

ORDINANCE NO. 409

AN ORDINANCE OF THE CITY OF MOORPARK,  
CALIFORNIA, ADOPTING A DEVELOPMENT AGREEMENT  
BETWEEN THE CITY OF MOORPARK AND LOS ANGELES  
AVENUE LLC, PEGH INVESTMENTS, LLC, THE KEVIN  
NEWBURG TRUST, AND THE RICHARD S. HELD  
ENTERPRISES RETIREMENT TRUST

WHEREAS, Section 65864, Article 2.5, Chapter 4, Division 1, Title 7 of the State Planning and Zoning Law provides that cities may enter into contractual obligations known as Development Agreements with persons having equitable interest in real property for development of that property; and

WHEREAS, Los Angeles Avenue LLC, PEGH Investments, LLC, The Kevin Newburg Trust, and The Richard S. Held Enterprises Retirement Trust, the owners of the land with an application for General Plan Amendment No. 2009-01, Zone Change No. 2009-01, Industrial Planned Development No. 2009-01, and Conditional Use Permit No. 2009-01 have applied to the City of Moorpark to seek a Development Agreement with the City pursuant to Chapter 15.40 of the Moorpark Municipal Code; and

WHEREAS, the Planning Commission of the City of Moorpark on May 3, 2011, adopted Resolution No. PC-2011-563 recommending to the City Council approval of Development Agreement No. 2009-02, proposed in conjunction with the project initiated by Triliad Development, Inc. for Los Angeles Avenue LLC, PEGH Investments, LLC, The Kevin Newburg Trust, and the Richard S. Held Enterprises Retirement Trust, consisting of General Plan Amendment No. 2009-01, Zone Change No. 2009-01, Industrial Planned Development No. 2009-01, and Conditional Use Permit No. 2009-01; and

WHEREAS, the City Council on October 5th, 2011, adopted the Mitigated Negative Declaration for the project referenced above, as having been completed in accordance with the California Environmental Quality Act, (CEQA), the CEQA Guidelines and the City's CEQA procedures; and

WHEREAS, a duly noticed public hearing was conducted by the City Council on October 5th, 2011, to consider the Development Agreement and to accept public testimony related thereto; and

WHEREAS, the City Council has considered all points of public testimony relevant to the Development Agreement and has given careful consideration to the content of the Development Agreement.

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

SECTION 1. The City Council of the City of Moorpark does hereby find as follows:

A. The Development Agreement is consistent with the General Plan as amended by General Plan Amendment No. 2009-01.

B. The Development Agreement and the assurances that said agreement places upon the project are consistent with the intent and provisions of the Mitigated Negative Declaration.

C. The Development Agreement is necessary to ensure the public health, safety and welfare.

SECTION 2. The City Council hereby adopts Development Agreement No. 2009-02 (attached hereto) between the City of Moorpark, a municipal corporation, and Los Angeles Avenue LLC, PEGH Investments, LLC, the Kevin Newburg Trust, and the Richard S. Held Enterprises Retirement Trust and the City Clerk is hereby directed to cause one copy of the signed, adopted agreement to be recorded with the County Recorder no later than ten (10) days after the City enters into the development agreement pursuant to the requirements of Government Code Section 65868.5.

SECTION 3. Upon the effective date of this ordinance, the Community Development Director shall cause the property that is the subject of the Development Agreement to be identified on the Zoning Map of the City by the designation "DA" followed by the dates of the term of said Agreement.

SECTION 4. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 5. This Ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 6. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall publish notice of adoption in the manner required by law.

PASSED AND ADOPTED this 19th day of October, 2011.

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Janice S. Parvin, Mayor

ATTEST:

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Maureen Benson, City Clerk

Attachment: EXHIBIT A - Development Agreement No. 2009-02

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Recording Requested By  
And When Recorded Return to:

CITY CLERK  
CITY OF MOORPARK  
799 Moorpark Avenue  
Moorpark, California 93021  
EXEMPT FROM RECORDER'S FEES  
Pursuant to Government Code  
§ 6103

DEVELOPMENT AGREEMENT  
BY AND BETWEEN  
THE CITY OF MOORPARK  
AND

LOS ANGELES AVENUE LLC,  
PEGH INVESTMENTS, LLC,  
THE KEVIN NEWBURG TRUST, AND  
THE RICHARD S. HELD ENTERPRISES RETIREMENT TRUST

**EXHIBIT A**

THIS AGREEMENT SHALL BE RECORDED WITHIN TEN DAYS  
OF EXECUTION BY ALL PARTIES HERETO PURSUANT TO  
THE REQUIREMENTS OF GOVERNMENT CODE §65868.5

**DEVELOPMENT AGREEMENT**

This Development Agreement ("the Agreement") is made and entered into on \_\_\_\_\_, by and between the CITY OF MOORPARK, a municipal corporation, (referred to hereinafter as "City") and Los Angeles Avenue LLC, PEGH Investments, LLC, The Kevin Newburg Trust, and The Richard S. Held Enterprises Retirement Trust, the owners of real property within the City of Moorpark generally referred to as Industrial Planned Development Permit 2009-01, (referred to hereinafter individually as "Developer"). City and Developer are referred to hereinafter individually as "Party" and collectively as "Parties." In consideration of the mutual covenants and agreements contained in this Agreement, City and Developer agree as follows:

1. Recitals. This Agreement is made with respect to the following facts and for the following purposes, each of which is acknowledged as true and correct by the Parties:
  - 1.1. Pursuant to Government Code Section 65864 et seq. and Moorpark Municipal Code chapter 15.40, City is authorized to enter into a binding contractual agreement with any person having a legal or equitable interest in real property within its boundaries for the development of such property in order to establish certainty in the development process.
  - 1.2. Prior to approval of this Agreement, but after the approval of the Mitigated Negative Declaration (MND), Mitigation Measures, and Mitigation Monitoring and Reporting Program ("the MMRP") for the Project Approvals as defined in subsection 1.3 of this Agreement, the City Council of City ("the City Council") approved General Plan Amendment No. 2009-01 ("GPA 2009-01"), Zone Change No. 2009-01 (ZC 2009-01), Industrial Planned Development Permit No. 2009-01 (IPD 2009-01) and Conditional Use Permit No. 2009-01 (CUP 2009-01), for approximately 44.45 acres of land within the City ("the Property"), as more specifically described in Exhibits "A" and "B" attached hereto and incorporated herein.
  - 1.3. GPA 2009-01, ZC 2009-01, IPD 2009-01, and CUP 2009-01 [collectively "the Project Approvals"; individually "a Project Approval"] provide for the development of the Property and the construction of certain off-site improvements in connection therewith ("the Project").

- 1.4. By this Agreement, City desires to obtain the binding agreement of Developer to develop the Property in accordance with the Project Approvals and this Agreement. In consideration thereof, City agrees to limit the future exercise of certain of its governmental and proprietary powers to the extent specified in this Agreement.
  - 1.5. By this Agreement, Developer desires to obtain the binding agreement of City to permit the development of the Property in accordance with the Project Approvals and this Agreement. Developer anticipates developing the Property over a minimum of three (3) years. In consideration thereof, Developer agrees to waive its rights to legally challenge the limitations and conditions imposed upon the development of the Property pursuant to the Project Approvals and this Agreement and to provide the public benefits and improvements specified in this Agreement.
  - 1.6. City and Developer acknowledge and agree that the consideration that is to be exchanged pursuant to this Agreement is fair, just and reasonable and that this Agreement is consistent with the General Plan of City, as amended by GPA 2009-01.
  - 1.7. On May 3, 2011, the Planning Commission of City commenced a duly noticed public hearing on this Agreement, and at the conclusion of the hearing recommended approval of the Agreement.
  - 1.8. On October 5, 2011, the City Council commenced a duly noticed public hearing on this Agreement, and at the conclusion of the hearing on October 19, 2011, approved the Agreement by Ordinance No. 409 ("the Enabling Ordinance").
2. Property Subject To This Agreement. All of the Property shall be subject to this Agreement. The Property may also be referred to hereinafter as "the site" or "the Project".
  3. Binding Effect. The burdens of this 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. Whenever the terms "City" and "Developer" are used herein, such terms shall include every successive successor in interest thereto, except that the term "Developer" shall not include the purchaser or transferee of any lot within the Project that has been fully developed in accordance with the Project Approvals and this Agreement.
    - 3.1. Constructive Notice and Acceptance. Every person who acquires any right, title or interest in or to any portion of the Property except any lot within the Project that has been fully developed in accordance with the

Project Approvals and this Agreement shall be, conclusively deemed to have consented and agreed to be bound by this Agreement, whether or not any reference to the Agreement is contained in the instrument by which such person acquired such right, title or interest.

- 3.2. Release Upon Transfer. Upon the sale or transfer of any of Developer's interest in any portion of the Property, that Developer shall be released from its obligations with respect to the portion so sold or transferred subsequent to the operative date of the sale or transfer, provided that the Developer (i) was not in breach of this Agreement at the time of the sale or transfer and (ii) prior to the sale or transfer, delivered to City a written assumption agreement, duly executed by the purchaser or transferee and notarized by a notary public, whereby the purchaser or transferee expressly assumes the obligations of Developer under this Agreement with respect to the sold or transferred portion of the Property. Failure to provide a written assumption agreement hereunder shall not negate, modify or otherwise affect the liability of the purchaser or transferee pursuant to this Agreement. Nothing contained herein shall be deemed to grant to City discretion to approve or deny any such sale or transfer, except as otherwise expressly provided in this Agreement.
4. Development of the Property. The following provisions shall govern the subdivision, development and use of the Property.
  - 4.1. Permitted Uses. The permitted and conditionally permitted uses of the Property shall be limited to those that are allowed by the Project Approvals and this Agreement.
  - 4.2. Development Standards. All design and development standards, including but not limited to density or intensity of use and maximum height and size of buildings, that shall be applicable to the Property are set forth in the Project Approvals and this Agreement.
  - 4.3. Building Standards. All construction on the Property shall adhere to all City building codes in effect at the time the plan check or permit is approved per Title 15 of the Moorpark Municipal Code and to any federal or state building requirements that are then in effect (collectively "the Building Codes").
  - 4.4. Reservations and Dedications. All reservations and dedications of land for public purposes that are applicable to the Property are set forth in the Project Approvals and this Agreement.

5. Vesting of Development Rights.

- 5.1. Timing of Development. In Pardee Construction Co. v. City of Camarillo, 37 Cal.3d 465 (1984), the California Supreme Court held that the failure of the parties therein to provide for the timing or rate of development resulted in a later-adopted initiative restricting the rate of development to prevail against the parties' agreement. City and Developer intend to avoid the result in Pardee by acknowledging and providing that Developer shall have the right, without obligation, to develop the Property in such order and at such rate and times as Developer deems appropriate within the exercise of its subjective business judgment.

In furtherance of the Parties intent, as set forth in this subsection, no future amendment of any existing City ordinance or resolution, or future adoption of any ordinance, resolution or other action, that purports to limit the rate or timing of development over time or alter the sequencing of development phases, whether adopted or imposed by the City Council or through the initiative or referendum process, shall apply to the Property provided the Property is developed in accordance with the Project Approvals and this Agreement. Nothing in this subsection shall be construed to limit City's right to insure that Developer timely provides all infrastructure required by the Project Approvals, Subsequent Approvals, and this Agreement.

- 5.2. Amendment of Project Approvals. No amendment of any of the Project Approvals, whether adopted or approved by the City Council or through the initiative or referendum process, shall apply to any portion of the Property, unless the Developer has agreed in writing to the amendment.
- 5.3. Issuance of Subsequent Approvals. Applications for land use approvals, entitlements and permits, including without limitation subdivision maps (e.g. tentative, vesting tentative, parcel, vesting parcel, and final maps), subdivision improvement agreements and other agreements relating to the Project, lot line adjustments, preliminary and final planned development permits, use permits, design review approvals (e.g. site plans, architectural plans and landscaping plans), encroachment permits, and sewer and water connections that are necessary to or desirable for the development of the Project (collectively "the Subsequent Approvals"; individually "a Subsequent Approval") shall be consistent with the Project Approvals and this Agreement. For purposes of this Agreement, Subsequent Approvals do not include building permits.

Subsequent Approvals shall be governed by the Project Approvals and by the applicable provisions of the Moorpark General Plan, the Moorpark Municipal Code and other City ordinances, resolutions, rules, regulations, policies, standards and requirements as most recently adopted or approved by the City Council or through the initiative or referendum process and in effect at the time that the application for the Subsequent Approval is deemed complete by City (collectively "City Laws"), except City Laws that:

- (a) change any permitted or conditionally permitted uses of the Property from what is allowed by the Project Approvals;
- (b) limit or reduce the density or intensity of the Project, or any part thereof, or otherwise require any reduction in the number of proposed buildings or other improvements from what is allowed by the Project Approvals.
- (c) limit or control the rate, timing, phasing or sequencing of the approval, development or construction of all or any part of the Project in any manner, provided that all infrastructure required by the Project Approvals to serve the portion of the Property covered by the Subsequent Approval is in place or is scheduled to be in place prior to completion of construction;
- (d) are not uniformly applied on a City-wide basis to all substantially similar types of development projects or to all properties with similar land use designations;
- (e) prohibit or regulate development on slopes with grades greater than 20 percent, including without limitation Moorpark Municipal Code Chapter 17.38 or any successor thereto, within the Property; or
- (f) modify the land use from what is permitted by the City's General Plan Land Use Element at the operative date of this Agreement or that prohibits or restricts the establishment or expansion of urban services including but not limited to community sewer systems to the Project.

- 5.4. Term of Subsequent Approvals. The term of any Subsequent Approval, except a tentative subdivision map or subdivision improvement or other agreements relating to the Project, shall be one year; provided that the term may be extended by the decision maker for four (4) additional one (1) year periods upon application of the Developer holding the Subsequent Approval filed with City's Community Development

Department prior to the expiration of that Approval. Each such Subsequent Approval shall be deemed inaugurated, and no extension shall be necessary, if a building permit was issued and the foundation received final inspection by City's Building Inspector prior to the expiration of that Approval. The term of any tentative subdivision map, should one be approved by City during the term of this Agreement, shall be as set forth under the Subdivision Map Act, Government Code Section 66410 et seq. and Title 16 Subdivisions, of the Moorpark Municipal Code.

It is understood by City and Developer that certain Subsequent Approvals may not remain valid for the term of this Agreement. Accordingly, throughout the term of this Agreement, any Developer shall have the right, at its election, to apply for a new permit to replace a permit that has expired or is about to expire.

5.5. Modification of Approvals. Throughout the term of this Agreement, Developer shall have the right, at its election and without risk to or waiver of any right that is vested in it pursuant to this section, to apply to City for modifications to Project Approvals and Subsequent Approvals. The approval or conditional approval of any such modification shall not require an amendment to this Agreement, provided that, in addition to any other findings that may be required in order to approve or conditionally approve the modification, a finding is made that the modification is consistent with this Agreement and does not alter the permitted uses, density, intensity, maximum height, size of buildings or reservations and dedications as contained in the Project Approvals.

5.6. Issuance of Building Permits. No building permit, final inspection or certificate of occupancy will be unreasonably withheld from Developer if all infrastructure required by the Project Approvals, Subsequent Approvals, and this Agreement to serve the portion of the Property covered by the building permit is in place or is scheduled to be in place prior to completion of construction and all of the other relevant provisions of the Project Approvals, Subsequent Approvals and this Agreement have been satisfied. Consistent with subsection 5.1 of this Agreement, in no event shall building permits be allocated on any annual numerical basis or on any arbitrary allocation basis.

6. Developer Agreements.

6.1. Developer shall comply with (i) this Agreement, (ii) the Project Approvals, (iii) all Subsequent Approvals for which it was the applicant

or a successor in interest to the applicant and (iv) the MMRP of the MND and any subsequent or supplemental environmental actions.

- 6.2. All lands and interests in land dedicated to City shall be free and clear of liens and encumbrances other than easements or restrictions that do not preclude or interfere with use of the land or interest for its intended purpose, as reasonably determined by City.
- 6.3. As a condition of and just prior to the issuance of a building permit for each studio, office, support, or institutional building within the boundaries of the Property, Developer shall pay City a development fee as described herein (the "Development Fee"). The Development Fee may be expended by City in its sole and unfettered discretion. On the operative date of this Agreement, the amount of the Development Fee shall be Forty-Four Thousand Three Hundred Twenty-Five Dollars (\$44,325.00) per gross acre of industrial land as determined consistent with Section 7.7 of this Agreement. This fee shall be prorated for each building permit based on building area and a total of 559,450 square feet of gross floor area for the entire Project, as follows:

Fee Per Square Foot of Building Area =

$$\frac{(\text{Project Acres as Determined per Section 7.7}) \times \$44,325.00/\text{Acre}}{559,450 \text{ Square Feet of Building Area}}$$

The fee shall be adjusted annually commencing January 1, 2013 by the larger increase of a) or b) as follows:

- a) The Consumer Price Index (CPI) increase shall be determined by using the information provided by the U.S. Department of Labor, Bureau of Labor Statistics, for all urban consumers within the Los Angeles /Riverside/Orange County metropolitan area during the prior year. The calculation shall be made using the month of October over the prior October.
- b) The calculation shall be made to reflect the change in the Caltrans Highway Bid Price Index for Selected California Construction Items for the latest twelve (12) month period available on December 31 of the preceding year.

In the event there is a decrease in both of the referenced Indices for any annual indexing, the Development Fee shall remain at its then current amount until such time as the next subsequent annual indexing which results in an increase.

- 6.4. As a condition of and just prior to the issuance of the first building permit for a studio, office, support, or institutional building within the boundaries of the Property, Developer shall pay City a traffic mitigation fee as described herein (“Citywide Traffic Fee”). The Citywide Traffic Fee may be expended by City in its sole and unfettered discretion. On the operative date of this Agreement, the amount of the Citywide Traffic Fee shall be Twenty-Nine Thousand, Seven-Hundred Dollars (\$29,700.00) per gross acre of industrial land as determined consistent with Section 7.7 of this Agreement. This fee shall be prorated for each building permit based on building area and a total of 559,450 square feet of gross floor area for the entire Project, as follows:

Fee Per Square Foot of Building Area =

$$\frac{\text{(Project Acres as Determined per Section 7.7)} \times \$29,700.00/\text{Acre}}{559,450 \text{ Square Feet of Building Area}}$$

Commencing on January 1, 2013, and annually thereafter, the contribution amount shall be increased to reflect the change in the Caltrans Highway Bid Price Index for Selected California Construction Items for the twelve (12) month period available on December 31 of the preceding year (“annual indexing”). In the event there is a decrease in the referenced Index for any annual indexing, the current amount of the fee shall remain until such time as the next subsequent annual indexing which results in an increase.

- 6.5. Prior to the issuance of the building permit for each studio, office, support, or institutional building within the boundaries of the Property, Developer shall pay an Air Quality Fee of sixty-three cents (\$0.63) for each square-foot of office building area and twenty-eight cents (\$0.28) for each square foot of studio, support or institutional building area. The Air Quality Fee shall satisfy the Transportation System Management Fee requirement for the Project and may be expended by City in its sole discretion for reduction of regional air pollution emissions and to mitigate residual Project air quality impacts.
- 6.6. (This section is intentionally left blank.)
- 6.7. Prior to the issuance of the building permit for each studio, office, support, or institutional building within the boundaries of the Property, Developer shall pay a fee in lieu of the dedication of parkland and related improvements (Park Fee). The amount of the Park Fee shall be fifty cents (\$0.50) for each square-foot of building area.
- 6.8. (This section is intentionally left blank.)

- 6.9. (This section is intentionally left blank.)
- 6.10. Developer agrees to cast affirmative ballots for the formation of one or more assessment districts and levying of assessments for the maintenance of parkway and median landscaping; street lighting, including but not limited to all water and electricity costs; the road identified in Section 6.23 of this Agreement if it is dedicated and accepted as a public street; and if requested by the City Council, parks for the provision of special benefits conferred by same upon properties within the Project.

Developer further agrees to, prior to occupancy of the first building of the Project, form a “back up” assessment district for the maintenance of all Project landscaping maintained by Developer visible from adjacent public rights-of-way as determined by the Community Development Director and Public Works Director/City Engineer, and Project drainage improvements maintained by Developer, should City need to recover costs if Developer fails to maintain such landscaping and drainage facilities. Any facilities to be included in an assessment district or “back up” assessment district shall have all utilities on separate meters from the Project.

In the event Developer files for and is granted a tentative subdivision map as a Subsequent Approval, Developer agrees to form one or more property owner associations and to obligate said associations to provide for maintenance of the road called for by Section 6.23 of this Agreement if private, as well as any parkway and median landscaping, landscaping within Property visible from adjacent public rights-of-way, street lighting, storm water detention and/or debris basins and related drainage facilities, or other amenities in the event the aforementioned assessment district is dissolved or altered in any way or assessments are reduced or limited in any way by a ballot election of property owners or if the assessment district is invalidated by court action. The obligation of said property owner associations shall be more specifically defined in the conditions of approval of any subdivision map granted as a Subsequent Approval.

- 6.11. In addition to fees specifically mentioned in this Agreement, Developer agrees to pay all City capital improvement, development, and processing fees at the rate and amount in effect at the time the fee is required to be paid. Said fees include but are not limited to Library Facilities Fees, Police Facilities Fees, Fire Facilities Fees, Art in Public Places Fees, drainage, entitlement processing fees, and plan check and permit fees for buildings and public improvements. Developer further agrees that unless specifically exempted by this Agreement, it

is subject to all fees imposed by City at the operative date of this Agreement and such future fees imposed as determined by City in its sole discretion so long as said fee is imposed on similarly situated properties.

- 6.12. Developer shall pay the Los Angeles Avenue Area of Contribution (AOC) fee for the gross area of land on which the studio complex and parking areas are located prior to the issuance of the first permit for occupancy. The AOC fee shall be the dollar amount in effect at the time of issuance of the building permit for each building. Developer will receive credit toward the payment of this fee for the cost of the core improvements in Los Angeles Avenue as detailed in subsection 6.24 of this Agreement, beginning at and including the curb face on the north side of Los Angeles Avenue to the southern extent of public right-of-way improvements, and for the signalization improvements at the Los Angeles Avenue/North Hills Parkway intersection as detailed in subsection 6.21 of this Agreement. Developer will not receive credit toward the payment of this fee for the cost of parkway and sidewalk improvements adjacent to the southerly property line.
- 6.13. The street improvements for all streets scheduled for dedication to the City shall be designed and constructed by Developer to provide for a 50-year life as determined by the City Engineer.
- 6.14. Developer agrees that any fees and payments pursuant to this Agreement shall be made without reservation, and Developer expressly waives the right to payment of any such fees under protest pursuant to California Government Code Section 66020 and statutes amendatory or supplementary thereto. Developer further agrees that the fee it has agreed to pay pursuant to subsection 6.3 of this Agreement is not a public improvement fee collected pursuant to Government Code Section 66006 and statutes amendatory or supplementary thereto.
- 6.15. Developer agrees to comply with Section 15.40.150 of the Moorpark Municipal Code and any provision amendatory or supplementary thereto for annual review of this Agreement and further agrees that the annual review shall include evaluation of its compliance with the approved MND and MMRP. Developer agrees within ninety (90) days of the operative date of this Agreement to deposit Twenty-Five Thousand Dollars (\$25,000.00) for the cost of annual reviews for the life of this Agreement.
- 6.16. (This section is intentionally left blank.)

- 6.17. Developer agrees that any election to acquire property by eminent domain shall be at City's sole discretion, and only after compliance with all legally required procedures including but not limited to a hearing on a proposed resolution of necessity.
- 6.18. Prior to recordation of this Agreement, Developer shall pay all outstanding City processing costs related to preparation of this Agreement, Project Approvals, and MND, should the deposit fund for this project have a negative balance.
- 6.19. In the event any of the "referenced Index" or "CPI" referred to in any portion of Section 6 above, are discontinued or revised, such successor index with which the "CPI" and or "referenced Index" are replaced shall be used in order to obtain substantially the same result as would otherwise have been obtained if either or both the "CPI" and "referenced Index" had not been discontinued or revised.
- 6.20. Developer shall dedicate the full right-of-way for North Hills Parkway along the reach of the Project from Los Angeles Avenue on the south to the railroad on the north. Dedication will include any slope and construction easements necessary for the construction of the road improvements and maintenance of the road, including slopes and retaining walls. Developer agrees to participate in a community facilities district or other financing mechanism acceptable to the City for the construction of North Hills Parkway or alternatively Developer will be allowed to pay two million dollars (\$2,000,000.00) which will be the Developer's full pro-rata share of improvements of North Hills Parkway.
- Commencing on January 1, 2013, and annually thereafter, the contribution amount for Developer's full pro-rata share if improvements of North Hills Parkway shall be increased to reflect the change in the Caltrans Highway Bid Price Index for Selected California Construction Items for the twelve (12) month period available on December 31 of the preceding year ("annual indexing"). In the event there is a decrease in the referenced Index for any annual indexing, the current amount of the fee shall remain until such time as the next subsequent annual indexing which results in an increase.
- 6.21. Developer agrees to pay for all costs of installation and to install traffic signals at the intersection of Los Angeles Avenue and North Hills Parkway and the intersection of the Property entrance and North Hills Parkway. The traffic signals shall be synchronized with those on Los Angeles Avenue and North Hills Parkway to the satisfaction of the City Engineer. The traffic signal at Los Angeles Avenue and North Hills Parkway shall be installed prior to occupancy of the first building. The

traffic signal at North Hills Parkway and the Property entrance shall be installed as conditions warrant as determined by the City Manager upon a recommendation from the City Engineer.

- 6.22. If City, within five (5) years of the issuance of the first final building permit to allow occupancy of a stage or office building on the project site, approves a funding mechanism for a minimum eight (8) foot high soundwall for the residential properties on the south side of Los Angeles Avenue from Buttercreek Road to Maureen Lane, Developer agrees to pay City \$350,000 toward the soundwall.
- 6.23. Developer agrees to construct and maintain a private road (road) perpendicular to North Hills Parkway and to connect said road to the existing access easement for the adjacent properties to the west in substantial conformance with the design presented for the Project Approvals, and consistent with City standards for commercial and industrial roads. Developer shall also extend said road approximately 369 feet to the west across the 6.0 acre property immediately to the west (APN 511-0-200-165) to line up with the driveway in the southern parking lot of the 10.83 acre property further west (APN 511-0-200-175) and shall improve the road across this adjoining property with a 40-foot wide roadway within a 60-foot-wide easement to City standards, including concrete gutters, curbs, and sidewalk on one side of the street. Developer further agrees that the private road shall be open to public access, primarily for access from North Hills Parkway to the parking lot for the project subject to this Agreement, as well as the two properties to the west (APN 511-0-200-165 and 511-0-200-175). The road will be constructed west from North Hills Parkway approximately 175 feet to the existing flood control channel prior to occupancy of the first building of the Project, and completed across the 6.0 acre property immediately to the west prior to occupancy of the 325,000th square foot of gross floor area.

Prior to issuance of a grading permit, Developer shall provide an Irrevocable Offer of Dedication to the City of an easement for the purpose of providing legal access to the adjacent properties to the west, effective upon each adjacent property owner agreeing to contribute to Developer a pro rata share of the cost to maintain the road. The City of Moorpark shall not assume any responsibility for the offered property or any improvements to the property until this action has been accepted by the City Council. If accepted by the City of Moorpark, this easement may be fully assignable to the property owners to the west of this property, as an easement appurtenant for access, ingress and egress purposes and all uses appurtenant thereto.

As an alternative, the road may be offered for acceptance by the City Council as public right-of-way should the developer be unable to obtain an agreement for maintenance with adjacent property owners. If accepted by City as public right-of-way, maintenance costs for said road shall be paid for through an assessment district per Section 6.10 of this Agreement. Developer understands City is not obligated to accept said road as a public right-of-way or to form an assessment district.

The form of the Irrevocable Offer of Dedication and other required appurtenant documents required to satisfy the above requirements shall be to the satisfaction of the Community Development Director, City Engineer, and the City Attorney.

- 6.24. Developer agrees to acquire all necessary property and Caltrans and City permits, and construct improvements in Los Angeles Avenue to Caltrans-approved design plans for the project frontage for a four-lane divided highway with a raised median east of North Hills Parkway and a concrete curb and gutter and concrete sidewalk on both sides of Los Angeles Avenue east of the North Hills Parkway crosswalk at Los Angeles Avenue, and a left turn lane/raised median, tapering to a two-lane highway west of North Hills Parkway. Street trees, at standard city-required spacing, shall be planted on the south side of Los Angeles Avenue east of North Hills Parkway and on the north side of Los Angeles Avenue for the reach of the Project.
- 6.25. Developer agrees to execute a tri-party maintenance agreement with Caltrans and the City of Moorpark to guarantee maintenance of the landscaping along both the north and south sides of Los Angeles Avenue along the property frontage.
- 6.26. Developer agrees to allow City to install a City Welcome Sign on the pedestrian/cart bridge across North Hills Parkway, or an alternative location on the Property to the satisfaction of the City, should a pedestrian/cart bridge not be constructed. Developer will contribute Twenty-Five Thousand Dollars (\$25,000.00) for the construction and erection of the sign. The funds may be expended by City in its sole and unfettered discretion. The fee shall be paid prior to the occupancy of the first building. Developer agrees that the design of the sign, including the lighting, shall be at the City's sole discretion.

## 7. City Agreements.

- 7.1. City shall commit reasonable time and resources of City staff to work with Developer on the expedited and parallel processing of

applications for Subsequent Approvals for the Project area and shall use overtime and independent contractors whenever possible. Developer shall, upon written pre-approval, assume any risk related to, and shall pay the additional costs incurred by City for, the expedited and parallel processing.

- 7.2. If requested in writing by Developer and limited to City's legal authority, City at its sole discretion 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 in order to allow construction of public improvements required of Developer including any land which is outside City's legal boundaries. The process shall generally follow Government Code Section 66462.5 et seq. and shall include the obligation of Developer to enter into an agreement with City, guaranteed by cash deposits and other security as the City may require, to pay all City costs including but not limited to, acquisition of the interest, attorney fees, appraisal fees, engineering fees, City staff costs, and City overhead expenses of fifteen percent (15%) on all out-of-pocket costs.
- 7.3. The City Manager is authorized to sign an early grading agreement on behalf of City to allow rough grading of the Project prior to City Council approval of a final subdivision map. Said early grading agreement shall be consistent with the conditions of approval for IPD 2009-01 and contingent on City Engineer and Community Development Director acceptance of a Performance Bond in a form and amount satisfactory to them to guarantee implementation of the erosion control plan and completion of the rough grading and construction of on-site and off-site improvements. In the case of failure to comply with the terms and conditions of the early grading agreement, the City Council may by resolution declare the surety forfeited.
- 7.4. City agrees that whenever possible as determined by City in its sole discretion to process concurrently all land use entitlements for the same property so long as said entitlements are deemed complete.
- 7.5. City agrees that the Park Fee required under subsection 6.7 of this Agreement meets Developer's obligation for park land dedication provisions of state law and City codes.
- 7.6. City agrees that credit will be given toward the Art in Public Places Fee required pursuant to subsection 6.11 of this Agreement and Chapter 17.50 of the Moorpark Municipal Code by the integration of artwork into the wall required immediately south of the flood control channel along the Los Angeles Avenue frontage, if said artwork is approved by

Caltrans and by the City Council pursuant to the procedures in Chapter 17.50 of the Moorpark Municipal Code.

- 7.7. Unless otherwise specified in the applicable fee resolutions or the Municipal Code, all development fees based on project area shall be calculated using the area for private use after dedication of public rights of way. The private road providing access from North Hills Parkway to the property to the west, and the exclusive easements to the Watershed Protection District for flood control purposes shall not be included in the area for the calculation of development fees. Unless otherwise specified in the applicable fee resolutions or the Municipal Code, all development fees based on building floor area shall be calculated using gross floor area as defined by the Zoning Ordinance.
- 7.8. City shall facilitate the reimbursement to Developer of any costs incurred by Developer that may be subject to partial reimbursement from other developers as a condition of approval of a tract map, development permit, or development agreement with one or more other developers.
- 7.9. With the acceptance of the \$25,000 City Welcome Sign contribution addressed in Section 6.26 of this Agreement, City agrees to be responsible for any costs associated with construction and maintenance of said City Welcome Sign.
- 7.10. City agrees, if requested by Developer, to facilitate discussions with property owners to the west (APN 511-0-200-165 and 511-0-200-175) regarding participation in a maintenance agreement of the road from North Hills Parkway parallel with Los Angeles Avenue to serve properties to the west required per Section 6.23 of this Agreement. City further agrees to consider accepting said road as a public street (with formation of an assessment district for maintenance) should Developer be unable to reach an agreement with neighboring property owners. To the extent provided by law, the City would provide for reimbursement for the extension of said road beyond the western property line.
- 7.11. City agrees to give Developer credit toward the payment of the Los Angeles Avenue Area of Contribution Fee as noted in Section 6.12 for the cost of the core improvements in Los Angeles Avenue as detailed in subsection 6.25 of this Agreement, beginning at and including the curb face on the north side of Los Angeles Avenue to the southern extent of public right-of-way improvements, and for the signalization improvements at the Los Angeles Avenue/North Hills Parkway intersection as detailed in subsection 6.21 of this Agreement.

Developer will not receive credit toward the payment of the Los Angeles Area of Contribution fee for the cost of parkway and sidewalk improvements adjacent to the southerly property line.

8. Supersession of Agreement by Change of Law. In the event that any state or federal law or regulation enacted after the date the Enabling Ordinance was adopted by the City Council prevents or precludes compliance with any provision of the Agreement, such provision shall be deemed modified or suspended to comply with such state or federal law or regulation, as reasonably determined necessary by City.
9. Demonstration of Good Faith Compliance. In order to ascertain compliance by Developer with the provisions of this Agreement, the Agreement shall be reviewed annually in accordance with Moorpark Municipal Code Chapter 15.40. of City or any successor thereof then in effect. The failure of City to conduct any such annual review shall not, in any manner, constitute a breach of this Agreement by City, diminish, impede, or abrogate the obligations of Developer hereunder or render this Agreement invalid or void. At the same time as the referenced annual review, City shall also review Developer's compliance with the MMRP.
10. Authorized Delays. Performance by any Party of its obligations hereunder, other than payment of fees, shall be excused during any period of "Excusable Delay", as hereinafter defined, provided that the Party claiming the delay gives notice of the delay to the other Parties as soon as possible after the same has been ascertained. For purposes hereof, Excusable Delay shall mean delay that directly affects, and is beyond the reasonable control of, the Party claiming the delay, including without limitation: (a) act of God; (b) civil commotion; (c) riot; (d) strike, picketing or other labor dispute; (e) shortage of materials or supplies; (e) damage to work in progress by reason of fire, flood, earthquake or other casualty; (f) failure, delay or inability of City to provide adequate levels of public services, facilities or infrastructure to the Property including, by way of example only, the lack of water to serve any portion of the Property due to drought; (g) delay caused by a restriction imposed or mandated by a governmental entity other than City; or (h) litigation brought by a third party attacking the validity of this Agreement, a Project Approval, a Subsequent Approval or any other action necessary for development of the Property.
11. Default Provisions.
  - 11.1. Default by Developer. The Developer shall be deemed to have breached this Agreement if it:
    - (a) practices, or attempts to practice, any fraud or deceit upon City; or willfully violates any order, ruling or decision of any regulatory

or judicial body having jurisdiction over the Property or the Project, provided that Developer may contest any such order, ruling or decision by appropriate proceedings conducted in good faith, in which event no breach of this Agreement shall be deemed to have occurred unless and until there is a final adjudication adverse to Developer; or

- (b) fails to make any payments required under this Agreement; or
- (c) materially breaches any of the provisions of the Agreement.

11.2. Default by City. City shall be deemed in breach of this Agreement if it materially breaches any of the provisions of the Agreement.

11.3. Content of Notice of Violation. Every notice of violation shall state with specificity that it is given pursuant to this subsection of the Agreement, the nature of the alleged breach, and the manner in which the breach may be satisfactorily cured. Every notice shall include a period to cure, which period of time shall not be less than ten (10) days from the date that the notice is deemed received, provided if the defaulting party cannot reasonably cure the breach within the time set forth in the notice such party must commence to cure the breach within such time limit and diligently effect such cure thereafter. The notice shall be deemed received when personally delivered or upon the third (3rd) day after deposit in the United States mail, registered or certified, postage prepaid, return receipt requested, to the Parties at the addresses set forth in Exhibit "C" attached hereto and incorporated herein, in accordance with Section 20 hereof.

11.4. Remedies for Breach. The Parties acknowledge that remedies at law, including without limitation money damages, would be inadequate for breach of this Agreement by any Party due to the size, nature and scope of the Project. The Parties also acknowledge that it would not be feasible or possible to restore the Property to its natural condition once implementation of the Agreement has begun. Therefore, the Parties agree that the remedies for breach of the Agreement shall be limited to the remedies expressly set forth in this subsection. Prior to pursuing the remedies set forth herein, notice and an opportunity to cure shall be provided pursuant to subsection 11.3 herein.

The remedies for breach of the Agreement by City shall be injunctive relief and/or specific performance.

The remedies for breach of the Agreement by Developer shall be injunctive relief and/or specific performance, including, in the case of a

failure to pay a fee required hereunder, to compel such payment. In addition, if the breach is of subsections 6.10, 6.12, 6.13, 6.14, 6.15, 6.18, 6.20, 6.21, 6.22, 6.23, 6.24, and 6.25 of this Agreement, City shall have the right to withhold the issuance of building permits to Developer throughout the Project from the date that the notice of violation was given pursuant to subsection 11.3 hereof until the date that the breach is cured as provided in the notice of violation.

Nothing in this subsection shall be deemed to preclude City from prosecuting a criminal action against any Developer who violates any City ordinance or state statute.

12. Mortgage Protection. At the same time that City gives notice to Developer of a breach, City shall send a copy of the notice to each holder of record of any deed of trust on the portion of the Property in which Developer has a legal interest ("Financier"), provided that the Financier has given prior written notice of its name and mailing address to City and the notice makes specific reference to this section. The copies shall be sent by United States mail, registered or certified, postage prepaid, return receipt requested, and shall be deemed received upon the third (3rd) day after deposit.

Each Financier that has given prior notice to City pursuant to this section shall have the right, at its option and insofar as the rights of City are concerned, to cure any such breach within fifteen (15) days after the receipt of the notice from City. If such breach cannot be cured within such time period, the Financier shall have such additional period as may be reasonably required to cure the same, provided that the Financier gives notice to City of its intention to cure and commences the cure within fifteen (15) days after receipt of the notice from City and thereafter diligently prosecutes the same to completion. City shall not commence legal action against Developer by reason of Developer's breach without allowing the Financier to cure the same as specified herein.

Notwithstanding any cure by Financier, this Agreement shall be binding and effective against the Financier and every owner of the Property, or part thereof, whose title thereto is acquired by foreclosure, trustee sale or otherwise.

13. Estoppel Certificate. At any time and from time to time, Developer may deliver written notice to City and City may deliver written notice to Developer requesting that such Party certify in writing that, to the knowledge of the certifying Party, (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended, or if amended, the identity of each amendment, and (iii) the requesting Party is not in breach of this Agreement, or if in breach, a description of each such breach. The Party receiving such a request shall execute and return the certificate within thirty (30) days following receipt of the notice. City acknowledges that a certificate may be relied upon by

successors in interest to the Developer who requested the certificate and by holders of record of deeds of trust on the portion of the Property in which that Developer has a legal interest.

14. Administration of Agreement. Any decision by City staff concerning the interpretation and administration of this Agreement and development of the Property in accordance herewith may be appealed by the Developer to the City Council, provided that any such appeal shall be filed with the City Clerk of City within thirty (30) days after the affected Developer receives notice of the staff decision. The City Council shall render its decision to affirm, reverse or modify the staff decision within sixty (60) days after the appeal was filed. The Developer shall not seek judicial review of any staff decision without first having exhausted its remedies pursuant to this section.
15. Amendment or Termination by Mutual Consent. In accordance with the provisions of Chapter 15.40 of the Moorpark Municipal Code of City or any successor thereof then in effect, this Agreement may be amended or terminated, in whole or in part, by mutual consent of City and the affected Developer.
  - 15.1. Exemption for Amendments of Project Approvals. No amendment to a Project Approval shall require an amendment to this Agreement and any such amendment shall be deemed to be incorporated into this Agreement at the time that the amendment becomes effective, provided that the amendment is consistent with this Agreement and does not alter the permitted uses, density, intensity, maximum height, size of buildings or reservations and dedications as contained in the Project Approvals.
16. Indemnification. Developer shall indemnify, defend with counsel approved by City, and hold harmless City and its officers, employees and agents from and against any and all losses, liabilities, fines, penalties, costs, claims, demands, damages, injuries or judgments arising out of, or resulting in any way from, Developer's performance pursuant to this Agreement.

Developer shall indemnify, defend with counsel approved by City, and hold harmless City and its officers, employees and agents from and against any action or proceeding to attack, review, set aside, void or annul this Agreement, or any provision thereof, or any Project Approval or Subsequent Approval or modifications thereto, or any other subsequent entitlements for the project and including any related environmental approval.
17. Time of Essence. Time is of the essence for each provision of this Agreement of which time is an element.

18. Operative Date. This Agreement shall become operative on the date the Enabling Ordinance becomes effective pursuant to Government Code Section 36937.
19. Term. This Agreement shall remain in full force and effect for a term of ten (10) years commencing on its operative date, unless said term is amended or the Agreement is sooner terminated as otherwise provided herein. Upon notice in accordance with subsection 20 below the Developer may notify City at least one hundred eighty (180) days in advance of the term of this Agreement that an additional term is necessary for the completion of the Project. City may, at its sole and unfettered discretion, extend the agreement for a term of not less than one (1) year and no more than ten (10) years. Said extension of the term of this Agreement may include the addition of any new fees which may be in effect at the time of the extension request.

Expiration of the term or earlier termination of this Agreement shall not automatically affect any Project Approval or Subsequent Approval that has been granted or any right or obligation arising independently from such Project Approval or Subsequent Approval.

Upon expiration of the term or earlier termination of this Agreement, the Parties shall execute any document reasonably requested by any Party to remove this Agreement from the public records as to the Property, and every portion thereof, to the extent permitted by applicable laws.

20. Notices. All notices and other communications given pursuant to this Agreement shall be in writing and shall be deemed received when personally delivered or upon the third (3rd) day after deposit in the United States mail, registered or certified, postage prepaid, return receipt requested, to the Parties at the addresses set forth in Exhibit "C" attached hereto and incorporated herein.

Any Party may, from time to time, by written notice to the other, designate a different address which shall be substituted for the one above specified.

21. Entire Agreement. This Agreement and those exhibits and documents referenced herein contain the entire agreement between the Parties regarding the subject matter hereof, and all prior agreements or understandings, oral or written, are hereby merged herein. This Agreement shall not be amended, except as expressly provided herein.
22. Waiver. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar; nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding, unless it is executed in writing by a duly authorized representative of the Party against whom enforcement of the waiver is sought.

23. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall be effective to the extent the remaining provisions are not rendered impractical to perform, taking into consideration the purposes of this Agreement.
24. Relationship of the Parties. Each Party acknowledges that, in entering into and performing under this Agreement, it is acting as an independent entity and not as an agent of any of the other Parties in any respect. Nothing contained herein or in any document executed in connection herewith shall be construed as creating the relationship of partners, joint ventures or any other association of any kind or nature between City and Developer, jointly or severally.
25. No Third Party Beneficiaries. This Agreement is made and entered into for the sole benefit of the Parties and their successors in interest. No other person shall have any right of action based upon any provision of this Agreement.
26. Recordation of Agreement and Amendments. This Agreement and any amendment thereof shall be recorded with the County Recorder of the County of Ventura by the City Clerk of City within the period required by Chapter 15.40 of the Moorpark Municipal Code of City or any successor thereof then in effect.
27. Cooperation Between City and Developer. City and Developer shall execute and deliver to the other all such other and further instruments and documents as may be necessary to carry out the purposes of this Agreement.
28. Rules of Construction. The captions and headings of the various sections and subsections of this Agreement are for convenience of reference only, and they shall not constitute a part of this Agreement for any other purpose or affect interpretation of the Agreement. Should any provision of this Agreement be found to be in conflict with any provision of the Project Approvals or the Subsequent Approvals, the provision of this Agreement shall prevail. Should any provision of the Implementation Plan be found to be in conflict with any provision of this Agreement, the provisions of the Implementation Plan shall prevail.
29. Joint Preparation. This Agreement shall be deemed to have been prepared jointly and equally by the Parties, and it shall not be construed against any Party on the ground that the Party prepared the Agreement or caused it to be prepared.
30. Governing Law and Venue. This Agreement is made, entered into, and executed in the County of Ventura, California, and the laws of the State of California shall govern its interpretation and enforcement. Any action, suit or proceeding related to, or arising from, this Agreement shall be filed in the appropriate court having jurisdiction in the County of Ventura.

31. Attorneys' Fees. In the event any action, suit or proceeding is brought for the enforcement or declaration of any right or obligation pursuant to, or as a result of any alleged breach of, this Agreement, the prevailing Party shall be entitled to its reasonable attorneys' fees and litigation expenses and costs, and any judgment, order or decree rendered in such action, suit or proceeding shall include an award thereof.
32. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which constitute one and the same instrument.

**IN WITNESS WHEREOF**, the Developer and City of Moorpark have executed this Development Agreement on the date first above written.

**CITY OF MOORPARK**

\_\_\_\_\_  
Janice S. Parvin  
Mayor

**OWNER/DEVELOPER**

**LOS ANGELES AVENUE LLC**

By: \_\_\_\_\_  
Robert Murray  
Its: Managing Member

**PEGH INVESTMENTS, LLC**

By: \_\_\_\_\_  
Robert Murray  
Its: Managing Member

**THE KEVIN NEWBURG TRUST**

By: \_\_\_\_\_  
Mervyn Landsman  
Its: Co-Trustee

**THE RICHARD S. HELD ENTERPRISES RETIREMENT TRUST**

By: \_\_\_\_\_  
Richard S. Held  
Its: Trustee

ALL SIGNATURES MUST BE NOTARIZED

**EXHIBIT "A"**

PART OF SUBDIVISION "L" AS THE SAME IS DESIGNATED AND DELINEATED UPON THAT CERTAIN MAP ENTITLED "MAP OF THE LANDS OF RANCHO SIMI, IN VENTURA AND LOS ANGELES COUNTIES, CALIFORNIA", AS PER MAP RECORDED IN BOOK 3, PAGE 7 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ALSO BEING A PORTION OF SECTION 6, TOWNSHIP 2 NORTH, RANGE 19 WEST, DESCRIBED AS FOLLOWS:

BEGINNING AT A ¼ CORNER COMMON TO SECTIONS 6 AND 7 PER PARCEL MAP 43 PM 77 AS RECORDED IN MISCELLANEOUS MAP IN THE OFFICE OF THE COUNTY RECORDER, COUNTY OF VENTURA, STATE OF CALIFORNIA (POB); THENCE, NORTH 30 FEET TO THE NORTH RIGHT OF WAY FOR HIGHWAY 118, STATE OF CALIFORNIA TO THE TRUE POINT OF BEGINNING (TPOB); THENCE,

- 1<sup>ST</sup>: EAST 1320.00 FEET ALONG SAID RIGHT OF WAY; THENCE,
- 2<sup>ND</sup>: NORTH 1226.80 FEET TO THE SOUTH RIGHT OF WAY OF THE UNION PACIFIC RAILROAD; THENCE ALONG SAID RIGHT OF WAY,
- 3<sup>RD</sup>: SOUTH 76°14'50" WEST 2020.38 FEET; THENCE,
- 4<sup>TH</sup>: SOUTH 746.50 FEET TO THE NORTH RIGHT OF WAY FOR SAID HIGHWAY 118; THENCE ALONG SAID RIGHT OF WAY,
- 5<sup>TH</sup> EAST 642.46 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING AN AREA OF 44.45 ACRES.

EXHIBIT "B" ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.

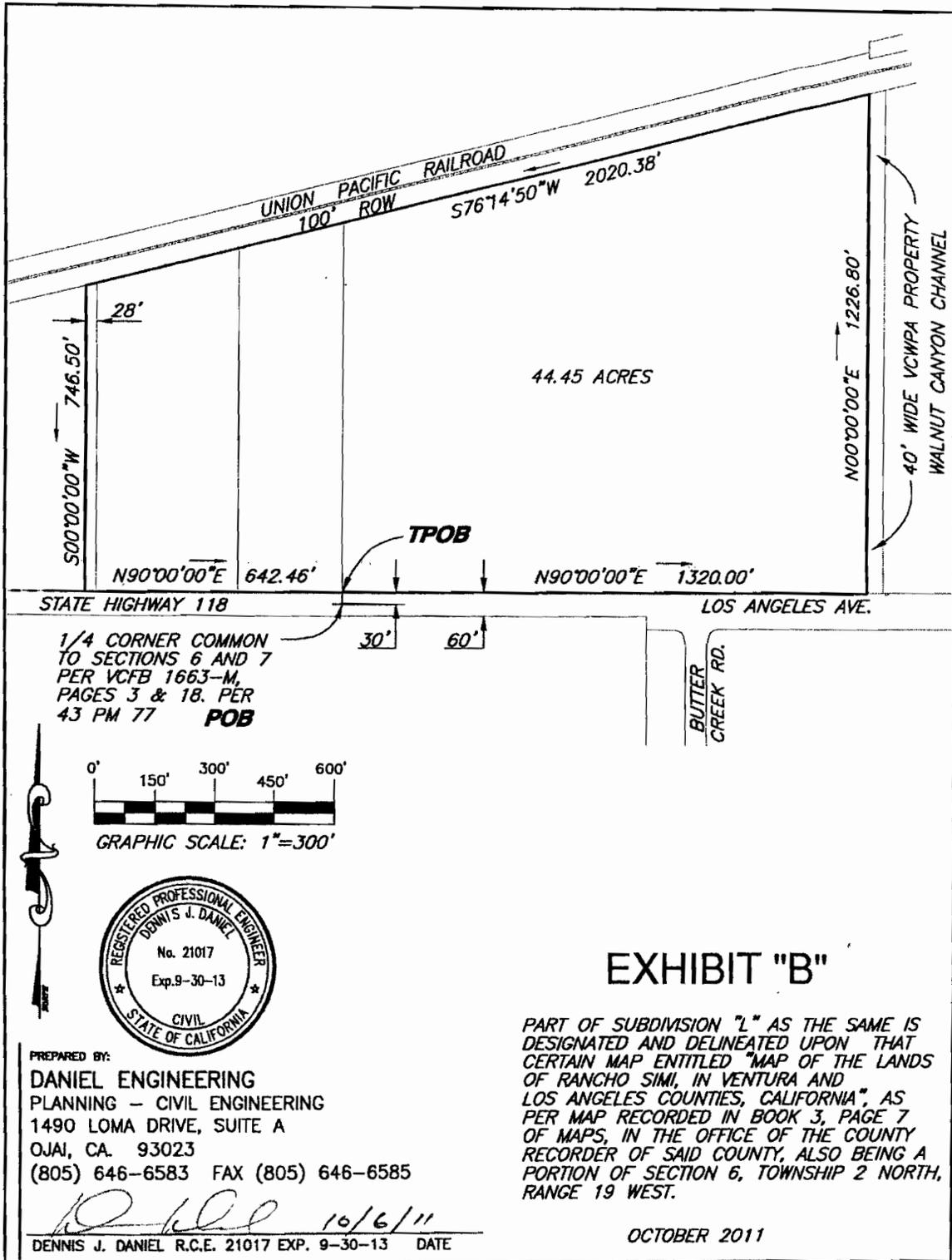


THESE DESCRIPTIONS HAVE BEEN PREPARED BY ME OR UNDER MY DIRECTION.

*Dennis Daniel* 10/6/11

Dennis Daniel  
RCE 21017, Exp. 9-30-13

Date



**EXHIBIT "C"**

ADDRESSES OF PARTIES

**To City:**

City of Moorpark  
799 Moorpark Avenue  
Moorpark, CA 93021  
Attn: City Manager

**To Developer:**

Los Angeles Avenue LLC  
Attention: Valerie Draeger  
Triliad Development, Inc.  
270 Conejo Ridge Avenue, Suite 200  
Thousand Oaks, CA 91361