development consistent with Development Agreement between the City and A-B Properties in connection with General Plan Amendment (GPA) No. 97-02, Zone Change (ZC) No. 97-06, and Tract No. 5147 for a 34.53-acre industrial development including the proposed non-exclusive appurtenant easement and right of way for public access road, emergency access and utility purposes, together with an easement for slope purposes, to satisfy conditions of said Development Agreement ("Project"), is planned and located in a manner that will be most compatible with the greatest public good and least private injury; and

d. The City has fully complied with all the provisions of California's Environmental Quality Act in regard to the Project; and

e. The taking of the Interests as above described is necessary for the Project, and such taking is authorized by Section 19, Article I of the California Constitution, Sections 37350 *et seq.*, Sections 40401 *et seq.*, including Section 40404 and Sections 66462.5 *et seq.*, of the California Government Code, Sections 5100 *et seq.*, and 10102 *et seq.*, of the California Streets and Highways Code, Section 1230.010 *et seq.*, of the California Code of Civil Procedure, and other applicable law; and

f. The offer to purchase required by California Government Code Section 7267.2 has been made to the owner of the Property, as well as to easement holder, Southern California Edison; and

g. The necessary notification of the Notice of Hearing, as required by the California Code of Civil Procedure, Section 1245.235 was given.

SECTION 2. The City Council of the City of Moorpark hereby declares that it is its intention to acquire said Interests in its name in accordance with the provision of the laws of the State of California with reference to condemnation procedures.

SECTION 3. If any of the area of the Interests has been appropriated to some public use, the public uses to which they are to be applied by the City, as described above, are more necessary and paramount public uses, pursuant to Code of Civil Procedure Section 1240.610, or at the very least will not unreasonably interfere with or impair the continuance of the public use as it exists or may reasonably be expected to exist in the future pursuant to Code of Civil Procedure, Section 1240.510.

SECTION 4. The Interests, the acquisition of which is required by said public interests, convenience, and necessity for the purposes set forth in Section 1 hereof, are located within the County of Ventura, State of California.

SECTION 5. The City Attorney and the firm of Burke, Williams & Sorensen, LLP, as special counsel, under the direction of the City Attorney, are authorized and directed to prepare, institute, and prosecute in the name of the City such proceedings in the proper court having jurisdiction thereof as may be necessary for the acquisition of the Interests, including filing of an application for an order of immediate possession prior to judgment.

SECTION 6. This Resolution shall be effective immediately upon its adoption.

SECTION 7. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 5th day of November, 2008.

\_\_\_\_\_  
Patrick Hunter, Mayor

ATTEST:

\_\_\_\_\_  
Deborah S. Traffenstedt, City Clerk

Exhibit 1: Legal Description

Exhibit 2: 40-Foot Public Road Easement and Slope Easement

## EXHIBIT 1

### LEGAL DESCRIPTION

THOSE PORTIONS OF LOT L IN RANCHO SIMI, IN THE COUNTY OF VENTRUA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 3 PAGES 7, OF MISCELLANEOUS MAP, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY;

#### STRIP 1

BEING A STRIP OF LAND, 40.00 FEET IN WIDTH, THE CENTERLINE BEING DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE CENTERLINE INTERSECTION OF GABBERT ROAD AND LOS ANGELES AVENUE AS SAID INTERSECTION IS SHOWN ON THE MAP OF TRACT NO. 5147 FILED IN BOOK 158, PAGE 39 OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY; THENCE ALONG THE CENTERLINE OF SAID GABBERT ROAD, NORTH 00°01'58" EAST, 1803.57 FEET; THENCE LEAVING SAID CENTERLINE, NORTH 89°58'02" WEST, 20.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD, SAID POINT BEING THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID RIGHT OF WAY LINE, THE FOLLOWING SEVEN (7) COURSES:

- 1) NORTH 89°58'02" WEST, 12.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 84.00 FEET;
- 2) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 70°59'08" AN ARC LENGTH OF 104.07 FEET TO THE BEGINNING OF A REVERSE CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 84.00 FEET, A RADIAL LINE FROM SAID BEGINNING OF CURVE BEARS NORTH 70°57'10" WEST;
- 3) SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 57°12'01" AN ARC LENGTH OF 83.86 FEET TO A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY OF THE NORTHERLY LINE OF PARCEL "B" OF INSTRUMENT NO. 21211 RECORDED APRIL 26, 1962 IN BOOK 2141 PAGE 558;
- 4) ALONG SAID PARALLEL LINE, SOUTH 76°14'51" WEST, 833.49 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 137.00 FEET;
- 5) LEAVING SAID PARALLEL LINE, NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 64°02'41" AN ARC LENGTH OF 153.14 FEET;
- 6) NORTH 39°42'28" WEST, 138.86 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 145.00 FEET;
- 7) NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 59°02'59" AN ARC LENGTH OF 149.44 FEET TO THE EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 19 WEST, SAN BERNARDINO MERIDIAN.

THE SIDELINES OF SAID STRIP TO BE PROLONGED OR SHORTENED TO ORIGINATE IN THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD AND TO TERMINATE IN EASTERLY LINE OF THE WESTERLY HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6.

**LEGAL DESCRIPTION**

**TOGETHER WITH AN EASEMENT FOR SLOPE PURPOSES ADJACENT TO THE ABOVE DESCRIBED 40 FOOT STRIP OF LAND NECESSARY FOR THE CONSTRUCTION OF AN IMPROVED ROAD, IN, UNDER AND ACROSS SAID 40 FOOT STRIP OF LAND.**

**TOGETHER WITH**

**PARCEL "A"**

**BEGINNING** AT THE INTERSECTION OF THE NORTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 00°01'58" EAST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE NORTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID NORTHERLY LINE, SOUTH 89°58'02" EAST, 4.00 FEET TO THE **TRUE POINT OF BEGINNING**.

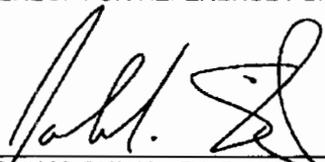
**TOGETHER WITH**

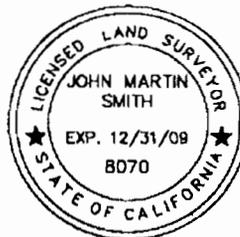
**PARCEL "B"**

**BEGINNING** AT THE INTERSECTION OF THE SOUTHERLY LINE OF STRIP 1 DESCRIBED ABOVE AND THE WESTERLY RIGHT OF WAY LINE OF SAID GABBERT ROAD; THENCE ALONG SAID RIGHT OF WAY LINE, SOUTH 00°01'58" WEST, 4.00 FEET TO A POINT OF CUSP WITH A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 4.00 FEET, A RADIAL LINE FROM SAID POINT BEARS NORTH 89°58'02" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 6.28 FEET TO A POINT OF CUSP WITH THE SOUTHERLY LINE OF SAID STRIP 1; THENCE ALONG SAID SOUTHERLY LINE, NORTH 89°58'02" WEST, 4.00 FEET TO THE **TRUE POINT OF BEGINNING**.

THE ABOVE DESCRIBED PARCEL CONTAINS 3 SQUARE FEET, MORE OR LESS.

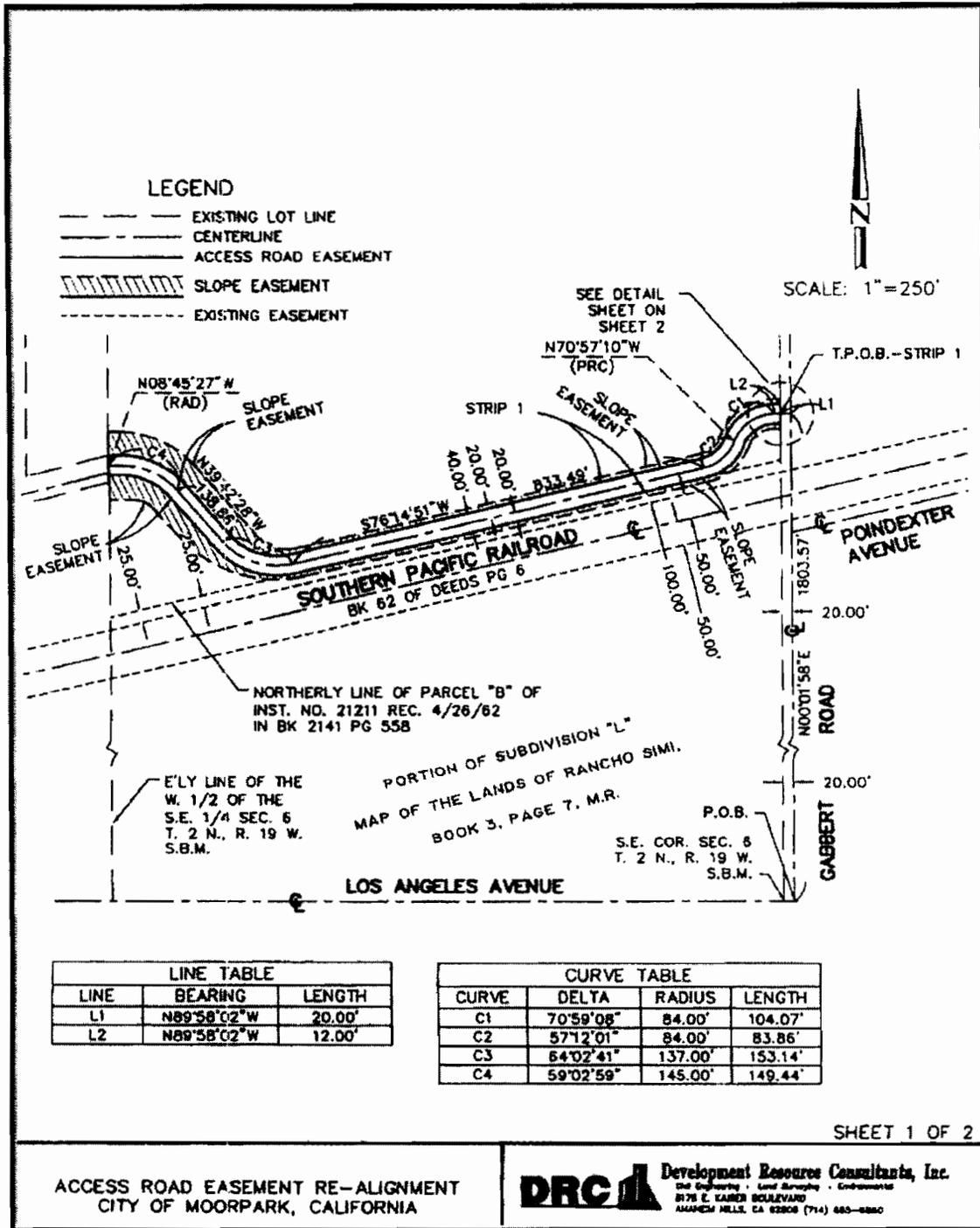
THE ABOVE LEGAL DESCRIPTION IS DELINEATED ON EXHIBIT "B" AND IS MADE A PART HEREOF FOR REFERENCE PURPOSES.

  
\_\_\_\_\_  
JOHN M. SMITH, P.L.S. 8070  
LICENSE EXPIRES 12/31/09  
DATE PREPARED: 03/05/08

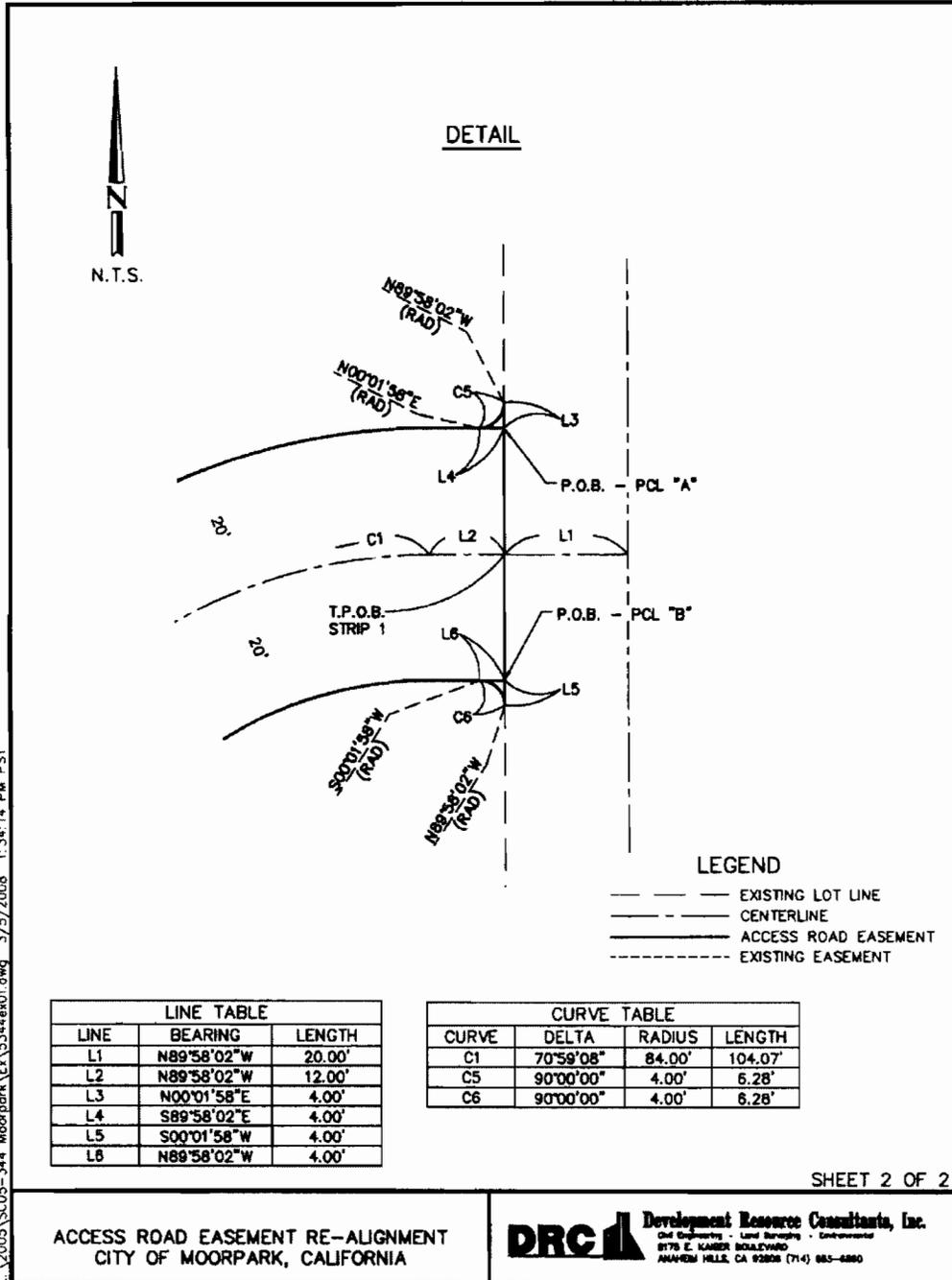


**EXHIBIT 2**

**40-FOOT PUBLIC ROAD EASEMENT AND SLOPE EASEMENT**



40-FOOT PUBLIC ROAD EASEMENT



L:\2005\SC05-344 Moorpark EA\5344ae01.dwg 3/5/2008 1:34:14 PM PST



Walker A. Matthews III  
 Senior Attorney  
 walker.matthews@sce.com

October 3, 2008

VIA FACSIMILE AND U.S. MAIL AND CERTIFIED MAIL

Alan A. Sozio, Esq.  
 Burke, Williams & Sorensen, LLP  
 444 S. Flower Street, Suite 2400  
 Los Angeles, CA 90071

Re: Notice of Hearing to Adopt a Resolution of Necessity for  
 Acquisition of Property Owned by Southern California  
 Edison Company

Dear Mr. Sozio:

This letter is in response to your letter dated September 22, 2008, regarding the City of Moorpark's (Moorpark) intention to adopt a Resolution of Necessity to acquire by eminent domain a portion of Southern California Edison Company's (SCE) interest in property identified by Ventura County Assessor Parcel Number 511-0-200-040.

As you are aware, California law requires that prior to adopting a resolution of necessity, Moorpark must "make every reasonable effort to acquire expeditiously real property by negotiation." Gov't. Code §§ 7267.1, 7267.2. This requirement has not been met here. Moorpark submitted an offer to purchase SCE's property interest by letter dated September 2, 2008. SCE responded to Moorpark's offer by letter dated September 25, 2008. In this letter, SCE clearly indicated that it is taking Moorpark's offer into consideration. In addition, SCE invoked its right to an independent appraisal, as provided in Section 1263.025 of the Code of Civil Procedure. We believe that SCE and Moorpark are still in the process of negotiating for the purchase of SCE's property. Moorpark has not yet demonstrated a "reasonable effort" to acquire the property by negotiation. Therefore, Moorpark would be acting prematurely in proceeding with the Resolution of Necessity at this point in time.

The Moorpark City Council has scheduled a hearing for October 15, 2008 to consider the adoption of a Resolution of Necessity. However, in order to comply with the eminent domain law and to allow SCE and Moorpark sufficient time to continue their negotiations, SCE requests that the City Council postpone the hearing until a later date. If SCE's request is not granted, SCE hereby

OCT/OCT 2008/FRI 08:48 AM

P. 003

Alan A. Sorio, Esq.  
Page 2  
October 3, 2008

requests, by copy to the City Clerk, its desire to be heard at the City Council meeting on October 15, 2008.

Please call me if you have any questions regarding this matter.

Sincerely,

*W. A. Matthews III*

Walker A. Matthews III

WAM:mkg:1573073

000123



SOUTHERN CALIFORNIA  
**EDISON**

An EDISON INTERNATIONAL Company

Linda J. Anabtawi  
Attorney  
Linda.Anabtawi@sce.com

October 22, 2008

VIA EMAIL & OVERNIGHT MAIL

Alan A. Sozio  
Burke, Williams & Sorensen, LLP  
444 South Flower Street, Suite 2400  
Los Angeles, CA 90071-2953

Re: Revised Notice of Hearing to Adopt a Resolution of  
Necessity for Acquisition of Property Owned By Southern  
California Edison Company

Dear Mr. Sozio:

This letter is in response to your letter dated October 8, 2008, regarding the City of Moorpark's (Moorpark) intention to consider the adoption of a Resolution of Necessity (Resolution) to acquire by eminent domain a portion of Southern California Edison Company's (SCE) property (identified by Ventura County Assessor Parcel Number 511-0-200-040). SCE has easement rights over this property to allow for the operation and maintenance of its transmission facilities.

As you know, the Moorpark City Council continued the hearing on this Resolution from its original date of October 15, 2008 to November 5, 2008. Notwithstanding this extension of time, SCE believes that Moorpark is acting prematurely in considering the Resolution prior to allowing SCE an adequate opportunity to fully evaluate Moorpark's initial appraisal of the value of the subject property, obtain its own appraisal, and engage in negotiations with Moorpark seeking a settlement in this matter. Until SCE has been given such an opportunity, the hearing on this Resolution should not proceed. If Moorpark nonetheless decides to proceed with a hearing on November 5, this letter serves as SCE's request to be heard at the hearing.

**The Hearing Should Not Be Held Until Negotiations Are Complete**

As discussed in our letter dated October 3, 2008, the hearing should not be held until negotiations between SCE and Moorpark are complete. SCE and Moorpark continue to negotiate in an effort to determine whether there can be agreement between the parties on the value of the subject property.

**CC ATTACHMENT 5**

By proceeding with the Resolution at this time, Moorpark is undermining the negotiation process. Moorpark should therefore delay the hearing in order to allow sufficient time for the parties to complete both the appraisal and the negotiation process. SCE has engaged an independent appraiser and anticipates that the appraisal will be complete within the next month.

### **Moorpark Has Not Conducted The Required Environmental Review**

In addition, Moorpark has not demonstrated its compliance with the provisions of the California Environmental Quality Act (CEQA). Here, the city is considering an action (the exercise of its eminent domain power) that could result in a direct physical change to the environment. As such, the adoption of the Resolution is a "project" under CEQA, and Moorpark must conduct the required environmental review prior to taking action on the Resolution. Public Res. Code §§ 21065, 21080. This requirement has not been met.<sup>1</sup>

### **Moorpark Is Acting On Behalf Of Private Interests, Not Public Interests**

Moorpark is acting on behalf of private interests to acquire SCE's property. Specifically, condemnation of SCE's property would benefit a developer, A-B Properties (A-B). A-B is presently developing a parcel located west of Gabbert Road and north of the Southern Pacific Railroad tracks in Moorpark pursuant to Tract Map No. 5147. This proposed industrial development is adjacent to a number of SCE's easements. To gain access to its development, A-B wants to install a road through SCE's easements. A-B claims that the fee owner of the subject property granted a second easement to A-B covering the same location as SCE's easement. SCE has opposed A-B's claims on several grounds because A-B's proposed road would unreasonably interfere with SCE's easement rights. Additionally, SCE believes that A-B's purported easement is invalid in that SCE's prior written consent, as required by the terms of SCE's easement, was never given. In October 2007, A-B filed a lawsuit against SCE to assert its right to construct the access road within SCE's easement. This lawsuit is pending.

In an attempt to bypass the judicial process, A-B requested pursuant to the A-B/Moorpark Development Agreement dated December 16, 1998 that Moorpark seek to acquire SCE's property on its behalf. In March 2008, A-B and Moorpark entered into an agreement (Agreement Regarding Acquisition Of Off-Site Property) whereby Moorpark would, if necessary, exercise its eminent domain power to obtain SCE's property for A-B's benefit. This agreement further provides that A-B will pay for all costs of acquiring the property (whether by negotiation or condemnation). The agreement does not describe the public benefit to be gained from this arrangement. Nor could it. Moorpark's actions on behalf of A-B subvert the judicial process by attempting to use eminent domain law to benefit a private developer. Thus, the Resolution of Necessity would authorize condemnation to advance a developer's interests and monetary gain, not to promote the public interest. As discussed below, such a purpose is not permitted by law.

---

<sup>1</sup> Moorpark prepared a Mitigated Negative Declaration (MND) for Tract Map No. 5147 in February 2000. This MND discusses a temporary access road; however, the MND is now over eight years old. Therefore, Moorpark should conduct additional environmental review to account for any changed circumstances.

### **SCE's Use of Its Property Provides a Public Benefit**

The City's contemplated Resolution affects two separate utility easements that SCE has for its "Sandstone – Moorpark 220 kV", "Saugus – Moorpark - Santa Susana – Torrey 66 kV" and "Moorpark – Pardee 220 kV" transmission lines, including electrical conductors and steel lattice towers. These multiple high-voltage transmission lines serve hundreds of thousands of customers in Ventura, Santa Barbara, and Los Angeles Counties and surrounding areas. SCE's facilities provide a public benefit and are a "public use" for eminent domain purposes. See Slemons v. Southern California Edison Co., 252 Cal. App. 2d 1022, 1026 (1967) ("Electric power lines for the transmission and distribution of electric energy are clearly a public use of property for eminent domain purposes.").

On the other hand, use of the property for an access road to serve A-B's development is not a public use. The California Supreme Court stated that "the Constitution does not contemplate that the exercise of the power of eminent domain shall secure to private activities the means to carry on a private business whose primary objective and purpose is private gain and not public need." City and County of San Francisco v. Ross, 44 Cal. 2d 52, 59 (1955). Furthermore, even if the access road qualifies as a public use, it would only benefit a small community, whereas SCE's electric facilities benefit a much larger population. Therefore, the access road is not a more necessary and paramount public use than the electric facilities pursuant to Code of Civil Procedure Section 1240.610.

Because the proposed access road would only benefit a private business, Moorpark should not adopt the Resolution.

### **The Proposed Road Would Unreasonably Interfere With SCE's Electric Facilities**

The proposed access road would unreasonably interfere with SCE's ability to operate and maintain its electric facilities. For example:

- Grading activities associated with the access road could result in the accumulation of dust on the transmission lines and insulators, which can lead to potential fire and outages.
- SCE is currently planning a transmission expansion within its easement, and the paved access road would limit SCE's ability to expand facilities in this fast-growing area of southern California.
- A road within its easement may interfere with SCE's ability to access its facilities for necessary repairs. It is operationally prudent to ensure that all improvements crossing SCE's easement do so in a manner perpendicular (rather than parallel) to the center line of the right-of-way.
- Adequate clearances must be maintained around the towers and beneath these high-voltage lines to protect the electric service system from damage and to provide for the safety of others.

Alan A. Sozio  
Page 4  
October 22, 2008

Because the proposed access road would unreasonably interfere with SCE's operation and maintenance of its public facilities in violation of Code of Civil Procedure Section 1240.510, Moorpark should not adopt the Resolution.

Importantly, there are other reasonable alternative locations outside of SCE's easement to construct the road. Moorpark has not demonstrated that it specifically needs SCE's property to construct the road, and that constructing the road within SCE's easement is the least burdensome alternative.

**Conclusion**

Moorpark should not hold the hearing on the Resolution prior to allowing the property owner adequate time to evaluate the city's appraisal, obtain its own appraisal, and complete any settlement negotiations. But if Moorpark proceeds with a hearing on November 5, SCE requests to be heard at the hearing. For the reasons discussed in this letter (and which will be presented at the hearing), SCE strongly urges the Moorpark City Council to deny the Resolution.

Very truly yours,



Linda J. Anabtawi

cc: Deborah S. Traffenstedt, City Clerk (*Via email & Overnight Mail*)  
Leon Bass  
Walker Matthews

LJA:cl:1578997

000127

**NOTICE OF PROPOSED CONSTRUCTION**  
**Moorpark-Newbury 66 kV Subtransmission Line**  
**SCE Advice Letter Number: 2272-E**  
**Date: October 2, 2008**

**Proposed Project:**

Southern California Edison Company (SCE) proposes to construct the new Moorpark-Newbury 66 kilovolt (kV) subtransmission line to address a base case overload on the Moorpark tap of the existing Moorpark-Newbury-Pharmacy 66 kV subtransmission line. The new Moorpark-Newbury 66 kV subtransmission line will be constructed between SCE's Moorpark Substation, located at the northwest corner of Gabbert Road and Los Angeles Avenue in the City of Moorpark, and SCE's Newbury Substation, located at 1295 Lawrence Drive in the City of Thousand Oaks. The project, which will involve both the construction of new facilities and replacement and reconductor of existing facilities, is approximately 9 miles in length, and will traverse portions of the City of Moorpark, unincorporated areas of Ventura County, and the City of Thousand Oaks, all within existing easements, rights-of-way (ROW) and SCE fee-owned property.

Specifically, the new Moorpark-Newbury 66 kV line will be constructed as follows:

Section 1: Construction of approximately 2,000 feet of underground 66 kV line, entirely within Moorpark Substation.

- This section will extend from Position 2 in the Moorpark 66 kV bus to a new tubular steel pole (TSP) riser, up to approximately 90 feet in height, in the northeast corner of Moorpark Substation, and will be cabled with 2,000 kcmil (thousand circular mils) copper.

Section 2: Construction of 34 engineered TSPs existing in the SCE's existing Ormond Beach-Moorpark 220 kV ROW for approximately 5 miles:

- This portion of the project will extend from the Moorpark Substation east and then south to a point adjacent to SCE's existing 220 kV tower M16 T5. From this point, the new line will transition to an existing 66 kV ROW as described in #2 below.
- The new TSPs, which will be approximately 75-125 feet tall and strung will 954 aluminum conductor, steel reinforced (ACSR), will be installed adjacent to the existing 220 kV towers and the new subtransmission line will have approximately the same span lengths as the existing Ormond Beach-Moorpark 220 kV lines in the ROW.

Section 3: Replacement of 14 existing double-circuit 66 kV lattice steel towers (LSTs) with 14 double-circuit TSPs for approximately 2.5 miles on the existing Moorpark-Newbury-Pharmacy 66 kV subtransmission line.

- As noted in #1 above, this section begins where the existing Moorpark-Newbury-Pharmacy 66 kV subtransmission line crosses SCE's existing Ormond Beach-Moorpark 220 kV ROW at a point approximately 4,150 feet south of the intersection of Santa Rosa Road and Gerry Road.
- The new double-circuit TSPs, which will be approximately 75-125 feet tall, will carry both the existing Moorpark-Newbury-Pharmacy 66 kV subtransmission line and the new Moorpark-Newbury 66 kV line. Both circuits will be strung with 954 ACSR (the existing Moorpark-Newbury-Pharmacy 66 kV line currently is strung with 653.9

ACSR, but will be reconducted as part of this project to avoid conductor swing and rise conflict with the new Moorpark-Newbury 66 kV line).

Section 4: Replacement of 36 single-circuit wood poles with 36 double-circuit lightweight steel (LWS) poles for approximately 1.2 miles in existing ROW.

- This section begins at a point approximately .3 miles west of the intersection of Conejo Center Drive and Rancho Conejo Blvd and ends at Newbury Substation.
- This section will involve the transfer of the existing Moorpark-Newbury-Pharmacy 66 kV subtransmission line from existing 70-90 foot tall wood poles to new 75-95 foot tall double-circuit LWS poles carrying both the new Moorpark-Newbury 66 kV subtransmission line and the existing Moorpark-Newbury-Pharmacy 66 kV subtransmission line.

Construction of the proposed project is scheduled to begin November 17, 2008, and is expected to be completed in December 2010.

**EMF Compliance:** The CPUC requires utilities to employ "no cost" and "low cost" measures to reduce public exposure to electric and magnetic fields (EMF). In accordance with "EMF Design Guidelines" filed with the CPUC in compliance with CPUC Decisions 93-11-013 and 06-01-042, SCE would implement the following measure(s) for the Proposed Project:

1. Using pole heights that meet or exceed the "preferred" 66 kV design criteria as specified in SCE's EMF Design Guidelines.
2. Using a compact pole-head configuration that creates lower magnetic fields than other designs.
3. Phasing circuits to reduce the magnetic fields.

**Exemption from CPUC Authority:** Pursuant to CPUC General Order 131-D, Section III.B.1, projects meeting specific conditions are exempt from the CPUC's requirement to file an application requesting authority to construct. This project qualifies for the following exemption:

"g. power line facilities or substations to be located in an existing franchise, road-widening setback easement, or public utility easement; or in a utility corridor designated, precisely mapped and officially adopted pursuant to law by federal, state, or local agencies for which a final Negative Declaration or EIR finds no significant unavoidable environmental impacts."

**Public Review Process:** Persons or groups may protest the proposed construction if they believe that the utility has incorrectly applied for an exemption or believe there is reasonable possibility that the proposed project or cumulative effects or unusual circumstances associated with the project, may adversely impact the environment.

Protests must be filed by October 22, 2008 and should include the following:

1. Your name, mailing address, and daytime telephone number.
2. Reference to the SCE Advice Letter Number and Project Name Identified.
3. A clear description of the reason for the protest.

The letter should also indicate whether you believe that evidentiary hearings are necessary to resolve factual disputes. Protests for this project must be mailed within 20 calendar days to:

California Public Utilities Commission  
Director, Energy Division

Southern California Edison Company  
Law Department - Exception Mail

000129

505 Van Ness Avenue, 4<sup>th</sup> Floor  
San Francisco, CA 94102

**AND**

2244 Walnut Grove Avenue  
Rosemead, CA 91770  
Attention: Ms. C. Lawson

SCE must respond within five business days of receipt and serve copies of its response on each protestant and the CPUC. Within 30 days after SCE has submitted its response, the Executive Director of the CPUC will send you a copy of an Executive Resolution granting or denying the request and stating the reasons for the decision.

**Assistance in Filing a Protest:** For assistance in filing a protest, contact the CPUC's Public Advisor in San Francisco at (415) 703-2074 or in Los Angeles at (213) 576-7055.

**Additional Project Information:** To obtain further information on the proposed project, please contact:

For Moorpark:  
Chris Coronel, SCE Local Public Affairs Region Manager  
SCE Valencia Service Center  
25625 W. Rye Canyon Road  
Valencia, CA, 91355  
Phone: (661) 257-8227

For Thousand Oaks and Unincorporated Ventura County Areas:  
Rudy Gonzales, SCE Local Public Affairs Region Manager  
SCE Thousand Oaks Service Center  
3589 Foothill Drive  
Thousand Oaks, CA, 91361  
Phone: (805) 497-5616