

PAYMENT AGREEMENT

\$250,000

January 26 2018

- A. Whereas the City of Los Angeles (“City”) has been involved with ongoing litigation with Plaintiff Bulwer Drive LLC (“Plaintiff”), wherein it was alleged that the City has refused to grant a B-Permit to Plaintiff to improve Bulwer Drive;
- B. Whereas, after the City’s Department of Public Works voted to approve the Plaintiff’s B-Permit to improve Bulwer Drive, the Mountains Recreation and Conservation Authority (“MRCA”), filed an appeal with the Los Angeles City Council pursuant to the California Environmental Quality Act (“CEQA”) contending that the granting of a B-Permit to improve Bulwer Drive would lead to further development of Plaintiff’s ten undeveloped lots on Bulwer Drive, located within the County of Los Angeles, State of California as described in Exhibit A and commonly described as Assessor Parcel Numbers 5565-030-005; 008; 009; 010; 011; 012; 013; 022; 023; and 032 (“Properties”), in violation of CEQA;
- C. Whereas the City and Plaintiff have reached a settlement which calls for (among other things) the City to pay Plaintiff to transfer title to the Properties to MRCA so those lots will remain undeveloped, and MRCA has separately agreed to reimburse the City (beginning in the first quarter of 2018) \$250,000 toward the cost of the acquisition of the Properties from Plaintiff;

Now, therefore, in consideration of the foregoing recitals, the promises and covenants of the Parties in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

SECTION 1: BASIC AGREEMENT

- 1.1 For good and valuable consideration, receipt of which is hereby acknowledged, MRCA agrees to reimburse City in exchange for transfer of fee title to the Properties.

SECTION 2: REIMBURSEMENT AMOUNT

- 2.1 MRCA agrees to pay to the order of the City the sum of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) (hereinafter the “Reimbursement Amount”).

SECTION 3: REIMBURSEMENT TERM

- 3.1 MRCA shall have until first quarter of 2023 to complete payment of the Reimbursement Amount to the City.

SECTION 4: PAYMENTS

- 4.1 MRCA shall make yearly payments to the City toward the Reimbursement Amount based on the time when the MRCA is reasonably expected to receive adequate funding from the State of California. Payments shall be made according to the following schedule:

First Quarter 2018:	\$50,000
First Quarter 2019:	\$50,000
First Quarter 2020:	\$50,000
First Quarter 2021:	\$50,000
First Quarter 2022:	\$25,000
First Quarter 2023:	\$25,000

All Payments made hereunder shall be applied towards the Reimbursement Amount, unless otherwise agreed to by the Parties, in writing. The yearly payment will be made payable to the "City of Los Angeles" and will be transmitted to the following address:

Timothy McWilliams
Michael Kaplan
Office of the City Attorney
7th Floor, City Hall East
200 N. Main Street
Los Angeles CA 90012

SECTION 5: REPRESENTATIONS

- 5.1 Representations and Warranties of MRCA. MRCA represents and warrants for the benefit of City and City's successors and assigns to the current actual knowledge of MRCA, that the following facts are true and correct as of the execution of this Agreement:
- a) MRCA has the authority to enter into this Agreement. The execution and delivery of this Agreement has been duly authorized and approved by all requisite action, and the consummation of the transactions contemplated hereby will be duly authorized and approved by all requisite action of MRCA.
- 5.2 Representations and Warranties of City. City represents and warrants for the benefit of MRCA and MRCA's successors and assigns to the current actual knowledge of MRCA's, that the following facts are true and correct as of the execution of this Agreement:

- a) City has the authority to enter into this Agreement. The execution and delivery of this Agreement has been duly authorized and approved by all requisite action, and the consummation of the transactions contemplated hereby will be duly authorized and approved by all requisite action of City.

SECTION 6: MISCELLANEOUS PROVISIONS

- 6.1 Calculation of Time. If the time in which any act required or permitted by this agreement to be performed shall fall on a Saturday, Sunday or Holiday, then the time for performance of the act required or permitted shall be extended to the next day which is not a Saturday, Sunday or Holiday. The term "holiday" shall mean all and only those State holidays specified in Sections 6700 and 7701 of the California Government Code.
- 6.2 Relationship. Nothing contained in this Agreement shall be deemed or construed by the parties or by any third person to create a relationship of principal and agent or partnership or a joint venture between MRCA and City.
- 6.3 Entire Agreement. This Agreement shall constitute the entire understanding and agreement of the parties hereto and all prior agreements, understandings, representations or negotiations are hereby superseded, terminated and canceled in their entirety, and are of no further force or effect.
- 6.4 Amendments. This Agreement may not be modified or amended except by a writing signed by the party against whom enforcement is sought.
- 6.5 Applicable Law. This Agreement shall in all respects be governed by the laws of the State of California applicable to agreements executed and to be wholly performed within this State.
- 6.6 Severability. Nothing contained herein shall be construed as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute, law, ordinance or regulation as to which the parties have no legal right to contract, the latter shall prevail, but the affected provisions of this Agreement shall be limited only to the extent necessary to bring them within the requirements of such law.
- 6.7 Attorneys' Fees. Should any party hereto commence any action or proceeding to enforce any provision of this Agreement or for damages by reason of an alleged breach of any provision of this Agreement or for declaratory relief or specific performance, the prevailing party shall be entitled to recover from the losing party or parties such amount as the court may adjudge to be reasonable attorneys' fees for services rendered to the prevailing party in such action or proceeding.

- 6.8 Separate Counterparts. This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original. Such counterparts shall, together, constitute and be one and the same instrument.
- 6.9 Notices. Any notice to be given hereunder to either party shall be deemed given or delivered upon personal delivery to the recipient or on the next business day after deposit with Federal Express (or another recognized delivery service.) or two days after deposit in the United States mail, registered or certified, return receipt requested, postage prepaid and addressed as follows:

If to CITY:

Timothy McWilliams
Michael Kaplan
Office of the City Attorney
7th Floor, City Hall East
200 N. Main Street
Los Angeles CA 90012

If to MRCA:

Joseph T. Edmiston
Mountains Recreation and Conservation Authority
670 West Avenue 26, Suite 100
Los Angeles, California 90066

With a copy to:

Oscar Victoria, Esq.
Mountains Recreation and Conservation Authority
670 West Avenue 26, Suite 100
Los Angeles, California 90066
323-221-9944 ext.142
323-221-9934 (fax)

Each party may, by notice to the others, designate different addresses which shall be substituted for the one specified above. Notice given in a manner other than specified above shall be deemed given only if in writing and only upon actual receipt by the addressee.

- 6.10 Captions, Number and Gender. The captions appearing at the commencement of the paragraphs, subparagraphs and sections hereof are descriptive only and for convenience in reference. Should there be any conflict between any such caption and the article, paragraph or subparagraphs at the head of which it appears, the article, paragraph or subparagraph and not the caption shall control and govern the construction of this

Agreement. In this Agreement, the masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others whenever the context so requires.

- 6.11 Further Action. Each party hereto shall duly execute and deliver such papers, documents and instruments and perform all acts reasonably necessary or proper to carry out and effectuate the terms of this Agreement.
- 6.12 Waiver. No waiver of any term, provision or condition of this Agreement shall be effective or enforceable unless in writing.
- 6.13 Facsimile Signatures. Facsimile signatures shall be treated as original signatures.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

MRCA:

**MOUNTAINS RECREATION & CONSERVATION
AUTHORITY**

Cara Meyer
By: Cara Meyer
Its: Deputy Executive Officer

City:

CITY OF LOS ANGELES
Michael Kaplan
By: Michael Kaplan
Its: Deputy City Attorney

EXHIBIT A

Legal Description of Properties

Order No: 09171225-917-CG8-DA6

EXHIBIT "A"

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

LOT 53 OF TRACT NO. 4696, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 118 PAGES 22 TO 24 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel Number: **5565-030-005**

Order No: 09171226-917-CG8-DA6

EXHIBIT "A"

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

LOT 56 OF TRACT NO. 4696, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 118 PAGES 22 TO 24 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel Number: **5565-030-008**

Order No: 09171227-917-CG8-DA6

EXHIBIT "A"

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

LOT 57 OF TRACT NO. 4696, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 118, PAGE 22 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel Number: 5565-030-009

Order No: 09171228-917-CG8-DA6

EXHIBIT "A"

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

LOT 58 OF TRACT NO. 4696, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 118 PAGE 22 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel Number: 5565-030-010

Order No: 09171229-917-CG8-DA6

EXHIBIT "A"

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

LOT 59 OF TRACT NO. 4696, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 118 PAGES 22 TO 24 INCLUSIVE OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel Number: 5565-030-011

Order No: 09171230-917-CG8-DA6

EXHIBIT "A"

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

LOT 60 OF TRACT NO. 4696, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 118 PAGES 22 TO 24 INCLUSIVE OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel Number: 5565-030-012

Order No: 09171231-917-CG8-DA6

EXHIBIT "A"

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

PARCEL 1:

LOT 61 OF TRACT NO. 4696, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 118 PAGES 22 TO 24, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THAT PORTION OF SAID LOT 61 LYING EASTERLY AND NORTHEASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 61; THENCE NORTH 38° 44' 43" WEST 152.52 FEET TO THE MOST WESTERLY CORNER OF SAID LOT 61; THENCE NORTH 60° 00' 10" EAST, 65.00 FEET TO THE MOST NORTHERLY CORNER OF SAID LOT 61; SAID CORNER BEING THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 24° 59' 36" EAST, 74.00 FEET; THENCE SOUTH 5° 20' 47" EAST, 84.75 FEET TO THE MOST SOUTHERLY CORNER OF SAID LOT 61.

PARCEL 2:

AN EASEMENT FOR DRIVEWAY PURPOSES OVER THE PORTION OF LOT 61 OF TRACT NO. 4696, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 118 PAGES 22 TO 24, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

LYING SOUTHERLY OF A STRAIGHT LINE WHICH EXTENDS FROM A POINT ON THE SOUTHEASTERLY LINE OF SAID LOT 61, DISTANT NORTHEASTERLY 33.00 FEET MEASURED ALONG THE SOUTHEASTERLY LINE FROM THE MOST SOUTHERLY CORNER OF SAID LOT 61 TO A POINT IN THE SOUTHWESTERLY LINE OF SAID LOT 61, DISTANT NORTHWESTERLY 26.00 FEET FROM SAID MOST SOUTHERLY CORNER.

Assessor's Parcel Number: 5565-030-013

Order No: 09171232-917-CG8-DA6

EXHIBIT "A"

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

LOT 74 OF TRACT NO. 4696, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 118 PAGES 22 TO 24 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel Number: 5565-030-022

Order No: 09171233-917-CG8-DA6

EXHIBIT "A"

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

LOT 75 OF TRACT NO. 4696, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 118 PAGES 22 TO 24 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Assessor's Parcel Number: 5565-030-023

EXHIBIT "A"

All that certain real property situated in the County of Los Angeles, State of California, described as follows:

PARCEL 1:

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 NORTH, RANGE 14 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHWESTERLY LINE OF LOTS 59 AND 60 OF TRACT 4696 AS PER MAP RECORDED IN BOOK 118 PAGES 22 TO 24, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DISTANT SOUTH 59° 26' 42" WEST 129.85 FEET FROM THE MOST NORTHERLY CORNER OF SAID LOT 60; THENCE SOUTH 59° 26' 42" WEST 65.20 FEET TO THE MOST NORTHERLY CORNER OF LOT 57 OF SAID TRACT NO. 4696, THENCE SOUTH 50° 29' 42" WEST 15.86 FEET ALONG THE NORTHWESTERLY LINE OF LOT 57 OF SAID TRACT 4696, THENCE NORTH 30° 33' 18" WEST 63.20 FEET MORE OR LESS, TO A POINT IN THE SOUTHEASTERLY LINE OF LAUREL CANYON BOULEVARD (40 FEET WIDE); SAID POINT IS DISTANT SOUTH 59° 47' 24" WEST 96.67 FEET FROM THE BEGINNING OF THAT CERTAIN CURVE IN THE SOUTHEASTERLY LINE OF SAID LAUREL CANYON BOULEVARD, CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 177.78 FEET, THENCE NORTH 59° 47' 24" EAST 81.00 FEET, THENCE SOUTH 30° 33' 13" EAST 61.90 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 2:

THAT PORTION OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 NORTH, RANGE 14 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHWESTERLY LINE OF LOT 57, TRACT 4696 AS PER MAP RECORDED IN BOOK 118 PAGES 22 TO 24, INCLUSIVE OF MAP, RECORDS OF SAID COUNTY, DISTANT SOUTH 50° 29' 42" WEST 15.86 FEET FROM THE MOST NORTHERLY CORNER OF SAID LOT 57, THENCE SOUTH 50° 29' 42" WEST 84.14 FEET ALONG THE NORTHWESTERLY LINE OF LOTS 56 AND 57 TO THE MOST EASTERLY CORNER OF LOT 72 OF SAID TRACT NO. 4696, THENCE NORTH 34° 28' 23" WEST ALONG THE NORTHEASTERLY LINE OF SAID LOT 72 TO A POINT IN THE SOUTHEASTERLY LINE OF LAUREL CANYON BOULEVARD, DISTANT SOUTH 59° 47' 24" WEST 174.38 FEET FROM THE BEGINNING OF THAT CERTAIN CURVE IN THE SOUTHEASTERLY LINE OF SAID LAUREL CANYON BOULEVARD, (40 FEET WIDE) CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 177.78 FEET, THENCE NORTH 59° 47' 24" EAST 93.38 FEET ALONG THE SOUTHEASTERLY LINE OF SAID LAUREL CANYON BOULEVARD, THENCE SOUTH 30° 33' 18" EAST 63.20 FEET MORE OR LESS TO THE POINT OF BEGINNING.

Assessor's Parcel Number: 5565-030-032