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§ 6103

DEVELOPMENT AGREEMENT
BY AND BETWEEN
CITY OF MOORPARK
AND
SKY LINE 66, LLC

DEVELOPMENT AGREEMENT

This Development Agreement the ("Agreement") is made and entered into on _____, 2019 by and between the CITY OF MOORPARK, a municipal corporation (referred to hereinafter as "City") and SKY LINE 66, LLC, a California Limited Liability Company, the owner of real property within the City of Moorpark generally referred to as Residential Planned Development Permit 2014-02 (referred to hereinafter as "Developer"). City and Developer are referred to hereinafter collectively as a "Party" and collectively as the "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 Sky Line 66, LLC, is the owner in fee simple of certain real property in the City of Moorpark identified in the legal description set forth in Exhibit “A” which exhibit is attached hereto and incorporated by reference, commonly known as 635 Los Angeles Avenue, referred to hereinafter as the “Property”.

1.3 Prior to, and in connection with, the approval of this Agreement, the City Council reviewed the project to be developed pursuant to this Agreement as required by the California Environmental Quality Act (“CEQA.”) On _____, 2019, the City Council adopted Resolution No. 2019-____, adopting the Negative Declaration (“ND”) prepared for this Agreement and the Project Approvals as defined in Subsection 1.4 of this Agreement.

1.4 General Plan Amendment (GPA) No. 2014-01, Zone Change (ZC) No. 2014-01, Residential Planned Development (RPD) Permit No. 2014-02, Vesting Tentative Tract Map (TTM) No. 5869 including all subsequently approved modifications and permit adjustments to the RPD Permit, TTM, and all amendments thereto (collectively "the Project Approvals"; individually "a Project Approval") provide for the development of the Property with 69 townhouse condominiums and the construction of any improvements in connection therewith ("the Project").

1.5 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.

1.6 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. 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.

1.7 City and Developer acknowledge and agree that the consideration 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 currently amended.

1.8 On _____, 2019, the Planning Commission commenced a duly noticed public hearing on this Agreement, and at the conclusion of the hearing on November 26, 2019 recommended approval of this Agreement.

1.9 On _____, 2019, the City Council of City ("City Council") commenced a duly noticed public hearing on this Agreement, and following the conclusion of the hearing closed the hearing and introduced and provided first reading to Ordinance No. ___ ("the Enabling Ordinance") that approves this Agreement. Thereafter on _____, 2019, the City Council gave second reading to and adopted 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."

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 (subject to Subsection 3.2 below) 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.

3.1 Constructive Notice and Acceptance. Every person who acquires any right, title or interest in or to any portion of the Property 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, subject to Subsection 3.2 below.

3.2 Release Upon Subsequent Transfer. Upon the conveyance of Developer's interest in the Property or any portion thereof by Developer or

its successor(s) in interest, the transferor shall be released from its obligations hereunder with respect to the portion of Property conveyed as of the effective date of the conveyance, provided that the transferee expressly assumes all obligations of the transferred portion of the Property and a copy of the executed assignment and assumption agreement is delivered to the City prior to the conveyance. Failure to provide a written assumption agreement hereunder shall not negate, modify or otherwise affect the liability of the transferee pursuant to this Agreement. Nothing contained herein shall be deemed to grant to City discretion to approve or deny any such conveyance, except as provided in Subsection 6.13 of this Agreement with respect to the sale of completed "affordable units" (as defined in that subsection) to qualified buyers. Notwithstanding the foregoing, this Agreement shall not be binding upon the transferee of a Completed Unit with respect to the transferee's interest in such Completed Unit, and the rights and obligations of Developer under this Agreement shall not run with the portion of the Property that is conveyed with the Completed Unit after such conveyance of the Completed Unit by Developer or its successor in interest. For purposes of this Agreement, "Completed Unit" means a completed residential unit within the Property for which the City has issued a certificate of occupancy.

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 Vested Right to Develop; Timing of Development. Developer and its successors in interest shall have the vested right to develop the Property in accordance with the terms and provisions of the Project Approvals and this Agreement. The Parties intend that this Agreement, together with the Project Approvals, shall serve as the controlling document for all subsequent actions, discretionary and ministerial, relating to the development and occupancy of the Property, including, without limitation, all Subsequent Approvals (as defined below). 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.

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 ensure 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 citywide basis to all substantially similar types of development projects or to all properties with similar land use designations;

(g) 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 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.

5.5 Issuance of Building Permits. No Building Permit shall be unreasonably withheld or delayed from Developer if Developer is in compliance with this Agreement and the Project Approvals and Subsequent Approvals. In addition, no Final Building Permit final inspection or Certificate of Occupancy will be unreasonably withheld or delayed 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 Final Building Permit is in place or is scheduled to be in place prior to completion of construction, the Developer is in compliance with all provisions of this Agreement, the Project Approvals and Subsequent Approvals, 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.

5.6 Moratorium on Development. Nothing in this Agreement shall prevent City, whether by the City Council or through the initiative or referendum process, from adopting or imposing a moratorium on the processing and issuance of Subsequent Approvals and building permits and on the finalizing of building permits by means of a final inspection or certificate of occupancy, provided that the moratorium is adopted or imposed (i) on a Citywide basis to all substantially similar types of development projects and properties with similar land use designations and (ii) as a result of a utility shortage or a reasonably foreseeable utility shortage including without limitation a shortage of water, sewer treatment capacity, electricity or natural gas.

6. Developer Agreements.

6.1 Development as a Residential Project. 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) ND and any subsequent or supplemental environmental actions. Developer agrees not to apply for any non-residential uses on the Property. The clubhouse and private recreational facilities are considered to be part of the residential uses.

6.2 Condition of Dedicated or Conveyed Property. 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 Development Fee Per Unit. As a condition of the issuance of a building permit for each residential dwelling unit within the Property, Developer shall pay City a one-time development fee as described herein (the "Development Fee"). The Development Fee may be expended by City in its sole and unfettered discretion. The amount of the Development Fee shall be Nine Thousand Two Hundred Dollars ($9,200.00) per residential unit. The Development Fee shall be adjusted annually commencing

January 1, 2021, by the Consumer Price Index (CPI). The annual CPI adjustment 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/Long Beach/Anaheim metropolitan area during the prior year. The calculation shall be made using the month of October over the prior October.

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.

6.4 Traffic Mitigation Fee. As a condition of the issuance of building permit for each residential dwelling unit within the boundaries of the Property, Developer shall pay City a one-time traffic mitigation fee as described herein ("Citywide Traffic Fee"). The Citywide Traffic Fee may be expended by City in its sole and unfettered discretion. The amount of the Citywide Traffic Fee shall be Twelve Thousand Five Hundred Dollars ($12,500.00) per residential unit. The Citywide Traffic Fee shall be adjusted annually commencing January 1, 2021 and annually thereafter by the change in the Caltrans Highway Bid Price Index (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 Bid Price 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 Los Angeles Avenue Area of Contribution (LAAOC) Fees. Developer shall pay the LAAOC fee in effect at the time of building permit issuance for each residential dwelling unit within the Property.

6.6 Air Quality Fees. Developer agrees that the Mitigation Measures included in the City Council approved ND and MMRP, or subsequent environmental clearance document approved by the Council, set forth the mitigation requirements for air quality impacts. Developer agrees to pay to City a one-time air quality mitigation fee, as described herein ("Air Quality Fee"), in satisfaction of the Transportation Demand Management Fund mitigation requirement for the Project. The Air Quality Fee may be expended by City in its sole discretion for reduction of regional air pollution emissions and to mitigate residual Project air quality impacts.

The Air Quality Fee shall be One Thousand Seven Hundred Nine Dollars ($1,709.00) per residential dwelling unit within the Property to be paid prior to the issuance of a building permit for each residential dwelling unit in the Project. If the Air Quality Fee is not paid by January 1, 2021, then commencing on January 1, 2021, and annually thereafter, the Air Quality Fee shall be adjusted by any increase in the Consumer Price Index (CPI)

until all fees have been paid. The 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/Long Beach/Anaheim metropolitan area during the prior year. The calculation shall be made using the month of October over the prior month of October. In the event there is a decrease in the CPI for any annual indexing, the fee shall remain at its then current amount until such time as the next subsequent annual indexing which results in an increase.

6.7 Park Fees. Prior to the issuance of the building permit for each residential dwelling unit within the Property, Developer shall pay a one-time fee in lieu of the dedication of parkland and related improvements ("Park Fee"). The amount of the Park Fee shall be Ten Thousand Five Hundred Dollars ($10,500.00) for each residential dwelling unit within the Property. If the Park Fee is not paid by January 1, 2021, the Park Fee shall be adjusted annually commencing January 1, 2021 by the larger increase of a) or b) as follows:

(a) The change in the CPI. The change 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/Long Beach/Anaheim metropolitan area during the prior year. The calculation shall be made using the month of October over the prior October; or

(b) The calculation shall be made to reflect the change in the Caltrans Highway Bid Price Index (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 both of the referenced Indices for any annual indexing, the Park Fee shall remain at its then current amount until such time as the next subsequent annual indexing which results in an increase.

Developer agrees that the above-described payments shall be deemed to satisfy the parkland dedication requirement set forth in California Government Code Section 66477 et seq. for the Property.

6.8 Community Services Fee. As a condition of issuance of a building permit for each residential dwelling unit within the boundaries of the Project, Developer shall pay City a one-time community services fee as described herein (Community Services Fee). The Community Services Fees may be expended by City in its sole and unfettered discretion. The amount of the Community Services Fees shall be Two Thousand Seven Hundred Dollars ($2,700.00) per residential dwelling unit. Commencing on January 1,

2021, and annually thereafter, the Community Services Fee shall be adjusted by any increase in the Consumer Price Index (CPI) until all Community Service Fee have been paid. The 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/Long Beach/Anaheim metropolitan area during this prior year. The calculation shall be made using the month of October over the prior month of October or in the event there is a decrease in the CPI for any annual indexing, the Community Service Fee shall remain at its then current amount until such time as the next subsequent annual indexing which results in an increase.

6.9 Art in Public Places Fee. Developer agrees to pay the Art in Public Places Fee (Art Fee) in effect at the time of building permit issuance for each building prior to the issuance of the building permit for that residential building within the Project consistent with City Resolution No. 2005-2408 or any Successor Resolution (1.0 percent of total building valuations excluding land value and off-site improvement costs).

6.10 Other Development and Processing Fees. 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, 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 such fees are imposed on projects similar to the Project or on property similar to the Property.

6.11 Processing Fees. On the Operative Date, Developer shall pay all outstanding City processing costs related to preparation of this Agreement, the Project Approvals and the MND.

6.12 Community Facilities District

(a) It is the mutual intent of the Parties that the development of the Project will not have any impact on or require any contribution from the General Fund of the City. To facilitate such intent, the City and Developer shall use reasonable efforts to form a Community Facilities District(s) (“CFD”), pursuant to Chapter 2.5 of Part 1 of Division 2 of the California Government Code (the “CFD Act”), for the purposes of financing facilities and services required to be constructed, provided or funded under this Agreement, as the City determines are lawfully and

appropriately financed by the CFD. Such facilities and services may include but are not limited to fees, construction and installation of landscaping, and future costs for the maintenance of landscaping and irrigation of the landscaped area.

(b) Developer shall: (i) file with the City a petition for the [formation of / annexation to] the CFD, (ii) provide any deposit required by Section 53318 of the CFD Act, (iii) not oppose formation of the CFD and (iv) vote in favor of the special tax to fund the CFD.

Developer acknowledges and agrees that the City will not accept any improvements or facilities to be maintained by the CFD nor shall the Developer receive any payments from the CFD for any improvements or facilities until such facilities and improvements have been inspected and the City determines in its reasonable discretion, that such improvements and facilities have been completed in accordance with the applicable plans, and have no liens outstanding.

Prior to approval of the first final map for the Project, the City Council at its sole discretion may determine that all or a part of the improvements planned to be included in the CFD may instead be placed in the Homeowners' Association for the Project.

6.13 Densities Allowed for Development and Affordable Housing.

(a) Developer agrees that densities vested and incentives and concessions received in the Project Approvals include all densities available as density bonuses and all incentives and concessions to which Developer is entitled under the Moorpark Municipal Code, Government Code Sections 65915 through 65917.5 or both; Developer shall not be entitled to further density bonuses or incentives or concessions and further agrees, in consideration for the density bonus obtained through the Project Approvals that is greater than would otherwise be available, to provide eleven (11) housing units, with a minimum of 1,800 square feet and 3 bedrooms, 2.5 baths each, affordable to low income households (not to exceed 80% of median income adjusted for family size). These eleven (11) housing units may be referred to as affordable units or units affordable to low income households or required affordable units.

(b) Developer explicitly acknowledges that its agreement to construct these affordable units is given both as specific consideration for both the density bonus and in general as consideration for City's willingness to negotiate and enter into this Agreement and for the valuable consideration given by City through this Agreement. Developer further acknowledges that its agreement to construct

these affordable units is not the result of an existing policy or regulation imposed by City but instead is the result of arm's length negotiation between Parties.

(c) Developer further agrees that it shall provide the required number of affordable housing units as specified above regardless of the cost to acquire or construct said housing units. Developer further agrees that City has no obligation to use eminent domain proceedings to acquire any of the required affordable housing units and that this Subsection 6.13 is specifically exempt from the requirements of Subsection 7.2.

(d) Prior to recordation of the first Final Map for this Project, the parties agree to execute an Affordable Housing Purchase and Sale Agreement (Affordable Housing Agreement) that sets forth the Developer's and City's obligations and provides procedures and requirements to ensure that all of the required affordable housing units are provided consistent with this Agreement and applicable State laws and remains affordable for the longest feasible time. The Affordable Housing Agreement shall include but not be limited to the following items: Initial Purchase Price, market value, buyer eligibility, affordability and resale covenants and restrictions, equity share and second trust deed provision, respective role of City and Developer, the responsibility of providing the affordable units by each developer in the event of successors and/or assigns to this Agreement, quality of and responsibility for selection of amenities and applicability of home warranties to meet all or a portion of its obligation and any other items determined necessary by the City. Developer shall pay the City's direct costs for preparation and review of the Affordable Housing Agreement up to a maximum of ten-thousand Dollars ($10,000.00).

(e) All affordable units shall meet the criteria of all California Health and Safety Code statutes and implementing regulations pertaining to for-sale Affordable Housing units so as to qualify as newly affordable to low income households and to satisfy a portion of the City's RHNA obligation. The affordable units required by this Agreement are consideration for City's entry into this Agreement and therefor none of the affordable units shall duplicate or substitute for the affordable housing requirement of any other developer or development project. All subsequent approvals required of City under this Subsection 6.13 shall be made at City's sole discretion. If any conflict exists between this Agreement and the Affordable Housing Agreement required by and negotiated pursuant to this Agreement or the conditions of approval for

Tentative Tract Map No. 5869 and/or RPD Permit No. 2014-02, then the Affordable Housing Agreement shall prevail.

(f) In the event the monthly HOA fees exceed two hundred dollars ($200.00), Developer shall deposit one hundred twenty dollars ($120.00) for each dollar or portion thereof of the monthly HOA fees that are in excess of two hundred dollars ($200.00) into a City administered trust account to assist with future HOA fees for each affected unit.

(g) The Affordable Sales Price for low-income buyers shall not exceed affordable housing cost, as defined in Sec. 50052.5(b) (3) of California Health and Safety Code. Section 50052.5(h) of the California Health and Safety Code provides that an appropriate household size in terms of determining purchase price, is one more person than the number of bedrooms. This means that the pricing for a three (3) bedroom unit will be based on a household of four (4) regardless of the actual size of the household purchasing the unit. For example, the monthly "affordable housing cost" for a three (3) bedroom unit would be 30% times 70% of the current median income for a household of four (4) in Ventura County, divided by twelve (12). This monthly amount includes the components identified in Section 6920 of Title 25 of the California Code of Regulation shown below (See Section 50052.5(c) of the Health and Safety Code). The Affordable Sales Price for a low income household purchasing a three (3) bedroom unit under current market conditions, based upon the following assumptions:

Low Income Buyer		
Item	Detail	Amount 3 Bedroom
Affordable Sale		$214,000.00
Down Payment	5% of Affordable Sales Price	$10,700.00
Loan Amount	Affordable Sales Price less Down	$203,300.00
Interest Rate		4.65%
Monthly Property Tax	1.25% of Initial Purchase Price	223.00
LMD	Not Currently	N/A
HOA		200.00
Fire Insurance		20.00
Maintenance		30.00
Utilities		186.00

(h) The assumptions associated with the above purchase price figures for low income households include a 5% down payment, based on Affordable Sales Price for a three (3) bedroom unit, mortgage interest rate of 4.65%, no mortgage insurance, property tax rate of 1.25%, based on Affordable Sales Price, homeowners' association dues of $200.00 per month, fire insurance of $20.00 per month, maintenance costs of $30.00 per month, and utilities of $186.00 per month for a three (3) bedroom unit.

(i) Developer acknowledges that changes in market conditions may result in changes to the Affordable Sales Price, down payment amounts, mortgage interest rates, and other factors for both low income and very low income buyers. Furthermore, if "affordable housing cost", as defined in Section 50052.5 of California Health and Safety Code, should change in the future, the above guidelines will be modified. The Affordable Housing Purchase and Sale Agreement negotiated pursuant to this Agreement shall address this potential change.

Developer acknowledges that amounts listed in the "Low Income Buyer" table in Subsection 6.13(g), above, are for illustration purposes only and are subject to change.

(j) In the event the City, at its sole discretion purchases one or more of the units from Developer in lieu of a qualified buyer, the Affordable Sales Price shall be based on a household size appropriate to the number of bedrooms in the unit being purchased by the City, consistent with all requirements of this Subsection 6.13. Developer agrees that, pursuant to City's rights under this Agreement and/or the Affordable Housing Agreement and prior to and upon the sale of a required unit to a qualified buyer (or City in lieu of a qualified buyer as determined by City at its sole discretion), City may at its sole discretion take any actions and impose any conditions on said sale or subsequent sale of the unit to ensure ongoing affordability to low income households and related matters. After the sale of a housing unit by Developer to a qualified buyer (or City in lieu of a qualified buyer as determined by City at its sole discretion), City, not Developer, shall have sole responsibility for approving any subsequent sale of that housing unit.

(k) Developer agrees that City shall be responsible at its sole discretion for marketing the affordable units, selecting and qualifying eligible buyers for these units, and overseeing the escrow processes to sell the affordable units to low income households, providing the forms of Deed of Trust, Promissory Note, Resale

Refinance Restriction Agreement and Option to Purchase Property and Notice of Affordability Restriction on Transfer of Property and all necessary contracts and related documents to ensure that the referenced affordable units remain occupied by low income households for the longest feasible time (the "Affordability Documents"). Developer further agrees that the difference between the Affordable Sales Price (as referenced in this Agreement) paid by a qualified buyer and market value shall be retained by City as a second deed of trust.

(l) Developer shall pay closing costs for each affordable unit, not to exceed eight thousand dollars ($8,000.00). Beginning January 1, 2021 and on January 1st for each year thereafter, the maximum eight thousand dollars ($8,000.00) to be paid for closing costs shall be increased annually by any percentage increase in the Consumer Price Index (CPI) for All Urban Consumers for Los Angeles/Long Beach/Anaheim metropolitan area during the prior year. The calculation shall be made using the month of October over the month of October. In the event there is a decrease in the CPI for any annual indexing, the closing costs for each affordable unit shall remain at its then current amount until such time as the next subsequent annual indexing which results in an increase. The referenced Developer funded closing costs shall be for the benefit of qualified buyers (or City in lieu of qualified buyers if one or more of the required units are purchased by the City) in their acquisition of a unit from Developer not Developer's acquisition of a unit from one or more third parties. The Developer's escrow cost shall not exceed the then applicable maximum amount per unit regardless of the number of escrows that may be opened on a specific unit.

(m) Developer warrants that the quality of materials and construction techniques of the affordable units sold to the qualified low income buyers, or City shall in all manner be identical to that of all other units constructed in this Project and subject to all Conditions of Approval and shall meet all Building Codes.

(n) The City shall have the same choices of basic finish options as purchasers of market rate units in this Project and final walk-through approval of condition of unit before close of sale. Any basic finish options provided to buyers of market rate units shall be provided to City or buyer(s) of the affordable units, including but not limited to color and style choices for carpeting and other floor coverings, counter tops, roofing materials, exterior stucco and trim of any type, fixtures, and other decorative items. City staff person responsible for affordable housing will select basic finish options for the affordable units.

(o) Developer agrees that all warranties for the affordable units shall be the same or better than those for the market rate units, all such warranties shall inure to the benefit of and be enforceable by the ultimate occupants of the affordable units and that all warranties by subcontractors and suppliers shall inure to the benefit of and be enforceable by such occupants. The home warranties for the affordable units shall be the same duration as the warranties for the market rate units and not less than the maximum time required by State law but in no event less than ten (10) years.

(p) Developer agrees to provide the same amenities for the affordable units (purchased by the low income buyer, or City) as those amenities that are provided for the market rate units. The amenities shall include but not be limited to concrete roof tiles; air conditioning/central heating; garage door opener; fireplaces; washer/dryer hook-ups; garbage disposal; built-in dishwasher, stove, oven and microwave; windows; wood cabinets; shelving; counter-tops; floor coverings; window coverings; electrical outlets, lighting fixtures and other electrical items; plumbing fixtures including sinks, toilets, bathtubs and showers; and door and cabinet hardware, and shall all be of the same quality and quantity as provided in the Project's market rate units as determined by the City's Community Development Director and City staff person responsible for City's Affordable Housing Programs.

(q) The floor plan and size of the units shall be approved by the Community Development Director and City staff person responsible for City's Affordable Housing Programs, and include a downstairs bathroom.

(r) The parties agree that prior to and upon the sale of an affordable unit to a qualified buyer or City, City may at its sole discretion take any actions and impose any conditions on buyer eligibility and on said sale or subsequent sale of the unit to ensure ongoing affordability to low income households and related matters. Developer agrees if it sells any of the affordable units directly to qualified low income buyers, all requirements of the buyer, including, but not limited to, completion of a City approved homebuyer education training workshop and the Affordability Documents, shall be included as a requirement of the sale. The language of all such documents shall be approved by City at its sole discretion. City has sole discretion in selecting lenders, escrow and title companies and real estate professionals to assist with the sale of the affordable units.

(s) In the event City is unable to provide a qualified buyer when one of the low-income units has received final inspection approval, Developer shall be allowed to continue to obtain building permits and/or final inspection approval for the non-affordable units. Any low-income units remaining unsold six (6) months after the final inspection approval of the 69th unit will be purchased by the City, as provided for in the Affordable Housing Agreement. Developer is required to maintain low-income units in move-in condition until such time as the City finds a buyer. For purposes of this schedule, final inspection approval requires approval of the City's Building Official and Community Development Director.

(t) Developer also agrees that subsidiaries, divisions or affiliates of Developer may not be used to provide lending, escrow or other services relevant to the purchase transactions for the affordable units.

(u) If a qualified low income buyer is identified by City prior to or at the time of final inspection approval of any of the affordable units, Developer shall open escrow for the sale of said unit as provided for in the Affordable Housing Agreement, and shall enter escrow directly with the buyer identified by City, and proceed to closing of said escrow. If a qualified low income buyer has not been identified at the time Developer receives final inspection approval for an affordable unit, City, at its option, may agree to purchase the affordable unit required to be provided by Developer for the amount and at the time as provided for in this agreement. Developer and City agree to use their best efforts to complete the close of escrow within forty-five (45) days of the final inspection approval of an affordable unit.

(v) Developer shall satisfy all mechanic's, laborer's, material man's, supplier's, or vendor's liens and any construction loan or other financing affecting any unit or lot in the Project which has been designated for an affordable unit, before the close of escrow for that affordable unit.

(w) Developer agrees that the required construction of the low income affordable units must receive final inspection approval by Developer on terms consistent with this Agreement and the Affordable Housing Agreement as specified in the following schedule:

Prior to Occupancy of	Number of Affordable Units
20th Unit	3
40th Unit	3
60th Unit	3
69th Unit	2
Total	11

(x) The required affordable units within the Project shall be designated as unit (may also be referred to as pad or lot) numbers in the Buildings within the Project consistent with Exhibit "C" attached hereto and incorporated herein. The City Manager or the City Manager's designee may approve in writing different unit numbers within the Project so long as the unit contains no less than 1,500 square feet, with a minimum of 2 bedrooms and 2.5 baths each.

(y) Developer shall provide the initial buyer of each Completed Unit in the Project a disclosure that the Project includes eleven (11) residential dwelling units that will be sold to qualified low income households. The disclosures shall also state that these eleven (11) residential dwelling units have deed restrictions recorded on their title that restrict the re-sale of these units only to qualified low income buyers. The form and language of the disclosure shall be approved by the City Attorney and Community Development Director and shall conform to all requirements of the applicable State agencies pertaining to real estate disclosures.

6.14 Annual Review Procedures. 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.

6.15 Eminent Domain. 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.

6.16 Implementation Plan. Prior to the submittal of an application for any subdivision, or any other development project or entitlement application, Developer shall submit and gain approval from City Council a plan to guarantee the Developer agreements contained in this Agreement and in the conditions of approval for the VTTM and RPD. The plan shall address the entities responsible and method and timing of guarantee for each

component of Developer's obligations and is subject to City approval at its sole discretion.

6.17 Fee Protest Waiver. Developer agrees that any fees and payments pursuant to this Agreement and for the Project 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 fees it has agreed to pay pursuant to Subsections 6.3, 6.4 and 6.8 of this Agreement are not public improvement fees collected pursuant to Government Code Section 66006 and statutes amendatory or supplementary thereto.

6.18 CPI Indexes. In the event the "CPI" referred to in Subsections 6.3, 6.6, 6.7 and 6.8 or the Bid Price Index referred to in Subsections 6.4 and 6.7 are discontinued or revised, a successor index with which the "CPI" and or Bid Price 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 Bid Price Index had not been discontinued or revised.

6.19 City Ability to Modify. Developer acknowledges the City's ability to modify the development standards and to change the General Plan designation and zoning of the Property upon the termination or expiration of this Agreement (if the Project has not been built), and Developer hereby waives any rights they might otherwise have to seek judicial review of such City actions to change the development standards, General Plan designation and zoning to those development standards and density of permitted development to that in existence prior to the approval of GPA No. 2014-01 and ZC No. 2014-01.

6.20 Homeowners Association. Prior to recordation of the first final map for the Property, if required by City at its sole discretion, Developer shall form one or more property owner associations to assume ownership and maintenance of private recreation, private streets, parking lots, landscape areas, flood control and NPDES facilities and other amenities within the Project. The obligation of said Homeowners Associations shall be more specifically defined in the conditions of approval of the first tentative tract or parcel map for the property.

7. City Agreements.

7.1 Commitment of Resources. At Developer's expense, City shall commit reasonable time and resources of City staff to work with Developer on the processing of applications for Project Approvals and all Subsequent Approvals and Building Permits for the Project area and if requested in

writing by Developer shall use overtime and independent contractors whenever possible.

7.2 Easement and Fee Title Acquisitions. If requested in writing by Developer and limited to City's legal authority, City at its sole and absolute 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 15% on all out-of-pocket costs.

7.3 Concurrent Entitlement Processing. City agrees that whenever possible as determined by City in its sole discretion to process concurrently all land use entitlements for the Project so long as the application for such entitlements are "deemed complete" in compliance with the requirements of Chapter 4.5 Review and approval of Development Projects (Permit Streamlining Act) of the California Government Code.

7.4 Park Fees. City agrees that the Park Fee required under Subsection 6.7 of this Agreement meets all of Developer's obligations under applicable law for park land dedication.

7.5 Reimbursements from other Developments. 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 and at City's discretion may include provisions requiring such reimbursement to Developer for the same in such other development project conditions of approval.

7.6 Early Grading Agreement. The City Manager is authorized sign an early grading agreement on behalf of the 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 the Project approved tentative map and contingent on City Engineer and Director of Community Development 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; construction of on-site and off-site improvements consistent with the City Council approved Project and Tentative Map. 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.

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 written 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; (f) damage to work in progress by reason of fire, flood, earthquake or other casualty; (g) failure, delay or inability of City or other local government entity 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; (h) delay caused by a delay by other third party entities which are required to approve plans or documents for Developer to construct the Project, or restrictions imposed or mandated by such other third party entities or governmental entities other than City, (including but not limited to, Ventura County Watershed Protection District); or (i) 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 Project.

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 within five (5) business days after City gives written notice to Developer that the same is due and payable; or

(c) breaches any of the other provisions of this Agreement and fails to cure the same within thirty (30) days after City gives written notice to Developer of such breach (or, if the breach is not able to be cured within such thirty (30) day period, Developer fails to start to cure the same within thirty (30) days after delivery of written notice by City of such breach or fails to thereafter diligently prosecute the cure to completion).

11.2 Default by City. City shall be in breach of this Agreement if it breaches any of the provisions of this Agreement and fails to cure the breach within thirty (30) days after Developer gives written notice to City of the breach (or, if the breach is not able to be cured within such thirty (30) day period, City fails to start to cure the same within thirty (30) days after delivery of written notice from Developer of such breach or fails to thereafter diligently prosecute the cure to completion).

11.3 Content of Notice of Violation. Every notice of breach shall state with specificity that it is given pursuant to this section of this Agreement, the nature of the alleged breach, and the manner in which the breach may be satisfactorily cured. Every notice shall state the applicable period to cure. The notices shall be given 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 of 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 this Agreement shall be limited to the remedies expressly set forth in this subsection.

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

The remedies for breach of the Agreement by the Developer shall be injunctive relief and/or specific performance. In addition, and notwithstanding any other language of this Agreement, if the breach is of Subsection 6.13, 6.14 or 6.21 of this Agreement, City shall have the right to withhold the issuance of building permits 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 Developer if it violates any City ordinance or State statute.

12. Mortgage Protection.

12.1 Discretion to Encumber. The Parties hereto agree that this Agreement shall not prevent or limit Developer, in any manner, at Developer's sole discretion, from encumbering the Property or any portion thereof or any improvements thereon then owned by such person with any mortgage, deed of trust or other security device ("Mortgage") securing financing with respect to the Property or such portion. Any mortgagee or trust deed beneficiary of the Property or any portion thereof or any improvements thereon and its successors and assigns ("Mortgagee") shall be entitled to the following rights and privileges.

12.2 Lender Requested Modification/Interpretation. City acknowledges that the lenders providing financing to Developer for the Property may request certain interpretations and modifications of this Agreement. City therefore agrees upon request, from time to time, to meet with Developer and representatives of such lenders to discuss in good faith any such request for interpretation or modification. The City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement, provided, further, that any modifications of this Agreement shall be subject to the provisions of this Agreement pertaining to modifications and amendments.

12.3 Mortgage Protection. This Agreement shall be superior and senior to the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any binding and effective against the Mortgagee and every owner of the Property, or part thereof, whose title thereto is acquired by foreclosure, trustee sale or otherwise; provided, however, Mortgagee and such owner shall not be responsible for any matters that occurred prior to their acquisition of the Property or such portion.

12.4 Written Notice of Default. If a non-monetary default is not cured by Developer within thirty (30) days after written notice by City to Developer or a monetary default is not cured with in five (5) days after written notice by City to Developer, then each Mortgagee shall be entitled to received written notice from City of the applicable default by Developer under this Agreement provided the Mortgagee has delivered a written request to the City for such notice and shall have provided its address for notices in writing to the City. Each such Mortgagee shall have a further right, but not the obligation, to cure such default for an additional period of thirty (30) days after delivery of such notice of default by City to the Mortgagee. City shall not commence legal action against Developer by reason of Developer's breach without allowing the Mortgagee to cure the same as specified herein.

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 ten (10) 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 consent or approval herein to be given by the City may be given by the City Manager provided it is expressed and is in writing. 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 ten (10) days after the affected Developer receives written notice of the staff decision. The City Council shall render its decision to affirm, reverse or modify the staff decision within thirty (30) 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 or Subsequent Approvals 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 or Subsequent Approvals.

16. Developer 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 including, but not limited to, Developer's construction of the Project on the Property and construction of improvements on the City Site and any injury sustained by any person in connection with the construction or partial construction of buildings and improvements on the Property and City Site.

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, the environmental documents prepared and approved in connection with the approval of the Project, 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. As described in Subsection 1.9 above, this Agreement shall become operative on the Operative Date, being 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 twenty (20) years commencing on the Operative Date or until one year after the issuance of the final building permit for occupancy of the last unit of the Project whichever occurs last, unless said term is amended or the Agreement is sooner terminated as otherwise provided herein. Expiration of the term or earlier termination of this Agreement shall not automatically affect any Project Approval or Subsequent Approval or Building Permit or Final Building Permit that has been granted or any right or obligation arising independently from such Project Approval or Subsequent Approval or Building Permit or Final Building Permit.

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.

Notwithstanding the foregoing, the following shall survive the expiration or earlier termination of this Agreement: (i) all obligations arising under this Agreement prior to the expiration or earlier termination of this Agreement; and (ii) Subsection 6.22 of this Agreement.

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 "B" 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 Purchase and Sale Agreement, the Project Approvals or the Subsequent Approvals, the provision of this Agreement 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.

33. Authority to Execute. Developer warrants and represents that to its knowledge as of the Operative Date and with respect to each entity that is defined as Developer: (i) it is duly organized and existing; (ii) it is duly authorized to execute and deliver this Agreement; (iii) by so executing this Agreement, Developer is formally bound to the provisions of this Agreement; (iv) Developer's entering into and performance of its obligations set forth in this Agreement do not violate any provision of any other agreement to which Developer is bound; and (v) there is no existing or threatened litigation or legal proceeding of which Developer is

aware that could prevent Developer from entering into or performing its obligations set forth in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Development Agreement effective as of the Operative Date.

CITY OF MOORPARK

_____
Janice S. Parvin, Mayor

ATTEST:

_____
Ky Spangler, City Clerk

SKY LINE 66 LLC,
a California limited liability company

By: _____
Menashe Kozar, President and Manager

EXHIBIT "A"

LEGAL DESCRIPTION

Part of Lot "P", as the same is designated and delineated upon that certain Map entitled, "Map of a Part of Tract "L" of the Rancho Simi, in the City of Moorpark, Ventura County, California, showing the Townsite of Moorpark and Lands of Madeleine R. Poindexter", recorded in Book 5, Page 5 of Maps, in the office of the County Recorder of said County, and more particularly described as follows:

Beginning at the intersection of the Southerly prolongation of the most Easterly line of Tract No. 1240, as per Map recorded in Book 30, Page 56 of Maps, with the centerline of Los Angeles Avenue, 60 feet wide, as said Avenue is shown on last mentioned map; thence along said Southerly prolongation,

1st: North 0° 04' East 429.99 feet, more or less, to the Southeasterly corner of Tract No. 1240, being the Southeasterly corner of Lot 44 of Tract No. 1240; thence along the Southerly line of said tract,

2nd: North 89° 59' 15" West 470.67 feet to the Northeasterly corner of Lot 51 of Tract No. 1240; thence along the Easterly line and Southerly prolongation thereof,

3rd: South 0° 04' West 429.99 feet to the said centerline of Los Angeles Avenue; thence along said centerline,

4th: South 89° 59' 15" East 470.67 feet to the point of beginning.

EXCEPT therefrom the interest conveyed to the County of Ventura, by deed recorded June 6, 1889, Book 28, Page 190; and by deed recorded November 8, 1900, Book 68, Page 316 both of Deeds.

ALSO EXCEPT therefrom that portion of said land described in deed to the City of Moorpark, recorded August 12, 1988, as Document No. 88-115140 of Official Records.

EXHIBIT "B"

ADDRESSES OF PARTIES

To City:

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

To Developer:

Menashe Kozar, President and Manager
Sky Line 66, LLC
_____

_____

EXHIBIT "C"

LOCATION OF AFFORDABLE UNITS