

# CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896  
[www.montereypark.ca.gov](http://www.montereypark.ca.gov)



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**City Council**  
Peter Chan  
Hans Liang  
Henry Lo  
Yvonne Yiu

**City Clerk**  
Vincent D. Chang

**City Treasurer**  
Joseph Leon

State of California        )  
County of Los Angeles)   §  
City of Monterey Park )

I, Vincent D. Chang, City Clerk of the City of Monterey Park and Ex-Officio Clerk of the City Council of said City do hereby certify that the foregoing is a full, true, and correct copy of the original document of the city.

## RESOLUTION NO. 2022-R34

A RESOLUTION CONFIRMING AND EXTENDING A LOCAL EMERGENCY FOR THE GOODVIEWS ABATEMENT PROJECT (“GAP”) BASED UPON THE REPORT SUBMITTED PURSUANT TO GOVERNMENT CODE § 8630.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Monterey Park, this 19<sup>th</sup> day of May, 2022.

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City Clerk and Ex-Officio Clerk of the City Council of the City of Monterey Park, California

**RESOLUTION NO. 2022-R34**

**A RESOLUTION CONFIRMING AND EXTENDING A LOCAL EMERGENCY FOR THE GOODVIEWS ABATEMENT PROJECT (“GAP”) BASED UPON THE REPORT SUBMITTED PURSUANT TO GOVERNMENT CODE § 8630.**

BE IT RESOLVED by the Council of the City of Monterey Park as follows:

SECTION 1: The City Council finds as follows:

- A. Pursuant to Resolution No. 2022-R22, adopted April 20, 2022, the City Council continued the emergency powers previously delegated to the City Manager via Resolution No. 12255, adopted June 16, 2021, to implement nuisance abatement activities at 1688 West Garvey Avenue identified as the Goodviews Abatement Project (“GAP”);
- B. Government Code § 8630 requires regular reporting to the City Council regarding the necessity of continuing an emergency. While this requirement was suspended the Governor’s proclamation in 2020, the City Council’s termination of the local emergency necessitates a resumption of reporting requirements;
- C. Based upon the report provided by the City Manager and City Attorney, it is apparent that the emergency related to the GAP should continue.

SECTION 2: *Findings*. The City Council finds that the entirety of the administrative record provides substantial evidence supporting continuation of the ongoing emergency related to the GAP. In addition to all other matters within the City’s public records, the City Council also takes specific notice of the following matters:

- A. Attached as Attachment “1,” and incorporated by reference, is the Warrant Return filed by the City Attorney dated March 29, 2022 which provides a comprehensive overview of the GAP between October 11, 2021 and March 29, 2022;
- B. Attached as Attachment “2,” and incorporated by reference, is a Declaration by Jonathan Turner, P.E., who is the Acting City Planner and Acting Public Works Director for the GAP. It provides a detailed accounting of various matters since the beginning of 2021 related to the GAP and the separate, but related, residential development project approved by the City Council on June 16, 2021 (“Plan A”);
- C. Attached as Attachment “3,” and incorporated reference, is a letter dated May 12, 2022 from the City Manager to CII responding to an alleged breach of the development agreement that, in part, governs Plan A;

D. Attached as Attachment "4," and incorporated by reference, is the Settlement Agreement between the People of the State of California and CII that, in part, governs implementation of the GAP.

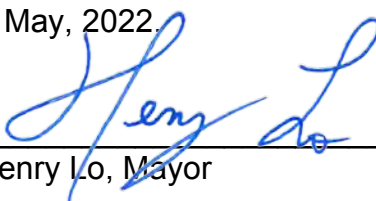
SECTION 3: Authorizations. The City Council reaffirms the authority delegated to the City Manager and City Attorney in Resolution No. 2022-R22 and Resolution No. 12255. The local emergency associated with implementation of the GAP is extended until at least December 31, 2022 unless terminated earlier by City Council resolution or otherwise extended by resolution or minute order.

SECTION 4: Electronic Signatures. This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

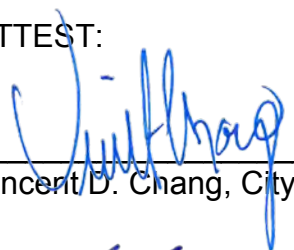
SECTION 5: Recordation. The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Monterey Park and the City Clerk, or her duly appointed deputy, may attest thereto.

SECTION 6: Effective Date. This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

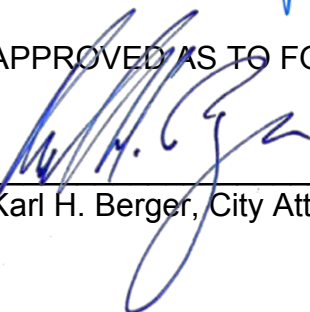
PASSED AND ADOPTED this 18th day of May, 2022.

  
Henry Lo, Mayor

ATTEST:

  
Vincent D. Chang, City Clerk

APPROVED AS TO FORM:

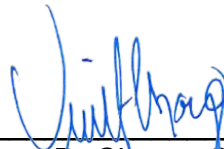
  
Karl H. Berger, City Attorney

STATE OF CALIFORNIA     )  
COUNTY OF LOS ANGELES ) §  
CITY OF MONTEREY PARK )

I, Vincent D. Chang, City Clerk of the City of Monterey Park, California, do hereby certify that the foregoing Resolution No. 2022-R34 was duly adopted and passed at a regular meeting of the Monterey Park City Council on the 18<sup>th</sup> day of May, 2022 by the following vote:

Ayes:           Council Members: Yiu, Chan, Liang, Lo  
Noes:           Council Members: None  
Abstain:       Council Members: None  
Absent:         Council Members: None

Dated this 18<sup>th</sup> day of May, 2022.



---

Vincent D. Chang, City Clerk  
Monterey Park, California

# Resolution Attachment 1

1 KARL H. BERGER, State Bar No. 178458  
2 City Attorney, City of Monterey Park  
3 TIMOTHY E. CAMPEN, State Bar No. 197941  
4 Assistant City Attorney, City of Monterey Park  
5 **HENSLEY LAW GROUP**  
6 2600 W Olive Ave Ste. 500  
7 Burbank, CA 91505  
8 Tel: (818) 333-5120; Fax: (818) 333-5121

*Exempt from fees pursuant  
to Government Code § 6103*

6 Attorneys for Plaintiff CITY OF MONTEREY PARK  
7 ON BEHALF OF THE PEOPLE OF THE STATE OF CALIFORNIA

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES**

10  
11 IN RE PROPERTY AT: 1688 WEST  
12 GARVEY AVENUE, MONTEREY PARK,  
13 CALIFORNIA

**RETURN OF ABATEMENT  
WARRANT**

13 Property Owner: Center Int'l Investments, Inc.

*Hon. Suzette Clover, Judge*

14  
15  
16 I, Karl H. Berger, City Attorney for the City of Monterey Park, certify that I personally  
17 monitored the execution of the abatement warrant signed by the Honorable Suzette Clover on  
18 November 17, 2021, attached as Exhibit A and incorporated by reference (the "Warrant").

19 Pursuant to the Warrant's directive, I provided the court with four Status Reports during  
20 the effective dates of the Warrant. Those are collectively attached as Exhibit B and  
21 incorporated by reference (the "Reports"). As reflected in the Reports, there has been no  
22 additional attempt by individuals to interfere with the People's implementation of the  
23 temporary mitigation (aka winterization) measures or the Goodviews Abatement Project  
24 ("GAP") on the Property.

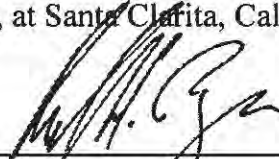
25 The Warrant specifically authorized implementation of the winterization measures  
26 needed to protect the Property from the effects of rain and other elements that could result in  
27 the further erosion and destabilization of the hillside. That was accomplished via the City of  
28 Monterey Park, on behalf of the People, retaining C.A. Rasmussen to implement the best

1 management practices ("BMP") required by applicable law. Upon information and belief,  
2 those BMPs are now integrated into the overall GAP and will be closely monitored during the  
3 entirety of construction (estimated to conclude by the end of 2022). A separate court order  
4 confirming the People's actions regarding the GAP is expected to be issued on or about May  
5 5, 2022.

6 Accordingly, the Warrant is fully executed and the City returns it to the Court (in  
7 accordance with Code of Civil Procedure § 1822.55).

8 I declare under penalty of perjury pursuant to the laws of the State of California that the  
9 foregoing is true and correct.

10 EXECUTED on this 29<sup>th</sup> Day of March, 2022, at Santa Clarita, California.

11  
12 

13 \_\_\_\_\_  
14 Karl H. Berger  
15 City Attorney for the City of Monterey Park  
16 *Ex rel.* the People of the State of California  
17  
18  
19  
20

21 DATE: March 30, 2022

22 SIGNED: Suzette Clover  
23 \_\_\_\_\_  
24 Hon. Suzette Clover  
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# Exhibit A

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

IN RE PROPERTY AT:  
1688 WEST GARVEY AVENUE.,  
MONTEREY PARK, CALIFORNIA  
  
Property Owner: Center Int'l Investments, Inc.

Warrant No.:  
**[PROPOSED] ABATEMENT  
WARRANT**  
  
*[Filed Concurrently with:  
1. Application for Abatement Warrant  
2. Compendium of Declarations and  
Exhibits]*

**TO THE PEOPLE OF THE STATE OF CALIFORNIA, TO ANY POLICE OFFICER,  
FIRE OFFICIAL, CODE ENFORCEMENT OFFICER, PUBLIC WORKS OFFICIAL,  
OR OFFICER ON BEHALF OF THE CITY OF MONTEREY PARY:**

Proof by Declaration having been made this day before me by Timothy E. Campen, Assistant City Attorney, and by Jonathan M. Turner, Acting City Planner, and it appearing therefrom that there is good cause for an Abatement Warrant at the parcel located at 1688 West Garvey Avenue in the City of Monterey Park, California and identified as Assessor's Parcel No. 5254-002-031 ("Property"), the Court orders as follows:

The City of Monterey Park on Behalf of the People of the State of California ("City") and its officers, agents, employees or authorized representatives are hereby ordered for the purpose of implementing temporary erosion mitigation measures to enter the Property between any hours needed, but ordinarily between 8:00 a.m. to 6:00 p.m. to: (1) remove all failed soils erosion measures, including, without limitation, sand bags and plastic tarps; (2) place new

1 gravel-filled bags and new tarps on the hillside of the Property, and where otherwise needed,  
2 in compliance with the Property's Winterization Measures approved by the City of Monterey  
3 in May 2018; and (3) as needed for ongoing maintenance of the Winterization Plan.  
4 Additionally, City and its officers, agents, employees or authorized representatives are hereby  
5 ordered to enter the Property at any hour in order to repair any failures of erosion mitigation  
6 measures as may be necessary under emergency conditions and where time is of the essence.

7 This abatement will be undertaken to ensure that the Property is in compliance with all  
8 applicable laws including, without limitation, the Monterey Park Municipal Code, to remove  
9 and abate any and all conditions which constitute a public nuisance or a threat to the public's  
10 health and safety.

11 Reasonable notice may be provided to the Property's owner or owner's representative  
12 but is not required. City is authorized to exercise reasonable force to implement this Warrant  
13 and/or enter the Property, should any person seek to interfere with City's actions.

14 In light of the unusual circumstances and timeline needed to permanent abate the public  
15 nuisances on the Property, this Warrant will be effective for a period not longer than 75 days,  
16 unless extended or renewed. City must provide a report regarding its progress regarding the  
17 Winterization Measures to the Court not later than December 15, 2021 and January 15, 2022.  
18 Unless the City seeks an extension of this Warrant on or about January 15, 2022, it must file a  
19 return for this Warrant on or about February 1, 2022.

20 The abatement activities authorized by this Warrant may be undertaken in the absence  
21 of the owner or occupant of the Property.

22 The City is entitled to reimbursement from the Property owner for any and all costs  
23 relating to the abatement of the Property, including attorney's fees reasonably incurred in  
24 connection with the abatement activities authorized by this Warrant.

25 A return to this Court will be made in accordance with this Warrant and the provisions  
26 of Code of Civil Procedure § 1822.55.

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DATED: November 17th, 2021

*Suzette Clover*  
JUDGE OF THE SUPERIOR COURT

# Exhibit B

**COPY**

- RECEIVED *ET*  
~~CONFORMED COPY~~  
~~ORIGINAL FILE~~  
Superior Court of California  
County of Los Angeles

DEC 14 2021

Sherri R. Carter, Executive Officer/Clerk of Court  
By *[Signature]* Deputy  
ERIN FLORES

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KARL H. BERGER, State Bar No. 178458  
City Attorney, City of Monterey Park  
TIMOTHY E. CAMPEN, State Bar No. 197941  
Assistant City Attorney, City of Monterey Park  
**HENSLEY LAW GROUP**  
2600 W Olive Ave Ste. 500  
Burbank, CA 91505  
Telephone: (818) 333-5120  
Facsimile: (818) 333-5121

Exempt from fees pursuant  
to *Government Code* § 6103

Attorneys for Plaintiff,  
CITY OF MONTEREY PARK, ON BEHALF OF  
THE PEOPLE OF THE STATE OF CALIFORNIA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

IN RE PROPERTY AT: 1688 WEST  
GARVEY AVENUE, MONTEREY PARK,  
CALIFORNIA

Property Owner: Center Int'l Investments, Inc.

**STATUS REPORT SUBMITTED BY  
THE CITY ATTORNEY FOR THE  
CITY OF MONTREY PARK ON  
BEHALF OF THE PEOPLE OF THE  
STATE OF CALIFORNIA AND THE  
CITY OF MONTEREY PARK**

This Status Report is submitted in accordance with the Abatement Warrant issued by the Honorable Suzette Clover on November 17, 2021 affecting the above-captioned real property. The context and factual basis requiring the Abatement Warrant is included with the Application for Abatement Warrant filed with the Court by Assistant City Attorney Timothy E. Campen. In sum, this matter arises from a 2015 lawsuit brought in the name of the People of California by the City Attorney in accordance with Code of Civil Procedure § 731. This is

1 the first of two required Status Reports.

2 As a prelude to obtaining the Abatement Warrant, the People took actions to secure  
3 contractors needed for both the interim abatement procedures – identified as the Winterization  
4 Measures – and the permanent stabilization of the hillside. A summary follows:

- 5 • On October 11, 2021, the Acting City Planner informed qualified contractors that bid  
6 documents and specifications would be available on or about October 13, 2021.  
7 Additionally, he informed those contractors that a mandatory pre-bid meeting was  
8 scheduled at the Property for October 20, 2021 and that bids were due October 28,  
9 2021;
- 10 • On October 13, 2021, the Acting City Planner provided qualified contractors with bid  
11 documents and specifications for the permanent hillside stabilization;
- 12 • On October 19, 2021, I informed CII’s counsel regarding the City’s access to the  
13 Property on October 20, 2021;
- 14 • On October 20, 2021, the Acting City Planner held a mandatory pre-bid meeting at the  
15 Property. The Acting City Planner was confronted by a CII representative. Police  
16 Officers from the Monterey Park Police Department were already onsite at my request  
17 and intervened at that time to avoid additional confrontation. Only one contractor  
18 representative, from C.A. Rasmussen, attended the pre-bid meeting;
- 19 • Following inquiries by the Acting City Planner on October 20, 2021, the City was  
20 informed that other invited contractors were too busy with other work stemming from  
21 new federally funded projects to participate in the hillside remediation project;
- 22 • On October 29, 2021, the Acting City Planner sought a proposal from Gothic Landscape  
23 for the Winterization Measures;
- 24 • On November 3, 2021, C.A. Rasmussen, Inc. submitted the attached letter committing  
25 itself to submitting a proposal for the permanent hillside stabilization (Exhibit A);
- 26 • On November 9, 2021, I informed CII’s counsel regarding the November 10, 2021 pre-  
27 bid meeting at the Property;
- 28 • On November 10, 2021, the Acting City Planner met at the Property with

1 representatives from Gothic Landscape and C.A. Rasmussen regarding the  
2 Winterization Measures and the permanent abatement;

- 3 • During the November 10, 2021 site visit, the Acting City Planner was again confronted  
4 by CII’s representative. A Monterey Park Police Officer was dispatched to the Property,  
5 but CII’s representative departed before the Officer’s arrival;
- 6 • On November 12, 2021, the City received a proposal from Gothic Landscape to perform  
7 the Winterization Measures for a total of \$225,490; and
- 8 • On November 17, 2021, the Court issued an Abatement Warrant requested by the  
9 People.

10 After the Court issued the Abatement Warrant on November 17, 2021, the People  
11 undertook the following actions:

- 12 • On November 23, 2021, the City received a proposal from C.A. Rasmussen to perform  
13 the hillside stabilization project for a total of \$11,986,000;
- 14 • On November 23, 2021, the City provided Gothic Landscaping with the maintenance  
15 contract documents needed to perform the temporary Winterization Measures on the  
16 Property in accordance with its November 12<sup>th</sup> proposal;
- 17 • On November 24, 2021, Gothic Landscaping informed the City that it would need to  
18 revise its proposal to include prevailing wage rates;
- 19 • On December 3, 2021, the Acting City Planner negotiated with C.A. Rasmussen  
20 regarding its bid to reduce the project price. Based upon that conversation, it is apparent  
21 that the current nationwide economic conditions are significantly increasing material  
22 and labor prices;
- 23 • On December 8, 2021, City representatives including the City Manager, City Attorney,  
24 and Public Works Director entered the Property to assess what immediate actions were  
25 necessary to facilitate implementation of the Winterization Measures. Pictures of the  
26 Property are attached demonstrating the ongoing public nuisances (Exhibit B);
- 27 • By letter dated December 8, 2021, counsel for CII was informed that City employees,  
28 on behalf of the People, would take actions beginning December 9, 2021 to facilitate

1 the Winterization Measures. A true and correct copy of that notice is attached for  
2 reference (Exhibit C);

3 • On December 8, 2021, the City received a revised proposal from Gothic Landscape,  
4 which included prevailing wage, for performing the Winterization Measure in the  
5 amount of \$337,795;

6 • On December 9, 2021, City employees including, without limitation, Officers from the  
7 Monterey Park Police Department, entered the Property to commence work. At that  
8 time, an individual who identified himself as “Martin Aguilar” of HLI Tree Care drove  
9 onto the Property and confronted the City’s crew leader. Mr. Aguilar informed the crew  
10 leader that CII’s representative had contacted Mr. Aguilar the night before and told him  
11 (Mr. Aguilar) to cover the hillside with plastic. Mr. Aguilar departed from the Property  
12 but left a day laborer at the site without tools or an understanding of his (the laborer’s)  
13 responsibilities. The City’s crew leader subsequently contacted Mr. Aguilar to retrieve  
14 the laborer who then returned and retrieved that individual. Pictures showing the in-  
15 progress clean-up of the Property are attached (*see* Exhibit B). As a result of Mr.  
16 Aguilar’s actions, I sent the attached courtesy email to CII’s counsel (Exhibit D);

17 • On December 9, 2021, the Acting City Planner contacted C.A. Rasmussen regarding  
18 the City’s desire to enter into a design-build contract with the contractor for \$7,000,000  
19 to rehabilitate the hillside. Work exceeding that amount would be negotiated via change  
20 order;

21 • On December 10, 2021, the Acting City Planner and myself discussed the proposal  
22 from C.A. Rasmussen for the permanent hillside rehabilitation and the design-build  
23 concept;

24 • On December 13, 2021, the Acting City Planner provided C.A. Rasmussen with the  
25 proposed design-build contract for hillside rehabilitation;

26 • On December 13, 2021, the Acting City Planner informed Gothic Landscape that the  
27 City would enter into a maintenance agreement for \$100,000. Materials would be  
28 separately purchased by the City and provided to Gothic Landscape. Additional work

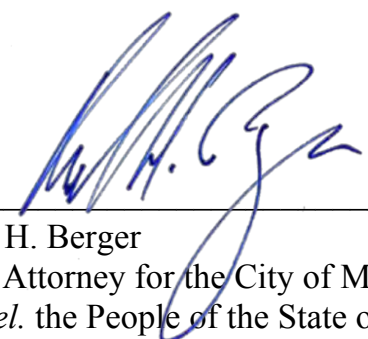
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beyond \$100,000 would be authorized by change order;

- On December 14, 2021, C.A. Rasmussen transmitted the attached correspondence to the Acting City Planner and myself to provide a letter demonstrating its ongoing commitment to execute a contract with the City for hillside rehabilitation (Exhibit E);
- On December 14, 2021, the People filed an *Ex parte* Application with the Honorable Mel Red Recana to accelerate a hearing date in the underlying case. The Application seeks a hearing upon the People’s anticipated motion for enforcing the terms of the Settlement Agreement to permanently rehabilitate the hillside utilizing C.A. Rasmussen as the People’s contractor. The Application seeks a date of January 26, 2021 to secure a court order before the present Abatement Warrant expires on February 1, 2021. A copy of the People’s Application is attached for reference (Exhibit F); and
- On December 14, 2021, the City began obtaining quotes for securing the materials needed to implement the Winterization Measures on the hillside including, without limitation, gravel bags and plastic sheeting.

The People’s efforts to implement the Winterization Measures and the permanent solution to hillside stabilization continues. The next Status Report is due January 15, 2022.

DATED: December 14, 2021

  
\_\_\_\_\_  
Karl H. Berger  
City Attorney for the City of Monterey Park  
*Ex rel.* the People of the State of California

# Exhibit A



Safety · Quality · Service  
Since 1964

# C. A. RASMUSSEN, INC.

General Engineering Contractors

License No. 254681 A

Valencia Commerce Center  
28548 Livingston Avenue  
Valencia, CA 91355-4171  
Telephone 661.367.9040  
Fax 661.367.9097  
[www.carasmussen.com](http://www.carasmussen.com)

VIA EMAIL

November 3, 2021

City of Monterey Park  
Attn: Jon Turner, Acting City Planner  
[jturner@phoenixcivil.com](mailto:jturner@phoenixcivil.com)  
(805) 658-6800 tel

Re: PW21-00424  
Hillside Stabilization Project  
Bid Date

This is to acknowledge or telephone conversation on Friday October 29, 2021 regarding the above project. Due to our current bid schedule, we request that the bid date be extended to Friday November 19, 2021 at 3:00 p.m. We are committed to providing a bid to the City on this project. Please issue an addendum accordingly.

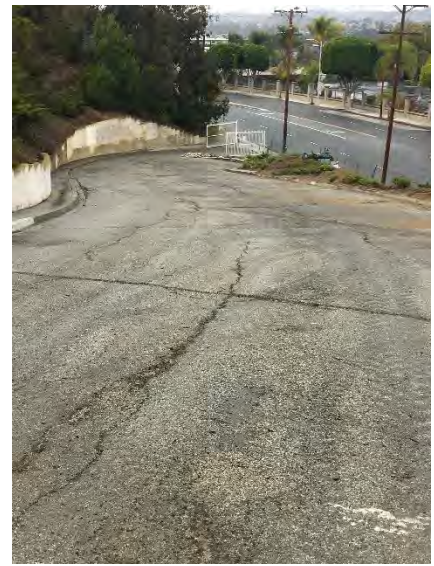
Sincerely,

Eric Landegger  
Chief Estimator  
C. A. Rasmussen, Inc.

# Exhibit B







# Exhibit C

BURBANK OFFICE  
2600 W. OLIVE AVENUE  
SUITE 500  
BURBANK, CA 91505



TORRANCE OFFICE  
3655 TORRANCE BOULEVARD  
SUITE 300  
TORRANCE, CA 90503

SAN DIEGO OFFICE  
3850 LA JOLLA VILLAGE DRIVE  
LA JOLLA, CA 92037

WRITER'S DIRECT CONTACT:  
BURBANK OFFICE  
KBERGER@HENSLEYLAWGROUP.COM  
818.333.5120

WWW.HENSLEYLAWGROUP.COM

December 8, 2021

Mr. Alfred Fraijo, Jr., Esq.  
Mr. Paul Seeley, Esq.  
Sheppard Mullin Richter & Hampton, LLP  
333 South Hope Street  
Los Angeles, CA 90071

*VIA U.S. FIRST CLASS MAIL AND EMAIL*

**Re: 1600-1688 Garvey Avenue  
Courtesy Notice**

Dear Alfred and Paul:

Enclosed for your information is an abatement warrant issued by the Honorable Suzette Clover on November 17, 2021. While the abatement warrant is not required under the terms of the Settlement Agreement with CII, it was nevertheless obtained in an abundance of caution.

As a courtesy, you are informed that work on the Winterization Measures will commence tomorrow morning. In accordance with the terms of the abatement warrant, the City may use reasonable force to ensure that there is no interference with the abatement work. You should be aware that the site is now under camera surveillance and access will be monitored. There will be no additional notice regarding the maintenance activities.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Karl H. Berger', is written over the typed name and title.

Karl H. Berger  
City Attorney

c: Ron Bow, City Manager  
Kelly Gordon, Police Chief  
Jon Turner, Acting City Planner

818.333.5120 phone - 818.333.5121 fax

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

IN RE PROPERTY AT:  
1688 WEST GARVEY AVENUE.,  
MONTEREY PARK, CALIFORNIA  
  
Property Owner: Center Int'l Investments, Inc.

Warrant No.:  
**[PROPOSED] ABATEMENT  
WARRANT**  
  
*[Filed Concurrently with:  
1. Application for Abatement Warrant  
2. Compendium of Declarations and  
Exhibits]*

**TO THE PEOPLE OF THE STATE OF CALIFORNIA, TO ANY POLICE OFFICER,  
FIRE OFFICIAL, CODE ENFORCEMENT OFFICER, PUBLIC WORKS OFFICIAL,  
OR OFFICER ON BEHALF OF THE CITY OF MONTEREY PARY:**

Proof by Declaration having been made this day before me by Timothy E. Campen, Assistant City Attorney, and by Jonathan M. Turner, Acting City Planner, and it appearing therefrom that there is good cause for an Abatement Warrant at the parcel located at 1688 West Garvey Avenue in the City of Monterey Park, California and identified as Assessor's Parcel No. 5254-002-031 ("Property"), the Court orders as follows:

The City of Monterey Park on Behalf of the People of the State of California ("City") and its officers, agents, employees or authorized representatives are hereby ordered for the purpose of implementing temporary erosion mitigation measures to enter the Property between any hours needed, but ordinarily between 8:00 a.m. to 6:00 p.m. to: (1) remove all failed soils erosion measures, including, without limitation, sand bags and plastic tarps; (2) place new

1 gravel-filled bags and new tarps on the hillside of the Property, and where otherwise needed,  
2 in compliance with the Property’s Winterization Measures approved by the City of Monterey  
3 in May 2018; and (3) as needed for ongoing maintenance of the Winterization Plan.  
4 Additionally, City and its officers, agents, employees or authorized representatives are hereby  
5 ordered to enter the Property at any hour in order to repair any failures of erosion mitigation  
6 measures as may be necessary under emergency conditions and where time is of the essence.

7 This abatement will be undertaken to ensure that the Property is in compliance with all  
8 applicable laws including, without limitation, the Monterey Park Municipal Code, to remove  
9 and abate any and all conditions which constitute a public nuisance or a threat to the public’s  
10 health and safety.

11 Reasonable notice may be provided to the Property’s owner or owner’s representative  
12 but is not required. City is authorized to exercise reasonable force to implement this Warrant  
13 and/or enter the Property, should any person seek to interfere with City’s actions.

14 In light of the unusual circumstances and timeline needed to permanent abate the public  
15 nuisances on the Property, this Warrant will be effective for a period not longer than 75 days,  
16 unless extended or renewed. City must provide a report regarding its progress regarding the  
17 Winterization Measures to the Court not later than December 15, 2021 and January 15, 2022.  
18 Unless the City seeks an extension of this Warrant on or about January 15, 2022, it must file a  
19 return for this Warrant on or about February 1, 2022.

20 The abatement activities authorized by this Warrant may be undertaken in the absence  
21 of the owner or occupant of the Property.

22 The City is entitled to reimbursement from the Property owner for any and all costs  
23 relating to the abatement of the Property, including attorney’s fees reasonably incurred in  
24 connection with the abatement activities authorized by this Warrant.

25 A return to this Court will be made in accordance with this Warrant and the provisions  
26 of Code of Civil Procedure § 1822.55.

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DATED: November 17th, 2021

*Suzette Clover*  
JUDGE OF THE SUPERIOR COURT

# Exhibit D

**Subject:** MP - Goodviews  
**Date:** Thursday, December 9, 2021 at 09:47:08 Pacific Standard Time  
**From:** Karl Berger  
**To:** Alfred Fraijo Jr.  
**CC:** Paul Seeley, Tim Campen  
**Attachments:** image001.jpg

Good morning –

This is a courtesy email.

I am informed that an individual claiming to be a contractor retained by Karrie arrived at the property this morning. He confronted the City crew that commenced work on the site, claiming that the City had no right to be there and to vacate the property. That individual then left one person on the site and left.

In speaking with that person, the City's crew leader understood that the laborer was a day laborer who appeared to have been retained that morning by the other individual claiming to be Karrie's contractor. He had no idea why he was there nor what he was supposed to be doing. He was advised to leave the property.

As I wrote last night, the City obtained an abatement warrant to enter the property in an abundance of caution. Part of that warrant allows the City to use reasonable force to both enter the property and prevent interference with the maintenance activities. Please be advised that additional efforts to interfere with the City's efforts may result in arrest of the individuals involved.

Thank you.

Karl H. Berger



2600 W. Olive Avenue, Suite 500  
Burbank, California 91505  
818-333-5120 Office  
661-644-5476 Mobile  
[kberger@hensleylawgroup.com](mailto:kberger@hensleylawgroup.com)  
[www.hensleylawgroup.com](http://www.hensleylawgroup.com)

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# Exhibit E

**Subject:** Re: Monterey Park Hillside Stabilization

**Date:** Tuesday, December 14, 2021 at 06:44:08 Pacific Standard Time

**From:** Eric Landegger

**To:** Jon Turner, PE

**CC:** Karl Berger

I saw this email after I sent the previous one. I will try to get you the letter this afternoon.

Thank you,

Eric Landegger  
805-331-0864 cell

On Dec 13, 2021, at 3:47 PM, Jon Turner, PE <jturner@phoenixcivil.com> wrote:

Eric,

I wanted to verify that you received the documents I sent over this morning. The City wanted to know if they could get a letter from Rasmussen (similar to last time) stating that Rasmussen is committed to doing the project and the City/Rasmussen are working out the contractual details and it is anticipated that the mobilization to the site will occur in January dependent on the signing of the City's contract. Something along those lines (Karl can weigh in if he wants something else).

I appreciate your efforts on this.

Thanks.

**Jon Turner, PE**  
**Principal Civil Engineer**  
Phoenix Civil Engineering, Inc.  
535 E. Main Street  
Santa Paula, CA 93060

Office: (805) 658-6800  
Mobile: (805) 850-8562

# Exhibit F

1 KARL H. BERGER, State Bar No. 178458  
2 City Attorney, City of Monterey Park  
3 TIMOTHY E. CAMPEN, State Bar No. 197941  
4 Assistant City Attorney  
5 JOAQUIN VAZQUEZ, State Bar No. 282528  
6 Deputy City Attorney  
7 **HENSLEY LAW GROUP**  
8 2600 W. Olive Ave., Ste. 500  
9 Burbank, CA 91505  
10 Tel: (818) 333-5120; Fax: (818) 333-5121

Exempt from fees pursuant  
to *Government Code § 6103*

11 Attorneys for Plaintiff/Petitioner, THE PEOPLE  
12 OF THE CITY OF CALIFORNIA

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **FOR THE COUNTY OF LOS ANGELES**

15 PEOPLE OF THE STATE OF CALIFORNIA,  
16 ex rel., MARK D. HENSLEY, City Attorney  
17 for the City of Monterey Park,  
18 Plaintiff/Petitioner,

Case No.: BC605788

*Assigned for All Purposes to:  
Hon. Mel Red Recana – Dept. 45*

19 v.

20 CENTER INT’L INVESTMENTS, INC., a  
21 California corporation, and  
22 DOES 1 through 25, inclusive,  
23 Defendants/Respondents.

**PLAINTIFFS’ EX PARTE  
APPLICATION TO SPECIALLY  
SET MOTION TO ENFORCE  
SETTLEMENT AGREEMENT  
PURSUANT TO CCP § 664.6;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
APPLICATION; [PROPOSED]  
ORDER SETTING DATE**

[Declarations of Timothy E. Campen and  
Jonathan Turner, and Compendium of  
Evidence with Exhibits filed Concurrently]

**DATE: May 9, 2022**  
**TIME: 11:00 a.m.**  
**DEPT: 45**

**Res. #: 308635144412**

*Complaint Filed: Dec. 31, 2015*

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 Plaintiff, the People of the State of California, by the City Attorney<sup>1</sup> for the City of  
3 Monterey Park, applies *ex parte* for an order specially setting the hearing on its Motion to  
4 Enforce Settlement Agreement pursuant to Code of Civil Procedure § 664.6 (the “Motion”),  
5 currently reserved for Monday, May 9, 2022, pursuant to California Rules of Court, Rule  
6 3.1200 *et seq.*, and *Code of Civil Procedure* section 128(a). The People requests such other  
7 and further relief as this Court deems necessary and appropriate.

8 This application is made on the grounds that the public’s safety is at risk and the May  
9 9, 2022 date was the earliest possible hearing date available on the Court’s online reservation  
10 system. The case at hand involves a hillside slope with a history of failure that requires  
11 permanent stabilization. The People of the State of California filed a public nuisance  
12 abatement lawsuit in 2015 against the owners of the subject property with the goal of the  
13 owners implementing permanent stabilization measures. A settlement agreement was  
14 reached in 2017, wherein, *inter alia*, if the property owners failed to construct permanent  
15 stabilization measures, the People, utilizing the City of Monterey Park, would enter the  
16 property and abate the nuisance itself.

17 Despite exhaustive attempts by the People, and the City of Monterey Park, to obtain  
18 the voluntarily compliance by CII to abate the public nuisance, the People’s efforts failed.  
19 Consequently, the People obtained a 75-day abatement warrant to itself implement  
20 temporary, winterization measures for the current rainy season. Because the abatement  
21 warrant only provides temporary relief, the People seek to move up the currently set Motion  
22 date to January 26, 2022, to ensure commencement of permanent slope remediation  
23 measures before the abatement warrant expires on February 1, 2022.

24 Proper *ex parte* notice was provided as set forth in the Declaration of Assistant City  
25 Attorney Timothy E. Campen. This application will be based on this *Ex Parte* Application,  
26 the Declarations of Assistant City Attorney Timothy E. Campen and Acting City Planner

27 \_\_\_\_\_  
28 <sup>1</sup> Karl H. Berger was appointed City Attorney for the City of Monterey Park in 2020; the original case caption identifies Mark D. Hensley as the City Attorney. Mr. Hensley is now an Assistant City Attorney for the City of Monterey Park.

1 Jonathan Turner, P.E., the Memorandum of Points and Authorities served and filed herewith,  
2 exhibits filed herewith, the records and files herein, and on such evidence as may be  
3 presented at the hearing of this *ex parte* application.

4  
5  
6 Dated: December 14, 2021

KARL H. BERGER, CITY ATTORNEY  
FOR THE PEOPLE AND THE CITY OF  
MONTEREY PARK

8  
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10 By:   
11 Timothy E. Campen, Assistant City Attorney  
12 Attorneys for Plaintiffs  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff, the People of the State of California, by the City Attorney of Monterey Park,  
4 is applying, *ex parte*, to advance the hearing for a motion to enforce settlement pursuant to  
5 Code of Civil Procedure § 664.6. The case at hand involves a hillside slope with a history of  
6 failure that requires permanent stabilization. This application is made on the grounds that  
7 the public safety is at risk, and the May 9, 2022 date that was the earliest possible hearing  
8 date available on the Court’s online reservation system is too late to properly address the  
9 required hillside stabilization.

10 **II. STATEMENT OF FACTS**

11 The subject Property consists of 6.22 acres of undeveloped land on a hillside along  
12 West Garvey Avenue located at 1688 West Garvey, Monterey Park, California (APN 5254-  
13 002-031). (Declaration of Timothy E. Campen (“Campen Decl.”), Para. 3, filed concurrently  
14 herewith.) The hillside rises approximately 150 feet above West Garvey Avenue to a graded  
15 plateau where a residential development approved in the late 1970s was to be built. (Campen  
16 Dec., Para. 3.) Over the years, the hillside on the Property has become increasingly unstable,  
17 with the City and the People taking various enforcement actions over 40 years against  
18 successive property owners including, without limitation, the Property owners to perform  
19 remedial measures. (Campen Dec., Para. 3.)

20 In or about 1979, the Monterey Park City Council approved a 31 residential dwelling  
21 unit project on Property. (Campen Dec., Para. 4.) That development project commenced, but  
22 was never completed. (Campen Dec., Para. 4.)

23 In 1984, the hillside experienced catastrophic failure, requiring the City to remove soils  
24 debris from the roadway and install a soils debris impact wall that is located along a portion  
25 of the Property line along West Garvey Avenue. (Declaration of Jonathan M. Turner, P.E.  
26 (“Turner Decl.”), Para. 4, filed concurrently herewith.)

27 In or about 2009, CII purchased the Property ostensibly for the purpose of a residential  
28

1 development involving 16 luxury homes. (Campen Dec., Para. 5.) Because the People  
2 determined that the Property owner is unable to perform its obligations pursuant the Settlement  
3 Agreement as to permanent abating the public nuisance identified in the Settlement  
4 Agreement, that development project is currently stalled indefinitely (as explained more fully  
5 below). (Campen Dec., Para. 5.)

6 On December 31, 2015, the People initiated an action against CII in the Los Angeles  
7 County Superior Court captioned *The People of the State of California, ex rel., Mark D.*  
8 *Henlsey, City Attorney for the City of Monterey Park v. Center Int’l Investments, Inc.*, Case  
9 No. BC605788 (“Action”). (Campen Dec., Para. 6.) In this Action, the People sought to  
10 permanently abate the public nuisance on the Property. Specifically, the Property is unsafe,  
11 unsightly and dangerous for all of the reasons stated in the Action including, without  
12 limitation, geologic instability of the hillside. (Campen Dec., Para. 6.)

13 In April of 2017, that Action resulted in a settlement agreement between the parties  
14 (“Original Agreement”), wherein, *inter alia*, CII agreed to a number of terms and conditions,  
15 including the following:

- 16 a. Complete a “Restoration Plan” to permanently stabilize the hillside and obtain a  
17 Permit to execute that plan “with all due speed.”
- 18 b. Complete the hillside restoration by December 31, 2017.
- 19 c. Pending the completion of the Restoration Plan, regularly monitor and maintain  
20 the hillside with “winterization measures” according to plans approved by the  
21 City of Monterey Park.

22 (Campen Dec., Para. 7.)

23 The parties, in a writing and signed by each of them, stipulated to the Court’s retention  
24 of jurisdiction under Code of Civil Procedure § 664.6 to ensure enforcement of the Settlement  
25 Agreement (the “Stipulation”). In particular, the agreed upon Stipulation states:

26 [T]he Parties to this Action request and agree that the Court shall  
27 retain jurisdiction over the Parties and this Action to enforce this  
28 settlement pursuant to Code of Civil Procedure section 664.6 until

1           there is full performance of all terms of the written Settlement  
2           Agreement.

3           (Campen Dec., Para. 7.)

4           On or about April 26, 2017, this Court issued an order retaining its jurisdiction to  
5           enforce the agreed upon, written Settlement Agreement and dismissing the Action (the  
6           “Order”). In relevant part, the Order states:

7                        [I]t is further ordered that, pursuant to the Parties’ Stipulated  
8                        Judgment and Settlement Agreement and Code of Civil Procedure  
9                        section 664.6 and any other relevant statutory provisions, the  
10                      Court shall retain jurisdiction over the Parties personally and over  
11                      this Action for such further orders, hearings and other proceedings  
12                      as may be appropriate to enforce the terms of the Settlement  
13                      Agreement and Stipulated Judgment.

14           (Campen Dec., Para. 7.)

15           In the event of CII’s failure to perform the abatement of the public nuisances, which is  
16           specifically part of the Original Agreement, the People could commence its own abatement  
17           action – at CII’s cost – to remove the public nuisances. Should the People determine the need  
18           to assume abatement of the public nuisance, CII voluntarily waived any judicial or  
19           administrative right to notice or hearings including, without limitation, abatement warrants:

20                      CII hereby agrees to waive any and all rights of notice and hearing,  
21                      except as otherwise expressly provided herein, that it may under  
22                      the principles of *Rooney v. Vermont* (1973) 10 Cal.3d 351...

23           (Campen Dec., Para. 8; see Original Settlement Agreement, filed concurrently herewith as  
24           Exhibit A.)

25           In March of 2019, and after no action had been taken to permanently stabilize the  
26           hillside, the People and CII entered into a First Amended and Restated Settlement Agreement  
27           (“First Amended Agreement”). (Campen Dec., Para. 9.) The First Amended Agreement  
28           included two courses of action CII could take to abate the public nuisances upon the Property:  
                    “Plan A” would involve CII seeking discretionary land use approvals from the City of  
                    Monterey Park (which consented to participated in the Settlement Agreement as to processing  
                    such land use approvals) for a residential development of the Property that would incorporate

1 the abatement of the public nuisances identified in the Settlement Agreement; and “Plan B”  
2 which provides for abatement of the public nuisances only if CII failed to obtain the approvals  
3 for Plan A or failed to implement Plan A if it were approved by the City of Monterey Park.  
4 (Campen Dec., Para. 9.) Should CII fail to implement Plan A or Plan B voluntarily, then the  
5 People would assume control over Plan B to abate the public nuisances identified in the  
6 Settlement Agreement (at CII’s cost). (Campen Dec., Para. 9.)

7 Whether CII implemented Plan A or Plan B, the First Amended Agreement included a  
8 timeline with specific, intermediate deadlines towards completion of Plan B by November 25,  
9 2020. (Campen Dec., Para. 10) Among the timeline requirements of the First Amended  
10 Agreement is for CII to have winterization measures completed not later than September 30,  
11 2019, and properly maintain said winterization measures. (Campen Dec., Para. 10.)

12 In June 2020, the People and CII entered into a Second Amended and Restated  
13 Settlement Agreement (“Second Amended Agreement”) which, *inter alia*, accommodated  
14 CII’s desire to obtain a new timeline to stabilize the hillside after it failed to comply with the  
15 timeline of the First Amended Agreement.<sup>2</sup> (Campen Dec., Para. 11.) Section H of the  
16 Second Amended Agreement further requires as follows:

17 During the time that Plan A is considered by CITY, CII must  
18 construct and maintain erosion control and slope stabilization  
19 plans approved by CITY to temporarily abate the Nuisance  
20 (“Interim Maintenance Program”). The Interim Maintenance  
21 Program must be completed at CII's cost and will be monitored by  
22 CITY (also at CII's cost) to ensure compliance.

(Campen Dec., Para. 11.)

23 Additionally, CII has agreed in section 2.B.v. of the Second Amended Agreement that  
24 “[i]n the event Plan B is not underway by the deadline set forth in the Amended Project  
25 Schedule, CITY may (1) enter the Property, abate the Nuisance, and/or complete Plan B...”

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27 <sup>2</sup> This was, in part, because of the COVID-19 Pandemic’s interference with the anticipated timelines for processing the  
28 Plan A considerations.

1 (Campen Dec., Para. 12.) This term is complimentary to a related provision in the First  
2 Amended Agreement, which states:

3           Should CITY be required to implement Plan B, CII grants CITY  
4 an irrevocable license to enter onto the Property to abate the  
5 Nuisance in accordance with this Agreement. CII agrees that  
6 neither Plaintiff nor CITY will be required to obtain an abatement  
7 warrant in accordance with applicable law in order to exercise  
8 Plaintiff’s rights, by and through CITY, to implement Plan B.  
9 Accordingly, CII specifically waives any rights it may have to  
prevent CITY’s access to the Property under applicable law should  
it fail to voluntarily perform Plan B in accordance with the Project  
Schedule.

10           (Campen Dec., Para. 12.)

11           On June 16, 2021, the Monterey Park City Council approved CII’s requested Plan A.  
12 Separately, the Monterey Park City Council adopted Resolution No. 12255. (Campen Dec.,  
13 Para. 13.) With Resolution No. 12255, the City Council found and declared that an  
14 **“emergency exists as to abating the Property which constitutes an imminent threat to**  
15 **public health and safety that requires immediate action.”** (Campen Dec., Para. 13,  
16 emphasis added.) The City Council further directed that if CII failed to “commence substantial  
17 progress” towards abatement of the hillside **by August 1, 2021**, then the City, on behalf of the  
18 People, was authorized to itself commence with “Plan B” permanent remediation of the  
19 hillside – consistent with the Second Amended Agreement. (Campen Dec., Para. 13.)  
20 Resolution No. 12255 restated the Second Amended Agreement in that the determination of  
21 “substantial progress” was in the “the sole discretion of the City Manager.” (Campen Dec.,  
22 Para. 13.) CII representatives were present at this City Council meeting on June 16, 2021, and  
23 were fully informed of these terms. (Campen Dec., Para. 13.)

24           On August 25, 2021, City Manager Ron Bow served CII with written Notice of Breach  
25 and Opportunity to Cure regarding its failure to commence substantial progress towards  
26 fulfillment of Plan B, namely to obtain a grading permit. (Campen Dec., Para. 14.) The Notice  
27 of Breach further informed CII of the City’s intent to carry out Plan B on its own. (Campen  
28

1 Dec., Para. 14.) In a show of good faith, the City provided CII with an additional five day  
2 grace period, until August 31, 2021, to obtain the grading permit necessary to demonstrate  
3 commencing with substantial progress. (Campen Dec., Para. 14.) CII failed to submit all the  
4 required documentation for the permit in that time. (Campen Dec., Para. 14.)

5 On October 13, 2021, City Manager Ron Bow served CII with written Notice of Default  
6 of the Settlement Agreement, noting that all the required documentation for the grading permit  
7 had not been submitted until September 23, 2021 – a full 53 days after the original deadline.  
8 (Campen Dec., Para. 15.) Specifically, CII had not submitted the necessary storm water  
9 protection plan information, which is legally required for the grading permit. (Campen Dec.,  
10 Para. 15.) The Notice of Default further detailed a list of CII’s failures to live up to its  
11 obligations under the entire Settlement Agreement and informed CII of the People’s intention  
12 to itself carry out Plan B to remediate the hillside. (Campen Dec., Para. 15.)

13 Although the City is actively engaged in selecting a qualified contractor to initiate Plan  
14 B, this process may take several months. (Campen Dec., Para. 17.) In the meantime,  
15 temporary measures, referred to in the Second Amended Agreement as the “Interim  
16 Maintenance Program” were necessary to winterize the hillside. (Campen Dec., Para. 17.)

17 The months of November through April are generally recognized as the “rainy season”  
18 in California and for Los Angeles County in particular. (Declaration of Jonathon M. Turner,  
19 P.E. (“Turner Dec.”), Para. 4.) The months of November through April are recognized by the  
20 regulatory agencies as the rainy season for the purposes of implementation of storm water  
21 “best maintenance practices” (“BMPs”) for construction sites. (Turner Dec., Para. 4.)

22 The Property’s hillside was previously subject to catastrophic failure in 1984, requiring  
23 the City to remove soils debris from the roadway and install a soils debris impact wall that is  
24 located along a portion of the Property line along West Garvey Avenue. (Turner Dec., Para.  
25 5.) The anticipated El Niño rainfall in 2015-16 is what, in part, prompted the People to file the  
26 Action that ultimately resulted in the Settlement Action. There has been no substantive  
27 remediation since that time, and implementation of Plan B as approved by the City of  
28

1 Monterey Park for new, permanent retaining walls is necessary to secure the hillside. (Turner  
2 Dec., Para. 5.) The People’s concerns regarding the Property’s threat to public health, safety,  
3 and welfare continues.

4 CII developed an approved winterization plan for the parcel on or about May 2018, to  
5 be implemented until permanent retaining walls are constructed. (Turner Dec., Para. 6.) On  
6 or about September 2019, CII was required to update its winterization plan for the Property,  
7 which was signed and submitted in November 2019. (Turner Dec., Para. 6.) The term  
8 “winterization” refers to measures taken to mitigate erosion and risk of slope failure due to  
9 water infiltration from seasonal rain and weather. (Turner Dec., Para. 6.) (A true and accurate  
10 copy of the winterization plan is filed concurrently herewith as Exhibit D.)

11 On February 20, 2019, the Acting City Planner issued to CII a letter of noncompliance  
12 of the required winterization, noting that, among other things, soils debris from the hillside  
13 had fallen onto West Garvey Avenue. (Turner Dec., Para. 7.) A year later on February 12,  
14 2020, the Acting City Planner issued to CII another letter of noncompliance concerning  
15 winterization of the hillside and warned CII that failure to comply with the approved  
16 winterization plan could result in default of the Settlement Agreement. (Turner Dec., Para. 7.)

17 On October 20 and November 10, 2021, the Acting City Planner re-inspected the  
18 Property concerning the condition and erosion mitigation of the hillside slope of the Property  
19 facing Garvey Avenue. (Turner Dec., Para. 8.) He observed that plastic sheeting intended to  
20 minimize water intrusion into the slope was blown apart in multiple locations. (Turner Dec.,  
21 Para. 8.) Further, sandbags have degraded to the point where the sand is leaking out of the  
22 bags in multiple locations. (Turner Dec., Para. 8.) The efforts intended to act as erosion and  
23 water intrusion control measures have not been properly maintained, which exacerbating the  
24 potential failure of the hillside slope. (Turner Dec., Para. 8.) (True and accurate photos of the  
25 condition of the Property on October 20 and November 10, 2021, are filed concurrently  
26 herewith as Exhibit E.)

27 The existing hillside plastic tarps need to be removed and replaced, as they have reached  
28

1 their lifespan due to exposure and failure to be property secured. (Turner Dec., Para. 9.) All  
2 of the existing sandbags onsite need to be removed and replaced with gravel filled bags to  
3 avoid sand migration and clean up issues after failure. (Turner Dec., Para. 10.) CII appears to  
4 have placed more sandbags over the failed bags, which is an unacceptable practice. (Turner  
5 Dec., Para. 10.) Further, the existing sandbags direct the flow of water in an uncontrolled  
6 manner which results in storm water flowing at a high velocity into the vehicle lanes on West  
7 Garvey Avenue. (Turner Dec., Para. 10.)

8 The failure of CII to commence with any physical progress towards abating the hillside  
9 on the Property since formal complaints and litigation on this issue commenced beginning six  
10 years ago has left the People with no reasonable expectation CII will ever complete this project.  
11 (Campen Dec., Para. 16.) As a result, the People can no longer risk the health and safety of  
12 the community and its residents on the baseless hope CII will finally abate this hillside.  
13 (Campen Dec., Para. 16.)

14 On November 17, 2021, the People obtained an abatement warrant from the Hon.  
15 Suzette Clover specifically to implement the temporary mitigation measures to the hillside  
16 until Plan B could be implemented by the People. (Campen Dec., Para. 17; Exhibit X filed  
17 concurrently herewith.) The abatement warrant granted the People unobstructed access to the  
18 Property for 60 days, February 1, 2022, to effect the mitigation measures, with periodic status  
19 reports to the court and the opportunity to request an extension as may be necessary. (Campen  
20 Dec., Para. 17.)

21 On December 8 and 9, 2021, the People – through the efforts of the City – commenced  
22 clearance of the Property to begin the temporary mitigation measures authorized by the  
23 abatement warrant. (True and accurate photographs of the condition of the Property on those  
24 dates, before and after clearance, are filed concurrently herewith as Exhibit D.) (Campen Dec.,  
25 Para. 18.)

26 On December 8, 2021, the People attempted to reserve a date for this Court to hear the  
27 People’s motion to enforce the settlement agreement pursuant to C.C.P. § 664.6. (Campen  
28

1 Dec., Para. 19.) The soonest date available through the court’s online system was May 9, 2022.  
2 (Campen Dec., Para. 19.) The People’s aspiration is to obtain an order from this Court  
3 enforcing the terms of the settlement agreement to commence with Plan B before expiration  
4 of the abatement warrant. (Campen Dec., Para. 19.) This will provide the best opportunity to  
5 have seamless oversight of the hillside and minimize the threat of slope failure. (Campen Dec.,  
6 Para. 19.)

7 It is the People’s position that obtaining an order from the Court to enforce its terms  
8 and implement Plan B is the only remaining means to properly protect the community from  
9 the public nuisance and immanent threat. (Campen Dec., Para. 20.) The temporary measures  
10 currently underway are inadequate to provide long term protection from slope failure.  
11 (Campen Dec., Para. 19.) It is in the public interest to commence with Plan B as soon as  
12 practicable and before the abatement warrant expires. (Campen Dec., Para. 20.) Accordingly,  
13 the People request that this Court specially set the People’s Motion to Enforce Settlement  
14 Agreement pursuant to C.C.P. § 664.6 for the date of January 26, 2022. (Campen Dec., Para.  
15 20.)

### 16 III. ARGUMENT

#### 17 A. There is Good Cause to Specially Set the Hearing Date.

18 The People provided CII with every opportunity to voluntarily implement the agreed  
19 upon plan to stabilize the hillside. Without direct action by the People, there is no reason to  
20 think Plan B will ever be realized. The health and safety of the community requires the People  
21 to act without any preventable delay to implement these permanent measures.

22 The current abatement warrant is set to expire on February 1, 2022. While the People  
23 could request an extension with good cause and would likely be granted at least some  
24 additional time, an extension of an abatement warrant through May of 2022 is not something  
25 the People can reasonably rely on.

26 Moving up the hearing date for the Motion to Enforce Settlement Agreement pursuant  
27 to C.C.P. § 6646.6 would provide the opportunity to render an order before the abatement  
28

1 warrant is set to expire, should this Court find good cause to do so. With an order in place  
2 affirming the People’s right to implement Plan B before the abatement warrant expires will  
3 provide seamless protection to the community from the unstable hillside.

4 **B. There is No Prejudice to CII in Moving Up the Hearing Date.**

5 The requested hearing date of January 26, 2022 will still provide ample time for full  
6 compliance with the filing deadlines of Code of Civil Procedure § 1005(b). In fact, CII being  
7 notified of this *ex parte* application now effectively provides an additional three weeks to  
8 prepare its opposition than it would otherwise have.

9 **C. Ex Parte Relief is Proper Because Counsel Has Fully Complied With**  
10 **California Rules Of Court, Rules 3.1203 And 3.1204.**

11 Among other provisions, Cal. Rules of Court, rule 3.1203 provides as follows: “A  
12 party seeking an *ex parte* order must notify all parties no later than 10:00 a.m. the court day  
13 before the *ex parte* appearance, absent a showing of exceptional circumstances that justify a  
14 shorter time for notice.” (California Rules of Court, rule 3.1203(a).) An *ex parte* application  
15 must be accompanied by a declaration regarding notice stating: (1) The notice given,  
16 including the date, time, manner, and name of the party informed, the relief sought, any  
17 response, and whether opposition is expected and that, within the applicable time under rule  
18 3.1203, the applicant informed the opposing party where and when the application would be  
19 made. (California Rules of Court, rule 3.1204(b).)

20 As set forth in the Declaration of Timothy E. Campen attached hereto, notice of this  
21 *ex parte* application was provided by both email and personal service to CII’s attorneys on  
22 December 14, 2021 for this December 15, 2021 *ex parte* hearing. (See Campen Dec., Para  
23 20.) Thus, Counsel has duly complied with the notice requirements of California Rules of  
24 Court, rule 3.1203(a) and California Rules of Court, rule 3.1204(b).

25 Rule 3.1202(c) of the California Rules of Court also requires a showing that there is  
26 “irreparable harm, immediate danger, or any other statutory basis for granting relief *ex*  
27 *parte*.” Applied to this case, the Property presents a risk of health and safety to the

1 community. The hillside at issue abuts a major thoroughfare with residential homes on the  
2 other side. It has a has a history of failure. The People have been attempting in good faith  
3 since 2015 to obtain voluntary compliance from the owners to bring the property into  
4 compliance. Repeated efforts to accommodate CII to allow it complete Plan B since the  
5 settlement agreement was executed in 2017 have failed to produce any results.

6 Although the People are in the process of implementing mitigation measures to  
7 minimize the threat of slope failure, these efforts are only temporary and under the authority  
8 of an abatement warrant that is currently set to expire on February 1, 2022. The People and  
9 the community risk suffering irreparable harm if commencement of permanent mitigation  
10 measures is not authorized soon, and most preferably before the abatement warrant expires.

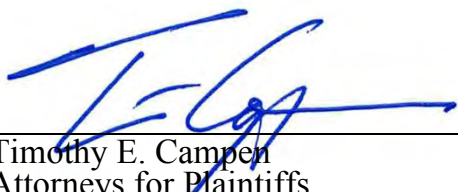
11 **IV. CONCLUSION**

12 For the reasons set forth above, the People respectfully request that this Court  
13 specially set the hearing date on their Motion, currently scheduled for May 9, 2022, to  
14 instead be heard on January 26, 2022, or as soon thereafter as may be convenient to the  
15 Court. The People also request such other and further relief as is necessary and appropriate.

16  
17 DATED: December 14, 2021

KARL H. BERGER  
CITY ATTORNEY  
FOR THE PEOPLE AND CITY OF  
MONTEREY PARK  
HENSLEY LAW GROUP

18  
19  
20  
21 By: \_\_\_\_\_

  
Timothy E. Campen  
Attorneys for Plaintiffs  
ASSISTANT CITY ATTORNEY  
FOR THE PEOPLE AND THE CITY OF  
MONTEREY PARK

1 **[PROPOSED] ORDER**

2  
3 The Court having reviewed the foregoing application, and good cause appearing  
4 therefore:

5  
6 **IT IS HEREBY ORDERED** that the People’s request to specially set the date for a  
7 Motion to Enforce Settlement Agreement pursuant to Code of Civil Procedure § 664.6 is  
8 GRANTED.

9 **IT IS ALSO ORDERED** that all filings for said Motion be in accordance with Code  
10 of Civil Procedure § 1005(b).

11 ***IT IS SO ORDERED.***

12  
13  
14 Dated: \_\_\_\_\_

\_\_\_\_\_   
15 Hon. Mel Red Recana  
16 Judge of the Superior Court of California  
17 County of Los Angeles  
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1 **PROOF OF SERVICE**

2 I am over the age of eighteen years and not a party to the within-entitled action. My business  
3 address is 2600 West Olive Avenue, Burbank, CA 91505.

4 On December 14, 2021, I served a copy of the within document(s): **PLAINTIFFS' EX**  
5 **PARTE APPLICATION TO SPECIALLY SET MOTION TO ENFORCE**  
6 **SETTLEMENT AGREEMENT PURSUANT TO CCP § 664.6; MEMORANDUM OF**  
7 **POINTS AND AUTHORITIES IN SUPPORT OF APPLICATION; [PROPOSED]**  
8 **ORDER SETTING DATE** on the interested parties:

- 9  by transmitting via facsimile the document(s) listed above to the fax number(s) set  
10 forth below on this date before 5:00 p.m.
- 11  by placing the document(s) listed above in a sealed envelope with postage thereon  
12 fully prepaid, in the United States mail at Diamond Springs, California addressed  
13 as set forth below.
- 14  by placing the document(s) listed above in a sealed \_\_\_\_\_ envelope and  
15 affixing a pre-paid air bill, and causing the envelope to be delivered to  
16 a \_\_\_\_\_ agent for delivery.
- 17  by causing to be personally delivered the document(s) listed above to the person(s)  
18 at the address(es) set forth below.
- 19  by transmitting via e-mail or electronic transmission the document(s) listed above  
20 to the person(s) at the e-mail address(es) set forth below.

21 **Afred Frajio, Jr., Esq.**  
22 **Sheppard, Mullin, Richter & Hampton LLP**  
23 **333 South Hope Street Forty-Third Floor**  
24 **Los Angeles, CA 90071**  
25 **afrajio@sheppardmullin.com**

26 I declare under penalty of perjury under the laws of the State of California that the above is  
27 true and correct.

28 Executed on December 14, 2021 at Diamond Springs, California.

29 

30 \_\_\_\_\_  
31 Annette Kramer

1 KARL H. BERGER, State Bar No. 178458  
2 City Attorney, City of Monterey Park  
3 TIMOTHY E. CAMPEN, State Bar No. 197941  
4 Assistant City Attorney, City of Monterey Park  
5 **HENSLEY LAW GROUP**  
6 2600 W Olive Ave Ste. 500  
7 Burbank, CA 91505  
8 Tel: (818) 333-5120; Fax: (818) 333-5121

*Exempt from fees pursuant  
to Government Code § 6103*

6 Attorneys for Plaintiff CITY OF MONTEREY PARK  
7 ON BEHALF OF THE PEOPLE OF THE STATE OF CALIFORNIA

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES**

10  
11 IN RE PROPERTY AT: 1688 WEST  
12 GARVEY AVENUE, MONTEREY PARK,  
13 CALIFORNIA

14 Property Owner: Center Int'l Investments, Inc.

**SECOND STATUS REPORT  
SUBMITTED BY THE CITY  
ATTORNEY FOR THE CITY OF  
MONTEREY PARK ON BEHALF OF  
THE PEOPLE OF THE STATE OF  
CALIFORNIA AND THE CITY OF  
MONTEREY PARK**

16  
17 This Second Status Report is submitted in accordance with the Abatement Warrant  
18 issued by the Honorable Suzette Clover on November 17, 2021 affecting the above-captioned  
19 real property. Please refer to the First Status Report filed with the Court on December 15, 2021  
20 for activities occurring up to December 14, 2021.

- 21
- 22 • On December 15, 2021, the City contracted with The Dirt Yard, Inc. dba L.A.  
23 County Sandbags to secure 15,000 sandbags and 50 rolls of plastic sheeting for  
24 the hillside. The total contract amount is \$28,207.50.
  - 25 • On December 17, 2021, the City received the following communication from  
26 C.A. Rasmussen (“Rasmussen”): “We are committed to doing this project for  
27 the City. Currently, the City and Rasmussen are working out the contractual  
28 details. Dependent on the execution of the Contract with the City and the  
availability of our subcontractors and materials, we anticipate mobilization to

1 the site occurring no sooner than February 2022.”

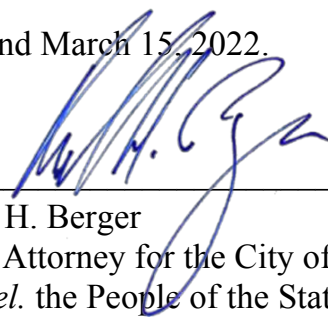
- 2 • On December 18, 2021, the City contracted with Rasmussen to implement the
- 3 Winterization Measures, using the sandbags and plastic sheeting secured by the
- 4 City. The not to exceed cost of the contract is \$100,000.
- 5 • Commencing at 7:00 a.m. on December 20, 2021, Rasmussen began installing
- 6 the Winterization Measures utilizing best management practices (“BMPs”) as
- 7 required by applicable law. Photographs showing the progress of those efforts
- 8 are set forth in attached Exhibit A.
- 9 • Dashcam video of the overall site, from 4:00 p.m. on December 20<sup>th</sup>, may be
- 10 viewed at <https://youtu.be/4DfHBvqAbJc>.
- 11 • Commencing at 7:00 a.m. on December 21, 2021, Rasmussen continued
- 12 implementing the BMPs. Photographs showing its progress are set forth in
- 13 attached Exhibit B.
- 14 • On December 22, 2021, Rasmussen informed the City that it completed
- 15 installation of the sandbags and plastic sheeting to comply with BMPs in
- 16 accordance with applicable law. Photographs showing the property after
- 17 Rasmussen’s efforts are set forth in attached Exhibit C.
- 18 • On December 30, 2021, the City started contract discussions with Geosyntec
- 19 Consultants for design and geotechnical services for implementing Plan B.
- 20 • On January 5, 2022, the City successfully changed the hearing date for the
- 21 motion in the underlying case to March 16, 2022 at 8:30 a.m. (from May 22,
- 22 2022) for a permanent order enforcing the Settlement Agreement.
- 23 • On January 13, 2022, the City inspected the property. Photographs showing the
- 24 site are set forth in Exhibit D.
- 25 • On January 14, 2022, the City is expected to execute a design/build contract with
- 26 Rasmussen to construct Plan B. The contract is not to exceed \$12,000,000.
- 27 • Also on January 14, 2022, the City is expected to execute a contract with
- 28 Geosyntec Consultants for design and project management to oversee Plan B.

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The contract is not to exceed \$714,000.

The People anticipate filing a request to extend the abatement warrant until March 31, 2022 to secure a permanent court order regarding Plan B. If the extension is granted, the People would file additional Status Reports on February 15, 2022 and March 15, 2022.

DATED: January 14, 2022



---

Karl H. Berger  
City Attorney for the City of Monterey Park  
*Ex rel.* the People of the State of California

# Exhibit A

Exhibit A

December 20, 2021



# Exhibit B

Exhibit B

December 21, 2021



Exhibit B (cont.)

December 21, 2021



Exhibit B (cont.)

December 21, 2021



Exhibit B (cont.)

December 21, 2021



# Exhibit C

Exhibit C

December 22, 2021



Exhibit C (cont.)

December 22, 2021



Exhibit C (cont.)

December 22, 2021



# Exhibit D

Exhibit D

January 13, 2022

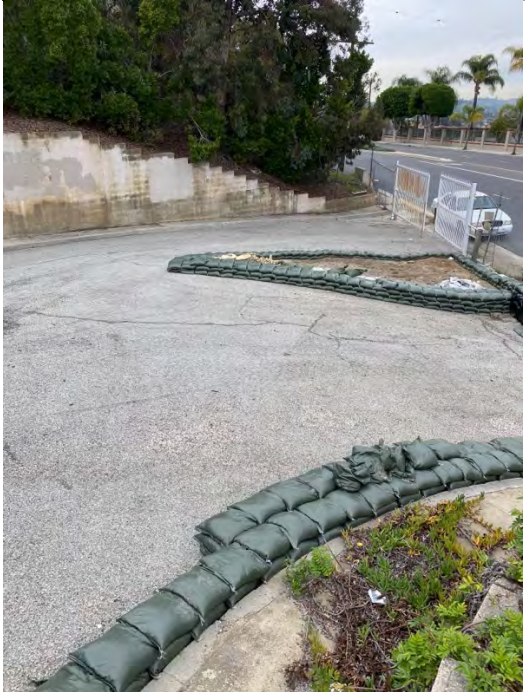


Exhibit D (cont.)

January 13, 2022



1 KARL H. BERGER, State Bar No. 178458  
2 City Attorney, City of Monterey Park  
3 TIMOTHY E. CAMPEN, State Bar No. 197941  
4 Assistant City Attorney, City of Monterey Park  
5 **HENSLEY LAW GROUP**  
6 2600 W Olive Ave Ste. 500  
7 Burbank, CA 91505  
8 Tel: (818) 333-5120; Fax: (818) 333-5121

*Exempt from fees pursuant  
to Government Code § 6103*

6 Attorneys for Plaintiff CITY OF MONTEREY PARK  
7 ON BEHALF OF THE PEOPLE OF THE STATE OF CALIFORNIA

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES**

10  
11 IN RE PROPERTY AT: 1688 WEST  
12 GARVEY AVENUE, MONTEREY PARK,  
13 CALIFORNIA

14 Property Owner: Center Int'l Investments, Inc.

**THIRD STATUS REPORT  
SUBMITTED BY THE CITY  
ATTORNEY FOR THE CITY OF  
MONTREY PARK ON BEHALF OF  
THE PEOPLE OF THE STATE OF  
CALIFORNIA AND THE CITY OF  
MONTEREY PARK**

15  
16  
17 This Third Status Report is submitted in accordance with the Abatement Warrant issued  
18 by the Honorable Suzette Clover on November 17, 2021 affecting the above-captioned real  
19 property. Please refer to the First and Second Status Reports previously filed with the Court  
20 for December 2021 and January 2022 for activities occurring up to January 14, 2022. Since  
21 the Second Status Report was filed, the City undertook the following activities:

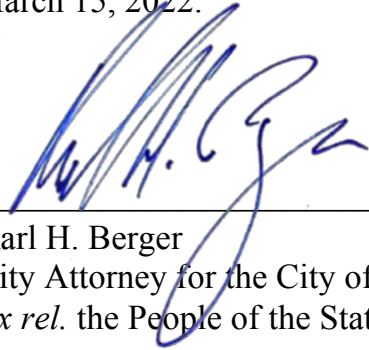
- 22 • On January 18, 2022, the City's geotechnical consultant, GeoSyntec, undertook  
23 a drone survey of the subject property to assist with final design of the  
24 Goodviews Abatement Project ("GAP");
- 25 • On January 19, 2022, the City executed a contract with KCM Group for project  
26 management not to exceed \$355,000;
- 27 • On January 21, 2022, the City issued a Notice to Proceed (effective January 24,  
28 2022) to C.A. Rasmussen ("Rasmussen") to commence with the GAP which will

1 result in permanent nuisance abatement of the subject property. Among other  
2 things, Rasmussen will continue the best management practices (“BMP”)  
3 required by applicable law to secure the property from inclement weather and  
4 other runoff. A copy of the NTP is attached as Exhibit A;

- 5 • On January 27, 2022, the City obtained updated appraisals for real property  
6 burdened with performance trust deeds securing the Settlement Agreement;
- 7 • On February 2, 2022, the Acting City Planner gave a presentation to the  
8 Monterey Park City Council regarding the GAP. Among other things, that  
9 presentation noted that a new webpage ([www.montereypark.ca.gov/goodviews](http://www.montereypark.ca.gov/goodviews))  
10 was added to the City’s website to provide public notification regarding GAP  
11 events. A copy is included as Exhibit B;
- 12 • On February 3, 2022, Rasmussen implemented traffic control measures;
- 13 • The City will be publishing the article attached as Exhibit C in the Cascades  
14 Newspaper for purposes of public notification; and
- 15 • Pictures from February 9, 2022 and February 11, 2022 are attached as Exhibit D  
16 showing the progress for the GAP.

17 The next Status Report will be filed on or about March 15, 2022.

18  
19  
20 DATED: February 14, 2022

  
\_\_\_\_\_  
Karl H. Berger  
City Attorney for the City of Monterey Park  
*Ex rel.* the People of the State of California

# Exhibit A

# CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896  
[www.montereypark.ca.gov](http://www.montereypark.ca.gov)



## City Council

Yvonne Yiu  
Henry Lo  
Fred Sornoso  
Hans Liang  
Peter Chan

## City Clerk

Vincent D. Chang

## City Treasurer

Joseph Leon

Mr. Adam Rasmussen  
C.A Rasmussen, Inc.  
28548 Livingston Avenue  
Valencia, CA 91355

January 21, 2022

### Re: 1688 West Garvey, Hillside Stabilization Project PW21-00424 – Notice to Proceed

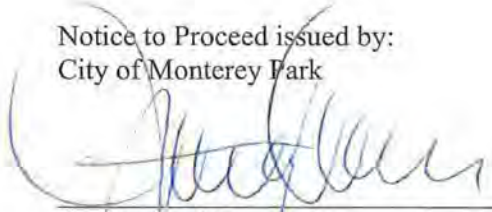
Dear Mr. Rasmussen -

This letter will constitute the City of Monterey Park Notice to Proceed with construction of the Hillside Stabilization Project PW21-00424. The effective date for this Notice to Proceed is January 24, 2022.

On the effective Notice to Proceed date, you are authorized by the City of Monterey Park to commence work on the subject project in accordance with the terms and conditions of the contract.


Please sign and return a signed copy of this letter to the Project Manager, Jon Turner at [jturner@phoenixcivil.com](mailto:jturner@phoenixcivil.com)

Notice to Proceed issued by:  
City of Monterey Park

  
\_\_\_\_\_  
Jon Turner, PE  
Acting City Planner

Date: January 21, 2022

Notice to Proceed accepted by:  
C.A. Rasmussen

  
\_\_\_\_\_  
Adam Rasmussen  
President

Date: 1/21/22

# Exhibit B

# ALERTS

City Hall Open on Appointment Basis. Other Library/Rec Indoor Programs Suspended

[Read On...](#)

Boost Your MPK Business with Our Rewards App

[Read On...](#)

[Create an Account](#)



**MONTEREY  
PARK** | *California*

[Government](#)

[Services](#)

[Residents](#)

[Visitors](#)

[Business](#)

[How Do I...](#)



## Featured Projects

[1688 West Garvey Avenue](#)

[South Garfield Village Specific Plan](#)

[San Gabriel Valley Regional Bicycle Master Plan](#)

[Health & Sustainability in Monterey Park](#)

[General Plan](#)

[Housing Element 2021-2029](#)

[Climate Action Plan](#)

[Pedestrian Linkages Plan](#)

[Home](#) › [Government](#) › [Departments](#) › [Community Development](#) › [Planning](#) › [1688 West Garvey Avenue](#)



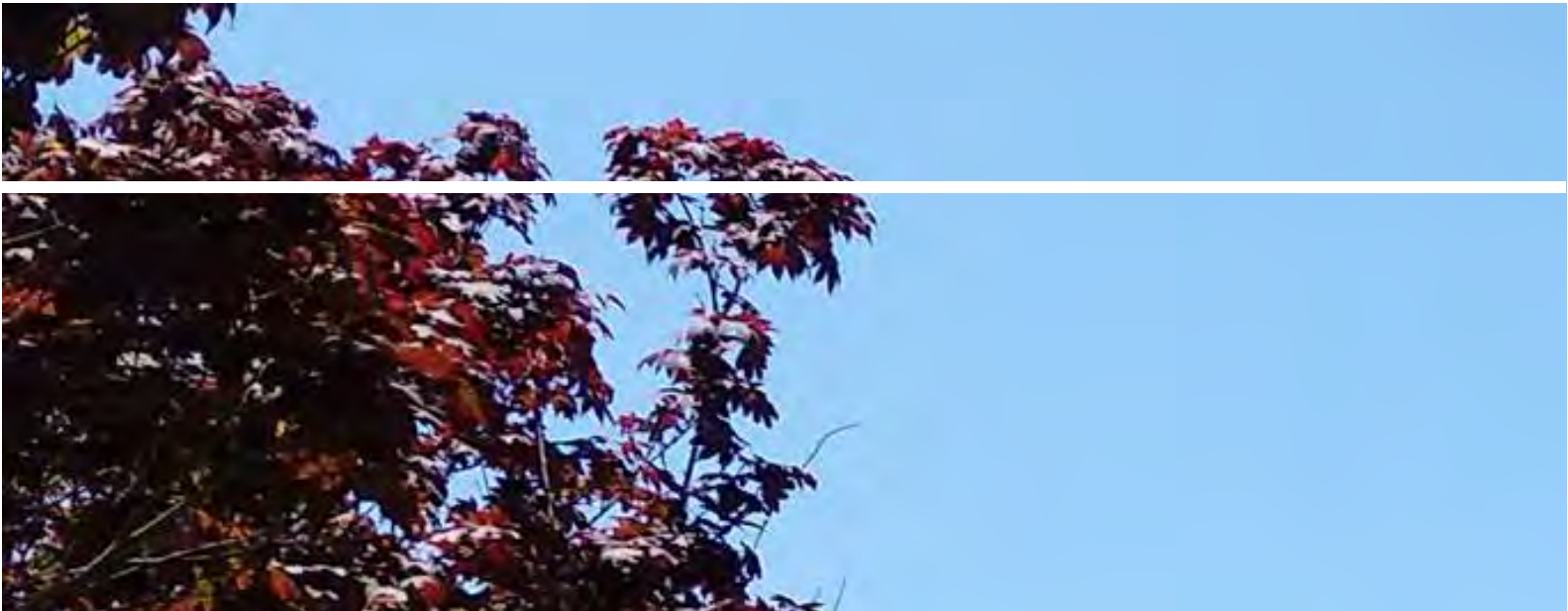
## Goodviews Abatement Project (GAP) - Stabilizing the 1688 West Garvey Hillside

### Current Status

The City selected a team of contractors to complete the Goodviews Abatement Project (GAP.) C.A. Rasmussen will be the contractor responsible for constructing the GAP. It will begin mobilizing in early February, 2022.

### Construction Updates and Notices:

The long-awaited GAP hillside stabilization is set to commence in early February, 2022. Work during the initial phase will include demolition, clearing, and grubbing of the hillside. Most work is anticipated on weekdays from 7:00 a.m. to approximately 7:00 p.m. with weekend work occurring



Planning Commission

Design Review Board

Zoning Information - Development Standards

Property Development ▶

Forms

Electronic Cigarette Information

intermittently. There will be an increase in truck traffic in the area along Ramona Rd., Garvey Ave. and Atlantic Ave. as large amounts of dirt/debris will be removed from the site to make space for the stabilization work and sidewalk to be completed. Construction activities should be anticipated and work will continue through December 2022.

**Lane closure:** The parking lane, sidewalk and #2 eastbound lane on West Garvey Avenue from east of Campanita Court to west of Abajo Drive will be closed for the duration of the project.

**Metro Bus Service:** There are two eastbound Garvey Avenue L.A. County Metro bus stops (Route 106) at St. Steven's Serbian and Abajo Drive that will not have service for the duration of the project. According to L.A. County Metro, patrons can access eastbound service at Casuda Canyon Drive and at Hitchcock Drive. For up-to-date information, please visit Metro's site at [www.metro.net/service/advisories/](http://www.metro.net/service/advisories/).



For more information, please contact the City Manager's Office at (626) 307-1485 or at [CMO@MontereyPark.ca.gov](mailto:CMO@MontereyPark.ca.gov).

### **Background**

The site of the Goodviews Abatement Project was originally approved for development in 1978 and 1979 for 31 residential dwelling units. That original project was developed by the Good Views Land Development Company. Consequently, during the 40 years since that time, the GAP site is commonly referenced as the "Good Views" property.

The Good Views property is historically unstable. In 1983, Garvey Avenue was damaged and blocked by a slope failure resulting in the City taking emergency action to construct various soil stabilization and drainage infrastructure. In 1986, the City entered into an agreement with the Good Views developer to construct permanent structures intended to stabilize the hillside that was to be completed by December 5, 1986. In 1987, 1988, and 1989, a number of City consultants advised the City regarding what measures were required to stabilize the hillside. The Good Views property owner failed to implement any of those recommendations. As a result, the City in 1991 issued a notice of violation to Good Views that the Project site constituted a public nuisance requiring abatement.

After providing notice on an annual basis, the City in 1994 was unable to contact Good Views representatives. It is unclear what happened to Good Views by that time. In 1997, the City Council declared the property to be a public nuisance and commenced abating the property. Among other things, it installed a gate on the abandoned private road. The City took additional abatement action in 2000 and 2002. In sum, the City expended an estimated \$200,000 to \$300,000 to abate nuisances on the property in the years before 2013.

Starting in 2013, the City again undertook various code enforcement actions against the new property owner of 1600-1688 West Garvey Avenue. Among other things, the City directed the property owner to submit an erosion plan; remove trash, junk and debris; abate weeds and overgrown vegetation; and maintain slope drainage. Between 2013 and 2015, the City issued six different

administrative citations regarding the property in response to various issues related to the property including, without limitation, a tree that fell onto West Garvey Avenue in 2014 that both blocked the street and brought down power lines owned by Southern California Edison.

Concerned that the El Niño storms in 2015 would result in significant slope failure at the property, the City filed a civil lawsuit against the property owner to abate the nuisances on the property. That lawsuit allowed the City to immediately take action to temporarily stabilize the hillside. Those efforts, however, did not constitute a permanent solution to the overall issue of hillside stability.

On April 25, 2017, the City entered into a settlement agreement with the property owner which includes a plan for a long-term solution to the hillside. In short, the Settlement Agreement requires the property owner to stabilize the hillside through a series of retaining walls and other geotechnical solutions.

On June 16, 2021, the City Council approved a residential development for the GAP site. Had the property owner commenced construction by August 1, 2021, the property owner could have voluntarily implemented the measures needed to stabilize the hillside.

On October 13, 2021, the City informed the property owner that it had defaulted on the settlement agreement and that the City would construct the GAP. Construction is expected to begin on this project February 1, 2022.

### Notable Documents

Below are links to download public documents regarding the GAP including the Settlement Agreement(s); the City's abatement warrant; the City's Status Reports (filed with the Superior Court); and various staff reports submitted to the City Council.

### Historical Document links:

- [Goodviews Project History and FAQ, April 26, 2021](#)
- [Draft Environmental Impact Report \(DEIR\) - 1688 W. Garvey Avenue](#)
- [Technical Appendices - DEIR - 1688 W. Garvey Avenue](#)
- [Notice of Completion - 1688 W. Garvey Avenue](#)
- [Notice of Availability of Draft Environmental Impact Report for 1688 West Garvey Avenue](#)
- [Notice of Preparation \(NOP\) of a Draft Environmental Impact Report \(EIR\) for the 1688 West Garvey Avenue Residential Project](#)
- [Initial Study for 1688 West Garvey Avenue Residential Project](#)
- [Final Environmental Impact Report \(FEIR\) - 1688 W. Garvey Avenue](#)
- [1688 W. Garvey Ave Specific Plan](#)
- [Monterey Park Geologic Hazard Abatement District \(MPK GHAD\) - Engineer's Report](#)





### Contact Us

City of Monterey Park  
320 West Newmark Ave.  
Monterey Park, CA 91754

Phone: 626-307-1458  
Fax: 626-288-6861

### Popular Links

[Coronavirus Updates](#)  
[Municipal Code](#)  
[Passport Services](#)  
[Library](#)  
[Parking](#)  
[Job Openings](#)

### Site Links

[Home](#)  
[Disclaimer/Terms of Use](#)  
[Site Map](#)  
[Contact Us](#)  
[Accessibility](#)  
[Government Websites by CivicPlus®](#)

**City Hall Hours:** Monday through Thursday: 7:30 a.m. to 5:30 p.m. | Friday: 7:30 a.m. to 4:30 p.m.

# Exhibit C

# West Garvey Avenue Hill Stabilization Project Commences

*Project expected to complete in late 2022*

*By City Manager's Office Staff*

A team of contractors have begun the Goodviews Abatement Project (GAP), which seeks to stabilize the hillside in the 1600 block of West Garvey Avenue.

The initial phases of construction will include demolition, clearing, and grubbing of the hillside. Most project work is anticipated on weekdays from 7 a.m. to approximately 7 p.m., with weekend work occurring intermittently. There will be an increase in truck traffic in the area along West Ramona Road, Garvey Avenue and Atlantic Boulevard as large amounts of dirt/debris will be removed from the site to make space for the stabilization work and for the sidewalk to be completed. Construction activities are anticipated through December 2022. Additional information, including project updates and property history is available at [www.montereypark.ca.gov/goodviews](http://www.montereypark.ca.gov/goodviews).

## Street Lane Closures and Transit Alerts

**Lane closure:** The parking lane, sidewalk and #2 eastbound lane on West Garvey Avenue from east of Campanita Court to west of Abajo Drive will be closed for the duration of the project.

**Metro Bus Service:** There are two eastbound Garvey Avenue L.A. County Metro bus stops (Route 106) at St. Steven's Serbian and Abajo Drive that will not have service for the duration of the project. According to L.A. County Metro, patrons can access eastbound service at Casuda Canyon Drive and at Hitchcock Drive. For up-to-date information, please visit Metro's site at [www.metro.net/service/advisories/](http://www.metro.net/service/advisories/).

For more information on the GAP project, please contact the City Manager's Office at 626-307-1485, [cmo@montereypark.ca.gov](mailto:cmo@montereypark.ca.gov) or visit [www.montereypark.ca.gov/goodviews](http://www.montereypark.ca.gov/goodviews).

###

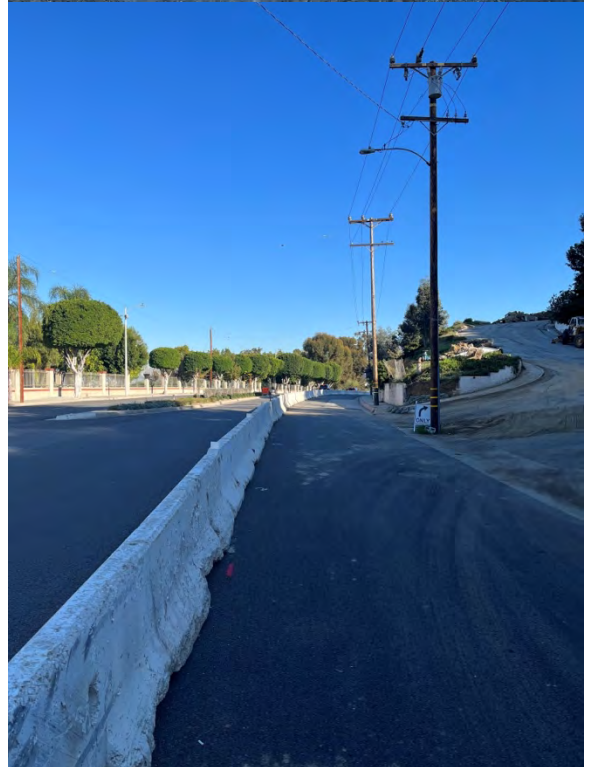
Print project map inline with article.



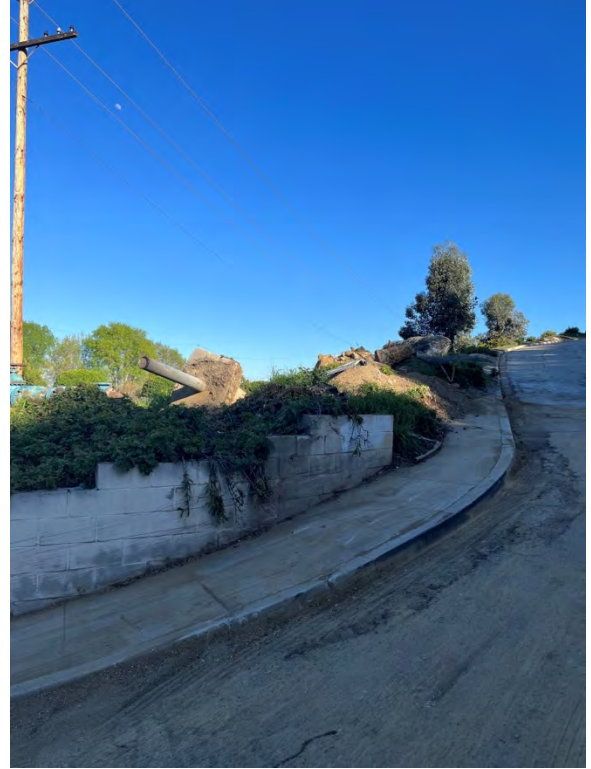
# Exhibit D



Pictures dated February 9, 2022



Pictures dated February 11, 2022



Pictures dated February 11, 2022

1 KARL H. BERGER, State Bar No. 178458  
2 City Attorney, City of Monterey Park  
3 TIMOTHY E. CAMPEN, State Bar No. 197941  
4 Assistant City Attorney, City of Monterey Park  
5 **HENSLEY LAW GROUP**  
6 2600 W Olive Ave Ste. 500  
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*Exempt from fees pursuant  
to Government Code § 6103*

6 Attorneys for Plaintiff CITY OF MONTEREY PARK  
7 ON BEHALF OF THE PEOPLE OF THE STATE OF CALIFORNIA

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES**

10  
11 IN RE PROPERTY AT: 1688 WEST  
12 GARVEY AVENUE, MONTEREY PARK,  
13 CALIFORNIA

14 Property Owner: Center Int'l Investments, Inc.

**FOURTH STATUS REPORT  
SUBMITTED BY THE CITY  
ATTORNEY FOR THE CITY OF  
MONTEREY PARK ON BEHALF OF  
THE PEOPLE OF THE STATE OF  
CALIFORNIA AND THE CITY OF  
MONTEREY PARK**

15  
16  
17 This Fourth Status Report is submitted in accordance with the Abatement Warrant  
18 issued by the Honorable Suzette Clover on November 17, 2021 affecting the above-captioned  
19 real property. Please refer to the First through Third Status Reports previously filed with the  
20 Court for activities occurring up to February 14, 2022. Since the Third Status Report was filed,  
21 the City undertook the following activities:

- 22 • On February 28, 2022, purchase orders were issued to obtain lumber for the  
23 retaining walls at the Goodviews Abatement Project (“GAP”) site.
- 24 • On March 3, 2022, purchase orders were issued to obtain steel for the retaining  
25 walls at the GAP site.
- 26 • On March 3, 2022, Rincon Consultants was retained as a Storm Water Pollution  
27 Prevention Plan (“SWPPP”) consultant to maintain the GAP weekly inspections  
28 in accordance with California law.

- 1 • On March 3, 2022, C.A. Rasmussen updated a new construction schedule  
2 reflecting that the GAP would take 205 days to complete.
- 3 • On March 3, 2022, the City of Monterey Park issued an Emergency Demolition  
4 Order to all entities engaging in the GAP including, without limitation,  
5 demolition and removal of existing infrastructure at the GAP site for purposes  
6 of removing underground transite pipe (i.e., pipe with asbestos) discovered  
7 during earthmoving at the site on or about February 25, 2022.
- 8 • Pictures demonstrating the progress of the GAP (with drone captured pictures  
9 from June 2021 to show comparison) are attached as Exhibit “A” for reference;
- 10 • On March 7, 2022, a cultural monitor for the Kizh Nation started observations  
11 at the GAP site.
- 12 • On March 8, 2022, the People’s representatives met with representatives from  
13 the South Coast Air Quality Management District (“AQMD”) regarding the  
14 transite pipe.
- 15 • On March 9, 2022, Mr. Chris Conkle, P.E. (from Geosyntec Consultants) filed  
16 a declaration in support of the People’s related nuisance abatement action  
17 stating, in part, that the property owner’s construction plans – as submitted to  
18 the City of Monterey Park in 2021 – cannot be used. All engineering and  
19 construction plans for the GAP must be restarted. A true and correct copy of that  
20 Declaration is attached as Exhibit “B” for reference.
- 21 • On March 10, 2022, the Acting Public Works Director and City Planner, Mr. Jon  
22 Turner, met petitioners in a separate action for a review of the GAP construction  
23 site.
- 24 • During Mr. Turner’s March 10<sup>th</sup> meeting, one of the petitioners informed Mr.  
25 Turner that a private outdoor deck at the top of the GAP site appeared to be  
26 shifting. As a result, Mr. Turner ordered inclinometers to be installed at the GAP  
27 site to measure any soil movement.
- 28 • A proposal for inclinometers, dated March 11, 2022, in the amount of \$49,800


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was approved for installation.

- Removal of the transite pipeline commenced March 11, 2022.
- A court hearing in the underlying nuisance abatement case is scheduled for March 16, 2022 (LASC Case No. BC605788) at 8:30 a.m. The People’s Reply is attached as Exhibit “C” for reference which summarizes the matter.

While no additional Status Reports are currently scheduled in this matter, the People may seek to extend the time for this Abatement Warrant before its expiration on March 31, 2022.

DATED: March 14, 2022

  
\_\_\_\_\_  
Karl H. Berger  
City Attorney for the City of Monterey Park  
*Ex rel.* the People of the State of California

# Exhibit A



“Before”  
Pictures dated on or about June 10, 2021



Pictures dated March 3, 2022



Pictures dated March 3, 2022

# Exhibit B



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place. Additionally, CII's retaining wall design failed to include appropriate resistance to vertical loads.

6. Finally, in consultation with the City's contractor, C.A. Rasmussen, Inc., we have learned that retaining wall anchors (77-88) along the property line pose significant access constraints and related constructability concerns that may make implementing the plans impracticable. Further, as designed, several tieback anchors at five pile locations 8, 9,10,11,12 would have intersected each other in a way that could not be constructed.

7. As a result, the construction plans submitted by CII cannot be used, and the City, or anyone who would be seeking to construct the hillside stabilization, must effectivity start over with engineering and construction plans for this hillside stabilization.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

EXECUTED on this 9<sup>th</sup> day of March, 2022 at Costa Mesa, California.

  
Chris Conkle, P.E., G.E.

# Exhibit C

1 KARL H. BERGER, State Bar No. 178458  
2 City Attorney, City of Monterey Park  
3 TIMOTHY E. CAMPEN, State Bar No. 197941  
4 Assistant City Attorney, City of Monterey Park  
5 JOAQUIN VAZQUEZ, State Bar No. 282528  
6 Deputy City Attorney, City of Monterey Park  
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12 Attorneys for Plaintiff  
13 THE PEOPLE OF THE STATE OF CALIFORNIA

Exempt from fees by  
Government Code § 6103

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **FOR THE COUNTY OF LOS ANGELES**

16 PEOPLE OF THE STATE OF CALIFORNIA, ex.  
17 rel., MARK D. HENSLEY, City Attorney for the  
18 City of Monterey Park,

19 Plaintiffs,

20 v.

21 CENTER INT'L INVESTMENTS, INC., a  
22 California corporation, and  
23 DOES 1 through 25, inclusive,

24 Defendants.

Case No.: BC605788

**REPLY TO OPPOSITION TO PEOPLE'S  
MOTION TO ENFORCE SETTLEMENT  
AGREEMENT PURSUANT TO CCP §  
664.6**

[Filed concurrently with; Declaration of Karl H.  
Berger, Jonathon X. Turner, and Chris Conkle;  
Compendium of Evidence and Exhibits.]

Date: March 16, 2022  
Time: 8:30 a.m.  
Judge: Mel Red Recana  
Dept: 45

Res # 308635144412

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1 **I. INTRODUCTION**

2 The City Attorney<sup>1</sup> for the City of Monterey Park (“City”), on behalf of the People of the  
3 state of California (the “People”), submits this Reply in rebuttal to Center Int’l Investments’ (“CII”)  
4 Opposition to People’s Motion to Enforce Settlement Agreement pursuant to Code of Civil  
5 Procedure § 664.6 (“Opposition”).

6 CII is confused. This is not a contract dispute. It is a law enforcement proceeding by the City  
7 Attorney on behalf of the People of the State of California to abate a public nuisance. The public  
8 nuisance is an ongoing threat that presents a very real and continuing danger to public health and  
9 safety. The People utilized every reasonable effort to cause CII to permanently abate the nuisance  
10 that is present on its property – even to the extent of causing the City of Monterey Park to process a  
11 residential development to accommodate CII’s requests and promised performance. At no point over  
12 12 years of ownership has CII fixed its property despite it having every opportunity to voluntarily do  
13 so. CII could have voluntarily abated the nuisance on its property at any time during the seven years  
14 since the People filed its civil public nuisance complaint. Its persistent and obstinate failure to act  
15 left the People with no choice but to step in and protect the community without further delay.

16 “CII waive[d] any and all rights of notice and hearing” in this case (Settlement Agreement,  
17 section 3; Exhibit B<sup>2</sup>). Simply because the People, in an abundance of caution, sought a court order  
18 to enforce the Settlement Agreement, does not void that waiver. In fact, this Court can completely  
19 disregard CII’s Opposition and any arguments made under their waiver. The ultimate reason for the  
20 People’s action in bringing this Motion to Enforce Settlement Agreement is to obtain a court order  
21 providing clear direction to sworn law enforcement officers who are securing the property in the  
22 event that CII’s representatives interfere with the People’s abatement of the public nuisance. The  
23 People *already have* the right to enter the subject property and abate this public nuisance.

24 With this proper context, the People submit this Reply to CII’s Opposition.

25 ///

26  
27 \_\_\_\_\_  
28 <sup>1</sup> Karl H. Berger was appointed City Attorney for the City of Monterey Park in 2020; the original case caption identifies Mark D. Hensley as the City Attorney. Mr. Hensley is now an Assistant City Attorney for the City of Monterey Park.  
<sup>2</sup> Exhibits A-H referenced herein refer to those submitted with the People’s original Motion.

1 **II. CII FAILED TO ABATE THE PUBLIC NUISANCE**

2 CII dismisses its long history of refusing to abate the public nuisance on its property as  
3 irrelevant. (Opposition, fn. 1.) This is objectively absurd. The People first notified CII of this  
4 public nuisance and requirement to abate it in March 2013. (Campen Dec., Para. 9.<sup>3</sup>) Every day  
5 that the public nuisance exists unabated is a “separate offense.” (Monterey Park Municipal Code  
6 (“MPMC”) § 4.10.010 (b)). From the date of the first administrative citation issued to CII  
7 (Campen Dec., Para. 9.) through just August 1, 2021, amounts to 3,068 separate violations of the  
8 Monterey Park Municipal Code. Providing the Court with the history of this case, and the  
9 virtually countless opportunities provided CII to stabilize the hillside, is absolutely relevant to  
10 understanding why the People are compelled to now abate this public nuisance.

11 After CII failed to meet the deadlines of the Original Settlement Agreement, the People  
12 accommodated CII with a First Amended Settlement Agreement with new deadlines. When CII  
13 failed to meet those new deadlines, the People *again* accommodated CII with new deadlines in  
14 the Second Amended Settlement Agreement.

15 In the revised timeline of the Second Amended Settlement Agreement, CII failed to meet  
16 the following deadlines:

- 17 • January 15, 2021 – “Horizontal permits issues.”
- 18 • February 2, 2021 – “Final Map Recorded.”
- 19 • March 8, 2021 – “Mobilize for Horizontal Improvements.”

20 (Declaration of City Attorney Karl H. Berger (“Berger Dec.”), ¶ 47; Exhibits B, RR.)

21 Additionally, the Second Amended Settlement Agreement required CII to submit its Plan  
22 A plans and seek City Council approval not later than November 4, **2020**; that did not happen  
23 until a full eight months later on the June 16, **2021** Council meeting. (Exhibit B; On Decl., ¶ 8.)

24 Any one of these failures, by itself, was sufficient for the People to commence with  
25 abating the hillside pursuant to the Settlement Agreement. Still, the People provided yet *another*  
26 accommodation for CII to voluntarily abate the public nuisance by demonstrating substantial

27 \_\_\_\_\_  
28 <sup>3</sup> All references to “Campen Decl.” herein refer to the Declaration of Timothy Campen, submitted with the People’s Original Motion to Enforce Settlement Agreement.

1 performance under the Settlement Agreement by August 1, 2021, as determined by the City  
2 acting on behalf of the People. (Berger Dec., ¶ 21.)

3 Despite extensive warnings from the City Attorney (*see, e.g.*, Exhibit T.), CII *still could*  
4 *not get Plan B* underway, even *after this deadline expired*. (Berger Dec., ¶ 26-44.) The People  
5 provided CII with notice it was not fulfilling its obligations under the Settlement Agreement and  
6 gave it more time to voluntarily comply. When CII again failed this,<sup>4</sup> the People determined that  
7 there was no reason to expect CII would ever voluntarily abate the hillside and consequently  
8 invoke its rights under the Settlement Agreement and its police powers to abate this public  
9 nuisance.

10 As noted above, the People and the City could have filed a new public nuisance abatement  
11 case *every day since 2013* to seek compliance. This is in addition to multiple civil and criminal  
12 actions the People and City could have undertaken to compel compliance with the MPMC and  
13 California law. Instead, the People chose to take the “civil” route by filing a civil lawsuit in 2015  
14 to encourage voluntary compliance. (Berger Dec., ¶ 3.) This is in accordance with an underlying  
15 philosophy that achieving voluntary compliance from property owners is in the public interest. .  
16 (Berger Dec., ¶ 3.) Entering into the original Settlement Agreement after CII’s failure to abate,  
17 amending it twice after its failure to abate, and then providing more opportunities to follow  
18 through after failing to meet its obligations are all accommodations to CII’s benefit only – which  
19 it repeatedly squandered. (Exhibit B.) The Settlement Agreement provides nothing to the People  
20 or the City that is not alternatively available to it through applicable law. Because CII refuses to  
21 comply with its obligations under applicable law including, without limitation, the Settlement  
22 Agreement, the City, on behalf of the People, is abating the public nuisance on its own and at  
23 CII’s cost.

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27 \_\_\_\_\_  
28 <sup>4</sup> Declaration of Acting City Planner, Jonathan Turner, P.E., is attached hereto as Exhibit X, which directly rebuts CII’s contentions that the City was responsible for CII’s failures to obtain grading permits by the established deadlines.



1 with the City ... and obtain a Permit *with all due speed*” (emphasis added). Section 1(b) of the  
2 Original Settlement Agreement provides:

3 [f]or good cause shown, such as a delay in permit issuance caused by the City ...  
4 *the City Attorney will extend the time for completing construction ... and such*  
5 *good cause shall be determined in the exercise of his reasonable discretion*. The  
6 progress of the Project shall not be deemed good cause because the obligation to  
7 complete the hillside restoration is independent from the City’s obligation to process  
8 the Project in the normal course of business. (Emphasis added).

7 Section 1(D) of the First Amended and Restated Settlement Agreement states that:

8 [t]he Parties intend for the Original Agreement to be merged and consolidated by  
9 reference into this Agreement. To the extent ... there is a conflict between the  
10 Original Agreement and this Agreement, the terms and conditions of this Agreement  
11 will prevail.”

11 Section 1(H) of the First Amended and Restated Settlement Agreement states that:

12 [t]he Project Schedule ... provides the critical path Schedule for Plan A and Plan B  
13 as contemplated in this Agreement. CII understands and agrees that absent good  
14 cause, *as determined by CITY in its sole discretion* (and contemplated below), the  
15 Project Schedule will not be altered. (Emphasis added).

15 Section 2(B)(iii) of the First Amended and Restated Settlement Agreement states that:

16 [f]or good cause shown, such as a delay in CITY reviewing CII’s proposed  
17 development plans, CITY processing or issuing a grading or building permit ... the  
18 Project Manager *may* extend the time set forth in the Project Schedule by a period  
19 of time equal to the length of the delay. Such an extension of time must be in writing,  
20 executed by both Parties, and included as an operational memorandum ancillary to  
21 this Agreement.

20 Section 3(B) of the First Amended and Restated Settlement Agreement states that:

21 Nothing in this Agreement obligates CITY to exercise its discretion in any particular  
22 manner with respect to Plan A. *Any exercise of CITY’s discretion regarding Plan*  
23 *A in accordance with applicable law cannot be deemed to constitute a breach of*  
24 *Plaintiff’s duties under this Agreement.*” (Emphasis added).

24 Section 4 of the First Amended and Restated Settlement Agreement states that:

25 Nothing in this Agreement is intended to, nor can it, act as a limitation on CITY’s  
26 present or future exercise of municipal powers in accordance with the California  
27 Constitution and applicable law.

27 Section 1(D) of the Second Amended and Restated Settlement Agreement provides, in part, that:

28 The Parties intend for the Original Agreement and the First Amended Agreement to

1 be merged and consolidated by reference into this Agreement. To the extent ... there  
2 is a conflict between the Original Agreement, the First Amended Agreement, and  
3 this Agreement, the terms and conditions of this Agreement will prevail.

4 Section 1(I) of the Second Amended and Restated Settlement Agreement provides, in relevant part,  
5 that:

6 CII understands and agrees that absent Good Cause, *as determined by CITY in its*  
7 *sole discretion* (and contemplated below), the Amended Project Schedule will not  
8 be altered. *“Good Cause” shall mean demonstrated progress and effort by CII in*  
9 *its performance*, delays attributable to the CITY’s review of Plan A project  
10 materials, CITY processing or issuing a grading or building permit, or because of  
11 unusual inclement weather impeding construction.” (Emphasis added).

12 Section 2(B) of the Second Amended and Restated Settlement Agreement provides, in part, that:

13 [i]n the event that Plan B *is not underway by the deadline set forth in the Amended*  
14 *Project Schedule*, CITY may (1) enter the Property, abate the Nuisance, and/or  
15 complete Plan B, and (2) foreclose on the Liens recorded in its favor ... to recover  
16 the cost of completing Plan B.” (Emphasis added).

17 In short, no specific “breach” of some discrete aspect of the Settlement Agreement, including  
18 any final completion deadline, is required for the People take over remediation of the hillside. As  
19 noted by the emphasized language above, the People and CII have always agreed that the City of  
20 Monterey Park (acting on the People’s behalf) would have sole discretion regarding whether CII  
21 was progressing toward completion of abatement of the hillside. Performance issues could be  
22 mitigated by a determination of “good cause” by the City Attorney or the City’s project manager.

23 However (and even assuming that CII had not waived all appeals rights via the Settlement  
24 Agreement, which it has), the only recourse CII would have regarding the People’s (or City’s)  
25 decisions on “good cause” of whether the Plan B was “underway” would, theoretically, be to seek a  
26 writ petition pursuant to Code of Civil Procedure § 1094.6. Yet, CII did not attempt such action. Nor  
27 does CII dispute in its Opposition that it never provided public comment regarding Resolution No.  
28 12255 or made a single objection to the People’s use of August 1, 2021 as the deadline for  
determining CII’s substantial compliance with the Settlement Agreement.

The relevant, written record is very plain that the People and City gave CII every reasonable  
opportunity to comply with the Settlement Agreement. For example, even reading just the project  
schedule for the Second Amended and Restated Settlement Agreement shows that the Plan A public  
hearing was supposed to have been held **November 4, 2020**. (Second Amended Settlement

1 Agreement; Exhibit B.) CII did not bring it before the City Council until June 16, 2021 – eight  
2 months later. (Exhibit D.) Even the COVID-19 pandemic cannot account for this delay.

3 As noted in Resolution No. 12255 (*see* Sections 1 and 3), the City Council considered the  
4 entire history of CII’s property and the entire administrative record. (Exhibit D.) Its decision to  
5 establish a deadline for substantial compliance was entirely reasonable given the totality of  
6 circumstances. Moreover, the written record unambiguously demonstrates the People’s and City’s  
7 restraint in exercising the discretion delegated by the City Council (and other applicable law). In the  
8 end, however, the only conclusion that could be drawn as to determining CII’s compliance with the  
9 Settlement Agreement was that enough was enough (*see*, Berger Dec., ¶ 44).

10 **IV. CII’s OPPOSITION PRESENTS IRRELEVANT ARGUMENTS**

11 A. Failure to complete slope stabilization by either April or September 2022 is not  
12 required for the People to abate the public nuisance.

13 CII contends that “so long as the slope stabilization was completed by the 2022 deadlines  
14 (i.e., either April 5, 2022 [for Plan B] or September 8, 2022 [for Plan A]), CII would be in  
15 compliance with the Settlement Agreement.” (Opposition, p. 12, lines 21-23.) This is simply  
16 wrong.

17 As stated above, Section 2(B) of the Second Amended and Restated Settlement  
18 Agreement provides, in part, that

19 [i]n the event that Plan B ***is not underway by the deadline set forth in the***  
20 ***Amended Project Schedule***, CITY may (1) enter the Property, abate the  
21 Nuisance, and/or complete Plan B.” (Emphasis added).

22 The timelines provided in the amended agreements were obviously put in place to ensure  
23 that CII remained on schedule to complete abatement by specific deadlines (*see, e.g.*, Berger Dec.,  
24 ¶, para. 9.) CII’s interpret the Settlement Agreement to allow it to fail to meet interim deadlines,  
25 yet neither the People nor the City could take any action for failing to perform until the September  
26 8, 2022 deadline to see if Plan A remediation was completed, is patently absurd, directly  
27 contradicts the Settlement Agreement, and violates the People’s continuing obligation to protect  
28 public health and safety.

///  
///

1           B. The Development Agreement is irrelevant to this Motion.

2           This case is a nuisance abatement case brought by the People of the State of California. It  
3 is not – as CII would have the court believe – a breach of the Development Agreement between  
4 CII and the City of Monterey Park. (*see generally* Opposition.) Even discussing the Development  
5 Agreement is a red herring for the court particularly since ***the City of Monterey Park is not a***  
6 ***party to this action***. The City’s involvement with the matter is based on the fact that it is the only  
7 public entity that could process or approve any of CII’s plans and permits for Plan A. It did so.  
8 The People do not have the power to approve such plans and permits and is not a party to the  
9 Development Agreement. CII’s reliance upon the language in the Development Agreement here  
10 is misleading and inappropriate. If it wishes to file suit against the City of Monterey Park for  
11 breach of contract, then it is free to do so after complying with the Government Claims Act.

12           C. The writ petition filed against the City of Monterey Park is irrelevant to this Motion.

13           CII would further like the court to believe that the writ petition (*Save Our Slopes v. City of*  
14 *Monterey Park et seq.*, LASC Case No. 21STCP02365) filed against CII and the City of  
15 Monterey Park (but not the People) really challenging the residential development aspect of the  
16 City’s approvals is relevant to this case. It is not. This is a fact that was told to CII more than  
17 once, i.e., the writ petition did not suspend the timelines in the Settlement Agreement (*see*, Berger  
18 Dec., ¶ 25 [“[w]e continue to move forward with reviewing matters for Plan B since that is an  
19 abatement of a public nuisance.”]; and Berger Dec., ¶ 27 [“if there was a pause on CII’s part  
20 because the writ was filed, that should have not happened and will not change the timeline for  
21 Plan B in the settlement agreement”).

22           Simply put, the writ petition did not prevent CII from proceeding with constructing the  
23 hillside stabilization according to Plan B – or in such a manner that would accommodate a future  
24 residential development.

25           D. The People’s abatement warrant was strictly for temporary “winterization” measures,  
26 and is irrelevant to this Action.

27           CII asserts that when the People obtained an abatement warrant in November of 2021 to  
28 implement temporary winterization measures before the oncoming rainy season, amounted a

1 violation of the Settlement Agreement and “precluded CII from having notice and an opportunity  
2 to be heard with respect to the status of CII’s abatement efforts.” (Opposition, p. 16, lines 19-26.)

3         Setting aside (once again) the fact that CII waived *all rights to notice or a hearing* and that  
4 the People were not required to even obtain an abatement warrant (*see*, Settlement Agreement;  
5 Exhibit B.) the abatement warrant obtained by the People was strictly to implement temporary  
6 measures to protect the hillside from the upcoming rainy season. (Exhibit F.) This was done after  
7 CII failed to properly maintain the Property and after CII’s representatives interfered with the  
8 People’s access to the Property in accordance with the Settlement Agreement. (Declaration of  
9 Jonathon Turner, ¶ 5, filed concurrently herewith.) Much like the instant Motion, the People  
10 sought and obtained an abatement warrant expressly for the purpose of ensuring that sworn law  
11 enforcement officers could detain and, if required, arrest persons interfering with the People’s  
12 nuisance abatement activities. The warrant is limited in time and scope (such as sandbags and  
13 tarps) and does not involve any actions related to the permanent abatement of the hillside. CII’s  
14 argument is irrelevant to the case at hand.

15         E. Neither the People nor the City are interfering with CII’s Ability to Proceed by  
16         engaging with their project management company.

17         CII contends that “[t]he City is now interfering with CII’s contractual relationships with  
18 its project manager (KCM Group), hindering CII’s ability to proceed.” (Opposition, page 17, lines  
19 22-26.) This is inaccurate and irrelevant.

20         The People informed CII in the October 13, 2021 Notice of Default that the City, on  
21 behalf of the People, was taking over the project to abate the hillside, and directed CII not to  
22 interfere. (Exhibit E.) The City did not contact KCM Group until late December 2021; the  
23 contract for services was executed January 19, 2022<sup>6</sup> – months after CII was no longer able to  
24 proceed on the project anyway. (Berger Dec., ¶¶ 18 & 19.) Whether KCM Group breached a  
25

26 <sup>6</sup> The City contracted with KCM to reduce costs and construction timelines for the Goodviews Abatement Project  
27 (“GAP”). The City’s initial cost estimates for creating construction drawings to implement the GAP were significant and  
28 led to longer delays in constructing the GAP. It was the City’s understanding that KCM Group possessed the plans and  
specifications for “Plan B2” and could provide them to the City’s contractor for construction. As it turns out, this was  
incorrect. Contrary to the assertions by CII in its Opposition, there are no usable plans and specifications (*see*, Declaration  
of Chris Conkle, filed concurrently herewith; *see also*, Berger Dec., ¶¶ 18 and 19).

1 contract with CII is beyond the scope of this Motion and a civil matter between those entities.

2 F. The People took all reasonable steps to assist CII

3 CII asserts that it “approached the City and asked if could start the remediation process in  
4 anticipation of the approvals being given by the City to gain some time” (*see*, Opposition, p.8,  
5 ln.18-20). It is unclear what CII is relying upon to make this assertion. The *written* record makes  
6 it plain that the *City* was asking CII to submit paperwork well *before* the June 16, 2021 City  
7 Council hearing (*see*, Berger Dec., ¶ 15 [communication June 2, 2021]; Berger Dec., ¶ 16  
8 [communication June 3, 2021]; Berger Dec., ¶ para 17 [communication June 14, 2021:  
9 “completion of the infrastructure is September 2022. Your client should have been working on  
10 this earlier this year.”]; Berger Dec., ¶ 17 [communication June 15, 2021 “[y]ou and I both know  
11 what caused the hearing delays. And we both know that is not the City’s problem. Just so we are  
12 clear.”].)

13 **IV.**

14 **CONCLUSION**

15 For the forgoing reasons and those stated in the People’s Original Motion to Enforce  
16 Settlement Agreement, the People of the State of California request this Court’s acknowledgement  
17 that City of Monterey Park, on behalf of the People, may proceed without interference from CII to  
18 abate the hillside slope on Property, which is a public nuisance and presents a continuing threat to  
19 public health and safety.

20  
21 DATED: March 9, 2022

Respectfully submitted,  
Karl H. Berger, City Attorney  
HENSLEY LAW GROUP

22  
23  
24 

25 By: Timothy E. Campen, Assistant City Attorney  
26 Attorneys for Plaintiff, THE PEOPLE OF THE  
STATE OF CALIFORNIA

# Resolution Attachment 2

**DECLARATION OF JONATHON M. TURNER, P.E.**

I, JONATHON M. TURNER, hereby declare as follows:

1. I am a credentialed civil engineer with the State of California, Credential No. CE60214, by State Board of Professional Engineers, Land Surveyors and Geologists, and have been so licensed since February 2000. I am also credentialed as a Qualified SWPPP (stormwater pollution prevention plan) Developer, Certificate 00807, with the California State Water Resources Control Board. I hold a Bachelor of Science degree in civil engineering from California Polytechnic State University, San Luis Obispo. I am the President and Principal Engineer for Phoenix Civil Engineering, Inc., based out of Santa Paula, California. I have extensive experience in the area of analyzing geotechnical reports, construction plans, and engineering plans regarding the stability and remediation of slopes, as well as project management and implementation of slope stability and remediation. I have prepared Storm Water Pollution Prevention Plans for numerous projects public and private and am well versed in the requirements of the SWRCB with respect to Best Management Practices (BMPs) implementation and maintenance. I have personal knowledge of the facts stated in this Declaration, unless stated on information and belief, in which case, I believe the facts to be true, and if called as a witness, I could and would competently testify thereto.

2. This Declaration is made in support of the City of Monterey Park on behalf of the People of the State of California's ("City") *ex parte* Application for an Abatement Warrant for the property commonly known as 1688 W. Garvey in the City of Monterey Park, California 91754 (APN 5254-002-031) (the "Property").

3. I have been duly appointed and authorized to act as the Acting City Planner on behalf of the City of Monterey Park concerning the slope abatement and proposed

1 development of the Property since January 2019.

2 4. The months of November through April account for the vast majority of average  
3 annual rainfall in Los Angeles County. The dates of November through April are recognized  
4 by the regulatory agencies as the rainy season for the purposes of implementation of storm  
5 water “best maintenance practices” (“BMPs”) for construction sites.  
6

7 5. Based on information and belief, the Property’s hillside has previously been  
8 subject to catastrophic failure in 1984, requiring the City to remove soils debris from the  
9 roadway and install a soils debris impact wall that is located along a portion of the Property  
10 line along W. Garvey Avenue. There has been no substantive remediation to the hillside since  
11 that time, and implementation of plans approved by the City of Monterey Park for new,  
12 permanent retaining walls is necessary to secure the hillside.  
13

14 6. Based on information and belief, the property owner had developed an approved  
15 winterization plan for the parcel on or about May 2018, to be implemented until permanent  
16 retaining walls are constructed. On or about September 2019, CII was required to update the  
17 winterization plan for the Property, which was signed and submitted in November 2019. The  
18 term “winterization” refers to measures taken to mitigate erosion and risk of slope failure due  
19 to water infiltration from seasonal rain and weather. A true and accurate copy of the  
20 winterization plan is attached hereto as Exhibit G.  
21  
22

23 7. On February 20, 2019, I issued to CII’s representative a letter of noncompliance  
24 of the required winterization, noting that, among other things, soils debris from the hillside  
25 had fallen onto W. Garvey Avenue. A year later on February 12, 2020, I issued another letter  
26 of noncompliance of the required winterization of the hillside and warned CII that failure to  
27 comply with the approved winterization plan could result in default of the Settlement  
28

1 Agreement with the City. True and accurate copies of the letters of non-compliance are  
2 attached hereto as Exhibit H.

3 8. On October 20 and November 10, 2021, I re-inspected the Property concerning  
4 the condition and erosion mitigation of the hillside slope, of the Property facing Garvey  
5 Avenue. I observed that plastic sheeting intended to minimize water intrusion into the slope  
6 was blown apart in multiple locations. Sandbags have degraded to the point where the sand  
7 is leaking out of the bags in multiple locations. The efforts intended to act as erosion and water  
8 intrusion control measures have not been properly maintained since I have been appointed  
9 Acting City Planner for the Property, which is contributing to exacerbate the potential failure  
10 of the hillside slope. True and accurate photos of the condition of the Property on October 20  
11 and November 10, 2021, attached hereto as Exhibit I.

14 9. The existing hillside plastic tarps need to be removed and replaced, as they have  
15 reached their lifespan due to exposure and failure to be properly secured.

17 10. All of the existing sandbags onsite need to be removed and replaced with gravel  
18 filled bags to avoid sand migration and clean up issues after failure. The Property owner  
19 appears to have placed more sandbags over the failed bags, which is an unacceptable practice.  
20 Further, the existing sandbags direct the flow of water in an uncontrolled manner which results  
21 in storm water flowing at a high velocity into the vehicle lanes on W. Garvey Avenue.

23 11. On November 10, 2021, I inspected the Property with a representative of Gothic  
24 Landscape, whom the City intends to hire for winterization services concerning the Property.  
25 Gothic Landscape is an established industry contractor that specializes in installation,  
26 maintenance and removal of storm water BMPs for construction sites. I have provided Gothic  
27 Landscape with the approved Erosion Control Plan that is to be employed for the hillside  
28

1 stabilization project. The Erosion Control Plan (“Mitigation Plan”) is appropriate for the  
2 hillside slope pending permanent remediation.

3 12. Fulfilling the Mitigation Plan will require hundreds of gravel-filled sandbags  
4 strategically placed on the hillside. Further, approximately two acres of tarp will need to be  
5 secured along the slope. It is anticipated this initial effort will take up to 10 working days.  
6

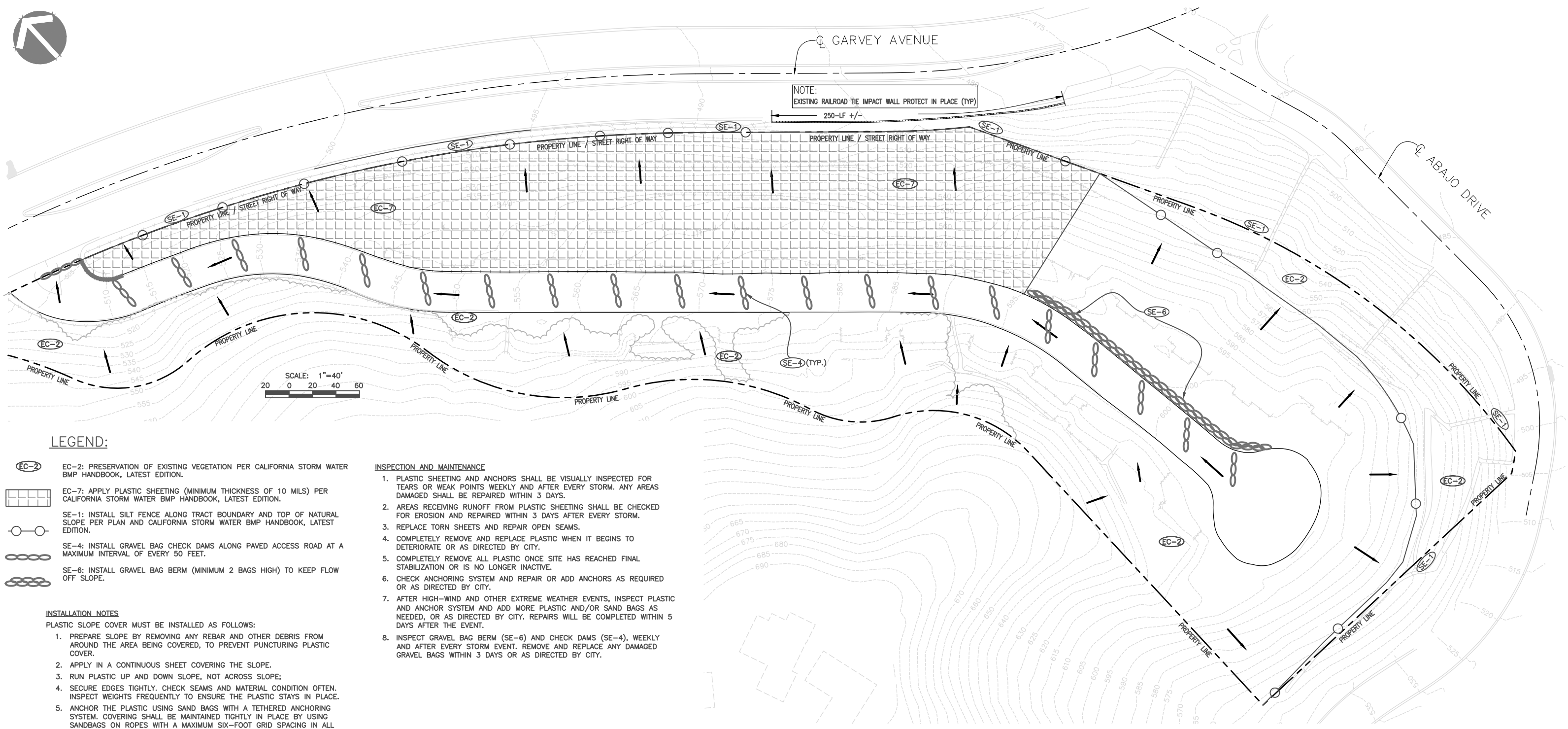
7 13. On going maintenance will require returning to the site on a weekly basis, or as  
8 required by inclement weather, to ensure the integrity of the Mitigation Plan. Maintenance of  
9 these temporary mitigation measures will cease once work begins by a grading contractor to  
10 begin implementation of Plan B, at which time the grading contractor will assume  
11 responsibility of the hillside. This is expected to occur anywhere between January and April  
12 of 2022, at which time the need for this abatement warrant will not longer be necessary.  
13  
14

15  
16 I declare under penalty of perjury under the laws of the State of California that the  
17 foregoing is true and correct to the best of my knowledge.  
18






19 EXECUTED on this 15th day of November, 2020 at Santa Paula, California.  
20

21  
22   
23 \_\_\_\_\_  
24 Jonathon M. Turner  
25  
26  
27  
28

# Exhibit G



**LEGEND:**

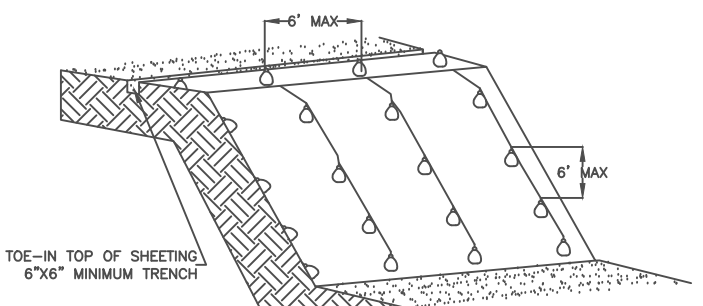
-  EC-2: PRESERVATION OF EXISTING VEGETATION PER CALIFORNIA STORM WATER BMP HANDBOOK, LATEST EDITION.
-  EC-7: APPLY PLASTIC SHEETING (MINIMUM THICKNESS OF 10 MILS) PER CALIFORNIA STORM WATER BMP HANDBOOK, LATEST EDITION.
-  SE-1: INSTALL SILT FENCE ALONG TRACT BOUNDARY AND TOP OF NATURAL SLOPE PER PLAN AND CALIFORNIA STORM WATER BMP HANDBOOK, LATEST EDITION.
-  SE-4: INSTALL GRAVEL BAG CHECK DAMS ALONG PAVED ACCESS ROAD AT A MAXIMUM INTERVAL OF EVERY 50 FEET.
-  SE-6: INSTALL GRAVEL BAG BERM (MINIMUM 2 BAGS HIGH) TO KEEP FLOW OFF SLOPE.


**INSPECTION AND MAINTENANCE**

1. PLASTIC SHEETING AND ANCHORS SHALL BE VISUALLY INSPECTED FOR TEARS OR WEAK POINTS WEEKLY AND AFTER EVERY STORM. ANY AREAS DAMAGED SHALL BE REPAIRED WITHIN 3 DAYS.
2. AREAS RECEIVING RUNOFF FROM PLASTIC SHEETING SHALL BE CHECKED FOR EROSION AND REPAIRED WITHIN 3 DAYS AFTER EVERY STORM.
3. REPLACE TORN SHEETS AND REPAIR OPEN SEAMS.
4. COMPLETELY REMOVE AND REPLACE PLASTIC WHEN IT BEGINS TO DETERIORATE OR AS DIRECTED BY CITY.
5. COMPLETELY REMOVE ALL PLASTIC ONCE SITE HAS REACHED FINAL STABILIZATION OR IS NO LONGER INACTIVE.
6. CHECK ANCHORING SYSTEM AND REPAIR OR ADD ANCHORS AS REQUIRED OR AS DIRECTED BY CITY.
7. AFTER HIGH-WIND AND OTHER EXTREME WEATHER EVENTS, INSPECT PLASTIC AND ANCHOR SYSTEM AND ADD MORE PLASTIC AND/OR SAND BAGS AS NEEDED, OR AS DIRECTED BY CITY. REPAIRS WILL BE COMPLETED WITHIN 5 DAYS AFTER THE EVENT.
8. INSPECT GRAVEL BAG BERM (SE-6) AND CHECK DAMS (SE-4), WEEKLY AND AFTER EVERY STORM EVENT. REMOVE AND REPLACE ANY DAMAGED GRAVEL BAGS WITHIN 3 DAYS OR AS DIRECTED BY CITY.

**INSTALLATION NOTES**

- PLASTIC SLOPE COVER MUST BE INSTALLED AS FOLLOWS:
1. PREPARE SLOPE BY REMOVING ANY REBAR AND OTHER DEBRIS FROM AROUND THE AREA BEING COVERED, TO PREVENT PUNCTURING PLASTIC COVER.
  2. APPLY IN A CONTINUOUS SHEET COVERING THE SLOPE.
  3. RUN PLASTIC UP AND DOWN SLOPE, NOT ACROSS SLOPE;
  4. SECURE EDGES TIGHTLY. CHECK SEAMS AND MATERIAL CONDITION OFTEN. INSPECT WEIGHTS FREQUENTLY TO ENSURE THE PLASTIC STAYS IN PLACE.
  5. ANCHOR THE PLASTIC USING SAND BAGS WITH A TETHERED ANCHORING SYSTEM. COVERING SHALL BE MAINTAINED TIGHTLY IN PLACE BY USING SANDBAGS ON ROPES WITH A MAXIMUM SIX-FOOT GRID SPACING IN ALL DIRECTIONS.
  6. ALL SEAMS SHALL BE TAPED FOR THE FULL LENGTH OF THE SEAM. A MINIMUM OF 12" OVERLAP OF ALL SEAMS IS REQUIRED.
  7. PLACE PLASTIC INTO A SMALL SLOT TRENCH (6-INCH WIDE BY 6-INCH DEEP) AT THE TOP OF THE SLOPE AND BACKFILL WITH SOIL TO KEEP WATER FROM FLOWING UNDERNEATH; NO RUNOFF SHALL RUN UNDER THE PLASTIC COVERING.
  8. PLACE SAND FILLED GEOTEXTILE BAGS EVERY 3 TO 6 FEET ALONG SEAMS. SAND BAGS MAY BE LOWERED INTO PLACE TIED TO ROPES.
  9. PLASTIC SHEETING SHALL HAVE A MINIMUM THICKNESS OF 10 MILLIMETERS.
  10. IF EROSION AT THE TOE OF A SLOPE IS OBSERVED, A GRAVEL BERM, RIPRAP, OR OTHER SUITABLE PROTECTION SHALL BE INSTALLED AT THE TOE OF THE SLOPE IN ORDER TO REDUCE THE VELOCITY OF RUNOFF.
  11. INSPECT PLASTIC WEEKLY FOR RIPS, TEARS, AND OPEN SEAMS AND REPAIR IMMEDIATELY.



CITY OF MONTEREY PARK		SHEET 1 OF 1
WINTERIZATION EROSION CONTROL PLAN FOR 1688 W. GARVEY AVENUE - EXISTING SITE		
EROSION CONTROL PLAN		
APPROVED		PRINT DATE: 2019-09-05
Acting City Planner		

**CONSTRUCTION MANAGEMENT:**  
KCM GROUP  
1940 GARNET AVENUE, SUITE 300  
SAN DIEGO, CA 92109  
TEL: (858) 273-5400  
FAX: (858) 273-5455  
E-MAIL: www.kcmgroup.net

**DEVELOPER:**  
CENTER INT'L INVESTMENTS, INC.  
501 W. GARVEY AVE. #207  
MONTEREY PARK, CA 91754  
TEL: (626) 379-3268  
FAX: (626) 282-8605  
E-MAIL: www.centerintinvestments.com

**PROJECT ARCHITECT**  
SLSD  
1414 FAIR OAKS AVENUE, STE 2  
SOUTH PASADENA, CA 91030  
TEL: (626) 799-8818  
FAX: (626) 799-8823  
E-MAIL: www.slsdinc.com

**SOIL / GEOTECHNICAL ENGINEER:**  
ADVANCED GEOTECHNICAL SOLUTIONS, INC.  
485 CORPORATE DRIVE, SUITE B  
ESCONDIDO, CA 92029  
TEL: (714) 786-5661  
FAX: (714) 409-3287  
E-MAIL: www.adv-geosolutions.com

**CIVIL ENGINEER:**  
FOCUS ENGINEERING, INC.  
CIVIL ENGINEERS LAND SURVEYORS  
25 MAUCHLY, SUITE 317  
IRVINE, CA 92618  
TEL: (949) 450-0590  
FAX: (949) 450-0592  
E-MAIL: focusengring@sbcglobal.net

**EARTH RETENTION DESIGNER:**  
DRS ENGINEERING INC.  
3564 SAGUNTO ST. #486  
SANTA YNEA, CA 93460  
TEL: (818) 402-3962  
FAX: (818) 276-1322  
E-MAIL: DRS@DRS-ENGINEERING.NET

REVISIONS	
NO.	DESCRIPTION

# Exhibit H

# CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896  
[www.montereypark.ca.gov](http://www.montereypark.ca.gov)



---

**City Council**  
Peter Chan  
Mitchell Ing  
Stephen Lam  
Hans Liang  
Teresa Real Sebastian

**City Clerk**  
Vincent D. Chang

**City Treasurer**  
Joseph Leon

February 20, 2019

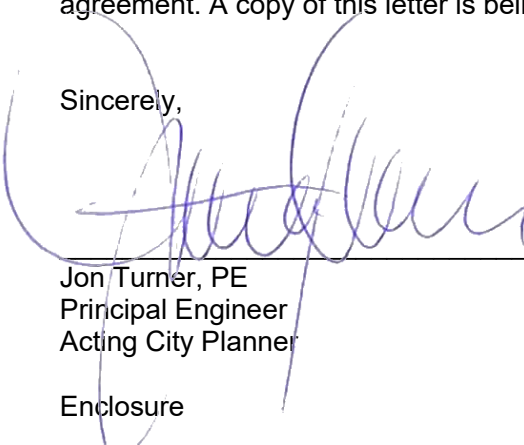
Mr. Robert Garrison  
Director of Consulting Services  
Murow|CM  
1151 Duryea Ave  
Irvine, CA 92614

## **1688 W. Garvey Ave – Site Slope Winterization Remediation Requirements – Supplemental Visit**

I visited the project site boundary again after the first noncompliance letter was sent out on 2/11/19 regarding the slope winterization. This was after I was assured that the slope protection would be brought into compliance. I have included updated photos of the current condition of the slope. It appears that some work was performed; however, other areas were not completed. It is unclear why the identified deficiencies were not completely addressed. Additionally, there is soil debris that the site driveway on Garvey Ave. This needs to be swept up and removed from the public right of way.

Based on the condition of the winterization measures at the time of my second site visit, it is my opinion that the erosion protection system is still not in compliance at the locations shown on the attached photo log. Please remediate these issues by Friday, February 22, 2019 and notify me when the effort is completed. Failure to comply with this requirement will result in additional code enforcement action including, without limitation, the City issuing a notice of violation and notice of default under the settlement agreement. A copy of this letter is being forwarded to Karl H. Berger, Assistant City Attorney.

Sincerely,



---

Jon Turner, PE  
Principal Engineer  
Acting City Planner

Enclosure



Slope View from Abajo Drive Looking North – Plastic Sheetting Remnants Still Present



Garvey Ave - Gaps in Slope Plastic Sheetting Requiring Repair



Garvey Ave - Gaps in Slope Plastic Sheeting Requiring Repair



Garvey Ave - Deteriorated Plastic Sheeting Still Present



Garvey Ave - Gaps in Slope Plastic Sheeting Requiring Repair and Deteriorated Sheeting Requiring Replacement Still Present



Garvey Ave - Gaps in Slope Plastic Sheeting Requiring Repair and Deteriorated Sheeting Requiring Replacement

# CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896  
[www.montereypark.ca.gov](http://www.montereypark.ca.gov)



---

**City Council**  
Peter Chan  
Mitchell Ing  
Stephen Lam  
Hans Liang  
Teresa Real Sebastian

**City Clerk**  
Vincent D. Chang

**City Treasurer**  
Joseph Leon

February 12, 2020

Mr. Gordon Kovtun  
KCM Group  
1900 Garnet Ave. #300  
San Diego, CA 92109

## **1688 W. Garvey Ave – Site Slope Winterization Remediation Requirements – Site Visit**

I visited the project site on 2/09/20 to review the installation of the slope winterization. This was after I was notified by the City that the slope protection was a concern to nearby residents. I have included photos of the current condition of the slope. It appears that some work is needed on the slope to bring it into compliance with the approved project plans.

Based on the condition of the winterization measures at the time of my site visit, it is my opinion that the erosion protection system is not in compliance at the locations shown on the attached photo log. Please remediate these issues by Friday, February 14, 2020 and notify me when the effort is completed. Failure to comply with this requirement will result in additional code enforcement action including, without limitation, the City issuing a notice of violation and notice of default under the settlement agreement.

Sincerely,

---

Jon Turner, PE  
Principal Engineer  
Acting City Planner

Enclosure

Monterey Park Development - Winterization Photo Log



IMG\_0261



IMG\_0262

Monterey Park Development - Winterization Photo Log



IMG\_0263



IMG\_0264

Monterey Park Development - Winterization Photo Log



IMG\_3871



IMG\_3872

Monterey Park Development - Winterization Photo Log



IMG\_3873



IMG\_3874

Monterey Park Development - Winterization Photo Log



IMG\_3875



IMG\_3876

Monterey Park Development - Winterization Photo Log



IMG\_3877



IMG\_3878

# Exhibit I

# 1688 W. Garvey Photos – Nov. 10, 2021







# Resolution Attachment 3

# CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896  
[www.montereypark.ca.gov](http://www.montereypark.ca.gov)



---

**City Council**  
Peter Chan  
Hans Liang  
Henry Lo  
Yvonne Yiu

**City Clerk**  
Vincent D. Chang

**City Treasurer**  
Joseph Leon

May 12, 2022

*Sent via First Class U.S. Mail and Certified Mail*

Center Int'l Investments, Inc.  
Attn: Karrie On, Chief Executive Officer  
501 West Garvey, Suite 207  
Monterey Park, CA 91754

Re: Letter dated April 12, 2022 regarding Development Agreement

Dear Ms. On:

This letter responds to that sent by Center Int'l Investments, Inc. ("CII") attorneys dated April 12, 2022 regarding Development Agreement No. DA-21-01 adopted by Ordinance No. 2211 on July 17, 2022 (the "DA"). Pursuant to Section 21 of the DA, notices are sent to your attention at the above address with a courtesy copy to CII's attorneys. Note that the City's notices to the above address are being returned as undeliverable; absent an update to the DA, however, the City will continue sending notices to the above address.

CII's attorneys originally sent prior version of the April 12<sup>th</sup> letter to the City Attorney only. Per Section 21 of the DA, however, all notices must be sent to the City with a courtesy copy to the City Attorney. I am responding here on the City's behalf since the properly served April 12<sup>th</sup> letter alleges that the City is in breach of the DA as to issuing grading permits and cooperating with CII in existing litigation. Unsurprisingly, the City disagrees with CII's contentions. CII's letter is an obvious misrepresentation of the truth, and its allegations are easily refuted with written documentation.

➤ Grading Permit

At the outset, note that the DA did not become effective until August 16, 2021. Anything before that date, therefore, could not legally constitute a breach of contract. Identifying alleged actions or inactions as being breaches of the DA in June and July is nonsensical.

CII asserts it filed a grading permit application on June 18, 2021. That is inaccurate. The document "filed" by CII on June 18, 2021 was returned as it was incomplete. A *complete* grading permit application was not filed until *August 19, 2021*. This occurred only after the City Attorney emailed

CII's representatives on August 9, 2021 and August 10, 2021. All documents are enclosed for your reference.

CII's allegation of the City failing to process the grading permit in a timely manner is also inaccurate. After the Acting City Planner (and Project Manager) returned the grading permit application with comments on June 30, 2021, there was no response from CII for a month. In fact, on July 30, 2021 the Acting City Planner contacted CII's project manager to inquire of the status of the application considering the grading permit deadline was August 1, 2021. CII still did not return the application until August 9, 2021, to which the City Planner returned it the very next day with more comments, repeating that deficiencies previously identified were not addressed. Issues with providing a required storm water pollution prevention plan compliant with California law followed a similar pattern of back and forth through September 23, 2021. At every turn, the City responded to CII's permit application submissions in less time than the typical turn around for such permits, and often within a day or two.

In addition to multiple email communications from the City Attorney and the City's Project Manager to CII's representatives (including CII's counsel) commencing at the beginning of July – all of which urged CII to obtain a grading permit immediately – I issued a Notice of Breach dated August 25, 2021. That letter provided CII an opportunity to cure its breach of the settlement agreement with the People by obtaining a grading permit not later than August 31, 2021. A copy of that letter is enclosed for your convenience.

*Even after* CII failed to obtain a permit by the extended August 31, 2021 deadline, the City *still* exerted every reasonable effort to have CII obtain a grading permit. That includes email communications from the City Attorney to Mr. Alfred Fraijo dated August 31, 2021; a phone call with Mr. Fraijo on August 31, 2021; additional email correspondence on September 1, 2021; more email correspondence on September 3, 2021; another email on September 7, 2021; and again on September 9, 2021. All of these communications are in your counsel's possession. Yet, CII did not submit the necessary paperwork with required corrections until on or about September 23, 2021 – long after the August 31<sup>st</sup> extended deadline.

Pursuant to Monterey Park Municipal Code ("MPMC") Chapter 16.21 and California Building Code ("CBC") § 105.3.2, CII's application for a grading permit expired either on December 20, 2021 (if one uses CII's erroneous claim of June 18, 2021) or March 18, 2022 (if one uses the September 23, 2021 date on the completed application). In either event, CII's permit application expired well before the April 12<sup>th</sup> letter alleging a breach of the DA. The City cannot issue a permit for which no application exists.

The April 12<sup>th</sup> letter also complains that CII's project manager "inquired about the status of the grading permits" on October 5, 2021. It is unclear why that would have occurred since CII was well-informed that it was required to obtain grading permits not later than August 31<sup>st</sup>. Even if, however, one accepts CII's rendition of events – which is easily contradicted – the City does not have any record of CII filing the administrative appeal required by CBC § 113, as adopted by the MPMC. An appeal of any permit decision must be perfected to the Construction Appeals Board within 20 days from the date of that decision. In Monterey Park, the Planning Commission acts as the Construction Appeals Board. By any calculation of time, therefore, CII waived its objections to the City's processing of the grading permit application since it failed to file an administrative appeal.

In sum, the City cannot be in breach of the DA for failing to issue a grading permit as there are currently no pending permit applications for processing. Additionally, CII failed to pursue the necessary administrative remedies required to appeal any contention of a permit denial, obviating any requirement for reconsideration.

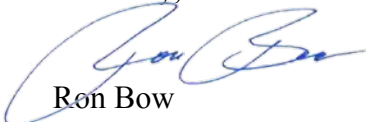
➤ Third-Party Lawsuit

The April 12<sup>th</sup> letter also complains that the City did not cooperate in the pending case captioned *Save Our Slopes v. City of Monterey Park, et al.* (filed July 21, 2022) LASC Case No. 21STCP02365 (“SOS Case”). Again, CII’s complaints and revisionist history are directly contradicted in writing.

In a series of email and other correspondence (all of which CII and its attorneys possess), it is plain that (1) the City Attorney tendered the defense of the SOS Case to CII on July 20, 2021 along with the recommendation regarding a joint defense agreement; (2) the City Attorney followed up on August 3, 2021 confirming the tender; (3) on August 9 and August 10, 2021, the City Attorney demanded execution of the joint defense agreement that still had not been completed; (4) the City Attorney’s office was informed on or about September 17, 2021, that CII had not accepted the City’s defense tender; (5) this was confirmed in writing by CII’s counsel on September 21, 2021; (6) on September 21, 2021, the City Attorney noted that the SOS Case should have been already resolved and that the City “will simply part company with CII and settle on its own” if CII did not fulfill its obligations by the end of September; (7) on October 13, 2021, the City issued a Notice of Default which, among other things, noted that because CII failed to defend and indemnify, the City would “separately and independently” settle the SOS Lawsuit; (8) on October 20, 2021, the City Attorney noted that CII’s failure to defend and indemnify the City was “astounding.” The City is defending its rights in the SOS Lawsuit since CII refused to do so. Neither an actual court nor the court of public scrutiny will view such action as a breach of the DA.

CII was provided ample opportunity to act in good faith as to its obligations to abate the public nuisance on its property independent of any residential development. It failed to fulfill its legal duties despite years of being warned about the consequences. The City’s actions, on behalf of the People of the State of California, cannot be characterized as anything but foreseeable. Apparently, notwithstanding the written record, CII seeks to engage in alternative facts to fit its own narrative. In doing so, it misrepresents itself to the City Council and to the public.

Sincerely,



Ron Bow  
City Manager

C: Mayor and City Council Members  
Karl H. Berger, City Attorney  
Alfred Fraijo, CII Counsel

# CITY OF MONTEREY PARK

320 West Newmark Avenue • Monterey Park • California 91754-2896  
[www.montereypark.ca.gov](http://www.montereypark.ca.gov)



---

**City Council**  
Yvonne Yiu  
Henry Lo  
Fred Sornoso  
Hans Liang  
Peter Chan

**City Clerk**  
Vincent D. Chang

**City Treasurer**  
Joseph Leon

August 25, 2021

*Sent via First Class U.S. Mail and Certified Mail*

Center Int'l Investments, Inc.  
Attn: Karrie On, Chief Executive Officer  
501 West Garvey, Suite 207  
Monterey Park, CA 91754

Re: **Notice of Breach – Opportunity to Cure**  
**1688 Garvey Avenue aka the “Goodviews” project**

Dear Ms. On:

As you are aware, on June 16, 2021 the City Council adopted Resolution No. 12255. Section 3 of that Resolution delegated authority to me for determining whether CII was making substantive progress toward completing Plan B as required by the Settlement Agreement. CII's deadline was August 1, 2021.

Despite repeated efforts by the City's representatives, CII's team failed to even obtain a grading permit to commence work on Plan B. Indeed, the City still has not received all of the plans needed to issue permits. It is apparent that CII is in breach of the Settlement Agreement. Consequently, I am selecting a contractor to complete the Plan B construction on the City's behalf in accordance with Resolution No. 12255.

Since the selection of a contractor will take a few days, the City is offering CII a five day opportunity to cure. Accordingly, all required documents must be filed with the City – and a grading permit must be issued – not later than end of business on August 31, 2021.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ron Bow".

Ron Bow  
City Manager

C: Honorable Mayor, Mayor Pro Tem, and City Councilmembers  
Karl H. Berger, City Attorney  
Mr. Alfred Fraijo, Jr., Esq.

**From:** Karl Berger <[kberger@hensleylawgroup.com](mailto:kberger@hensleylawgroup.com)>  
**Sent:** Monday, August 9, 2021 9:59 AM  
**To:** Alfred Fraijo Jr. <[afraijo@sheppardmullin.com](mailto:afraijo@sheppardmullin.com)>  
**Cc:** Jon Turner <[jturner@phoenixcivil.com](mailto:jturner@phoenixcivil.com)>; Whitney Hodges <[WHodges@sheppardmullin.com](mailto:WHodges@sheppardmullin.com)>; Tim Campen <[tcampen@hensleylawgroup.com](mailto:tcampen@hensleylawgroup.com)>; Bow, Ron <[rbow@montereypark.ca.gov](mailto:rbow@montereypark.ca.gov)>; [ialvarez@montereypark.ca.gov](mailto:ialvarez@montereypark.ca.gov)  
**Subject:** MP - Goodviews Development

Good morning –

Given the radio silence on this, I guess I will need to crack the whip – again.

1. JDA must be executed today;
2. Permit application (2 pages!!) must be submitted by end of business tomorrow;
3. Status report regarding all outstanding matters – if you don't know what they are, Jon will be happy to provide them – must be provided by end of day Wednesday;
4. If, by Friday, none of these deadlines are implemented, the City will issue the notice of breach on Monday and take over Plan B as a public project. That means it will be selecting its own contractor, etc.

As I've said for years now, I expect open communication on this and substantive progress.

Also, FYI, the City will be engaging affected neighbors regarding truck traffic, dirt hauling, etc. I anticipate that happening within the next 1-2 weeks.

I trust that I've made myself clear. Thanks.

Karl H. Berger

<image003.jpg>

2600 W. Olive Avenue, Suite 500  
Burbank, California 91505  
818-333-5120 Office  
661-644-5476 Mobile  
[kberger@hensleylawgroup.com](mailto:kberger@hensleylawgroup.com)  
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On Aug 10, 2021, at 8:35 AM, Karl Berger <kberger@hensleylawgroup.com> wrote:

Hi Alfred –

I do not understand why we are once again in the foot dragging stage of things; I had such high hopes. Yet, no JDA provided. And, since that simple item was not completed, I'm not holding my breath for the permit application.

I will be preparing the notice of breach for Ron's signature.

Sigh.

Karl H. Berger



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Burbank, California 91505  
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# City of Monterey Park GRADING PERMIT



**Permit Expires 6  
Months from Date of  
Issuance!**

Permit Number: \_\_\_\_\_

Date Issued: \_\_\_\_\_

## THIS GRADING PERMIT SHALL BE VALID UPON SIGNING BY THE CITY ENGINEER OR HIS AUTHORIZED REPRESENTATIVE

I hereby request permission to grade or construct, by private contract, certain grading work and related improvements upon property described below, and agree to perform all work in accordance with all provisions of Section 16.21, "Excavation and Grading," of the Monterey Park Municipal Code, any special requirements of the Permit, the Plans, and General and Special Provisions approved by the City Engineer.

All grading shall be in accordance with the approved grading plan and under the supervision of the responsible parties indicated below. I am aware that if the actual conditions encountered in the field differ from the information submitted that it is my responsibility to bring it to the attention of the City and request a revision to the plans and permit requirement. Failure to do so violates the permit requirements and constitutes non-compliance.

I am aware that in the interest of public safety, special regulations apply in hillside areas and that geological or engineering reports (or both) may be required before a permit is issued. If excavated materials are to be obtained from, or are to be disposed of, on a separate, non-contiguous site located within the City of Monterey Park, a separate Grading Permit shall be required for that site also.

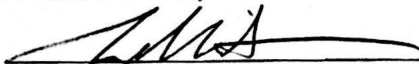
***I am also aware that a compaction report for the building(s) footprint and a rough grading certificate signed by the Soils Engineer and the Supervising Grading Engineer must be submitted to the City Engineer's Office for review and approval prior to the issuance of a building permit for the subject site.***

***A 12' x 20' (min.) construction driveway shall be constructed of 1" thick asphalt pavement or 2" thick 3/4" gravel to prevent dirt from being deposited onto the public right-of-way. This driveway shall be constructed and maintained from the clearing stage of the project until the construction of the permanent driveway.***

- Owner's Name Center Int'l Investments Phone (\_\_\_\_) 626-379-3268  
Address: 501 W. Garvey Ave #207  
Monterey Park, CA Zip: 91754
- Address of Site: 1688 W. Garvey Ave  
Lot Number(s) 1 Tract No. 75023
- Scale plans, drawings and quantities prepared and signed by:  
Name: Focus Engineering Inc. Phone (\_\_\_\_) 949-450-0590  
Address: 25 Mauchly, Suite 317  
Irvine, CA Zip: 92618
- Soils Testing Agency: Same as Geologist  
Address: \_\_\_\_\_  
\_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: (\_\_\_\_) \_\_\_\_\_ State License No. \_\_\_\_\_

5. Engineering Geologist: Advanced Geotechnical Services  
 Address: 485 Corporate Drive, Suite B  
Escondido, CA Zip: 92029  
 Phone: ( ) 714-786-5661 State License No. GE 2790
6. Grading Contractor: McWong Holding Company  
 Address: 809 S Atlantic Blvd #201  
Monterey Park, CA Zip: 91754  
 Phone: ( ) 626-570-9969 State License No. 685220
7. Hauling Contractor: McWong Holding Company  
 Address: 809 S Atlantic Blvd #201  
Monterey Park, CA Zip: 91754  
 Phone: ( ) 626-570-9969 State License No. 685220
8. Person having effective control of the work:  
 Name: McWong Holding Company  
 Address: 809 S Atlantic Blvd #201  
Monterey Park, CA Zip: 91754  
 Phone: ( ) 626-570-9969 State License No. 685220
8. Purpose of the Work: Slope Stabilization
9. Estimated date of start of work: 9/1/21  
 Estimated completion date: 9/30/22
10. Estimated c/y Cut 80,600 Estimated c/y Fill 0

***I hereby acknowledge that I have read this application; that the information given is correct; that I am the owner or duly authorized agent of the owner. I agree to comply with City and State laws regulating grading, and in doing the work authorized thereby, no person will be employed in violation of the Labor Code of the State of California relating to Workman's Compensation Insurance.***

Signature of Applicant:   
 Address: 501 W. Garvey Ave #207  
Monterey Park, CA Zip: 91754

Application Checked By: \_\_\_\_\_ Date: \_\_\_\_\_

Permission is hereby granted the applicant to perform the work described in this Permit, the attached Special Provisions, and on the approved plans. All work shall be performed in accordance with Section 16.21 of the Monterey Park Municipal Code, and any special requirements of the Permit.

Approved \_\_\_\_\_ Date: \_\_\_\_\_  
 Office of City Engineer

# City of Monterey Park GRADING PERMIT



**Permit Expires 6  
Months from Date of  
Issuance!**

Permit Number: \_\_\_\_\_

Date Issued: \_\_\_\_\_

## THIS GRADING PERMIT SHALL BE VALID UPON SIGNING BY THE CITY ENGINEER OR HIS AUTHORIZED REPRESENTATIVE

I hereby request permission to grade or construct, by private contract, certain grading work and related improvements upon property described below, and agree to perform all work in accordance with all provisions of Section 16.21, "Excavation and Grading," of the Monterey Park Municipal Code, any special requirements of the Permit, the Plans, and General and Special Provisions approved by the City Engineer.

All grading shall be in accordance with the approved grading plan and under the supervision of the responsible parties indicated below. I am aware that if the actual conditions encountered in the field differ from the information submitted that it is my responsibility to bring it to the attention of the City and request a revision to the plans and permit requirement. Failure to do so violates the permit requirements and constitutes non-compliance.

I am aware that in the interest of public safety, special regulations apply in hillside areas and that geological or engineering reports (or both) may be required before a permit is issued. If excavated materials are to be obtained from, or are to be disposed of, on a separate, non-contiguous site located within the City of Monterey Park, a separate Grading Permit shall be required for that site also.

***I am also aware that a compaction report for the building(s) footprint and a rough grading certificate signed by the Soils Engineer and the Supervising Grading Engineer must be submitted to the City Engineer's Office for review and approval prior to the issuance of a building permit for the subject site.***

***A 12' x 20' (min.) construction driveway shall be constructed of 1" thick asphalt pavement or 2" thick 3/4" gravel to prevent dirt from being deposited onto the public right-of-way. This driveway shall be constructed and maintained from the clearing stage of the project until the construction of the permanent driveway.***

- Owner's Name Center Int'l Investments Phone (\_\_\_\_) 626-379-3268  
Address: 501 W. Garvey Ave #207  
Monterey Park, CA Zip: 91754
- Address of Site: 1688 W. Garvey Ave  
Lot Number(s) 1 Tract No. 75023
- Scale plans, drawings and quantities prepared and signed by:  
Name: Focus Engineering Inc. Phone (\_\_\_\_) 949-450-0590  
Address: 25 Mauchly, Suite 317  
Irvine, CA Zip: 92618
- Soils Testing Agency: Same as Geologist  
Address: \_\_\_\_\_  
Zip: \_\_\_\_\_  
Phone: (\_\_\_\_) \_\_\_\_\_ State License No. \_\_\_\_\_

Fill in.

5. Engineering Geologist: Advanced Geotechnical Services  
Address: 485 Corporate Drive, Suite B  
Escondido, CA Zip: 92029  
Phone: ( ) 714-786-5661 State License No. GE 2790

6. Grading Contractor: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: ( ) \_\_\_\_\_ State License No. \_\_\_\_\_

7. Hauling Contractor: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_ Zip: \_\_\_\_\_  
Phone: ( ) \_\_\_\_\_ State License No. \_\_\_\_\_


8. Person having effective control of the work:  
Name: McWong Holding Company  
Address: 809 S Atlantic Blvd #201  
Monterey Park, CA Zip: 91754  
Phone: ( ) 626-570-9969 State License No. 685220

Fill in

8. Purpose of the Work: Slope Stabilization

9. Estimated date of start of work: \_\_\_\_\_  
Estimated completion date: \_\_\_\_\_  
10. Estimated c/y Cut \_\_\_\_\_ Estimated c/y Fill \_\_\_\_\_

***I hereby acknowledge that I have read this application; that the information given is correct; that I am the owner or duly authorized agent of the owner. I agree to comply with City and State laws regulating grading, and in doing the work authorized thereby, no person will be employed in violation of the Labor Code of the State of California relating to Workman's Compensation Insurance.***

Signature of Applicant:   
Address: 501 W. Garvey Ave #207  
Monterey Park, CA Zip: 91754

Application Checked By: \_\_\_\_\_ Date: \_\_\_\_\_  
Permission is hereby granted the applicant to perform the work described in this Permit, the attached Special Provisions, and on the approved plans. All work shall be performed in accordance with Section 16.21 of the Monterey Park Municipal Code, and any special requirements of the Permit.  
Approved \_\_\_\_\_ Date: \_\_\_\_\_  
Office of City Engineer

# Resolution Attachment 4

*People of the State of California v. Center Int'l Investments, Inc.*,  
Los Angeles County Superior Court, Case No. BC605788

Settlement Agreement and Mutual Release

## SETTLEMENT AGREEMENT AND MUTUAL RELEASE

### I. PARTIES

The parties to this SETTLEMENT AGREEMENT AND MUTUAL RELEASE (hereinafter "Agreement") are Plaintiff the People of the State of California (the "People") and Defendant Center Int'l Investments, Inc. ("CII"). The People and CII are sometimes referred to individually herein as a "Party" and may be referred to collectively herein as the "Parties."

### II. RECITALS

1. On December 31, 2015, the People commenced an action against CII in the Superior Court of the County of Los Angeles entitled *The People of the State of California, ex rel., Mark D. Hensley, City Attorney for the City of Monterey Park v. Center Int'l Investments, Inc., and Does 1 through 25*, Los Angeles County Superior Court, Case No. BC605788 (hereinafter the "Action").

2. In the Action, the People sought to abate a nuisance involving an unsafe, unsightly and dangerous condition of real property in the City of Monterey Park, including an unstable hillside, approximately located between 1600-1688 W. Garvey Avenue and more particularly described in the Complaint in this case ("Property"), and sought to recover the costs incurred by the People for abating such nuisance from CII, the owners of said real property.

3. CII has implemented a City-approved interim erosion control and slope stabilization plan to prevent erosion of the hillside until such time that the hillside can be permanently remediated in accordance with the terms of this Agreement.

4. CII on February 28, 2017, submitted to the City for review a geotechnical study with recommendations purporting to address all slope stability/public safety issues for the Property (the "Report") as well as site slope restoring improvement plans addressing the remediation of same, but the currently submitted plans are not adequate for development ("Restoration Plan").

5. The City estimates that the review of the Restoration Plan and the correction process between CII and the City will take approximately two months, and at that time CII will be granted a permit to begin slope restoration pursuant to the Restoration Plan ("Permit").

6. CII plans to develop the Property for residential use (the "Project"). The Parties acknowledge that the construction of the Project requires certain discretionary approvals by the City, including without limitation, a subdivision map to subdivide the Property into developable lots (the "Project Approvals").

7. Regardless of the status of the Project, CII will continue to process and finalize the Restoration Plan. CII, in consultation with the City, may submit revisions to the Restoration

### Settlement Agreement and Mutual Release

Plan to be reviewed by the City to further address slope stability so long as such does not affect the deadline for restoration set forth below (the "Supplemental Plan"). The City estimates that the review and correction of the Supplemental Plan will require approximately two months.

8. The Parties now intend and desire to settle all claims alleged in the Action and to compromise the disputes now existing among them. The purpose of this Agreement is to set forth the terms and conditions of the settlement and compromise between the People, on the one hand, and CII, on the other hand.

### **III. TERMS AND CONDITIONS**

In consideration of the execution of, and as a condition of, the Releases herein, the Parties agree to the following terms:

1. CII must comply with the following tasks below:
  - a. Work in good faith with the City to complete the review and correction process of the Restoration Plan (as may be amended by the Supplemental Plan) and obtain a Permit with all due speed;
  - b. Following the City's approval of the Restoration Plan, or any amendment thereto approved by the City under the Supplemental Plan, CII shall complete the hillside restoration before December 31, 2017; for good cause shown, such as a delay in permit issuance caused by the City or inclement weather impeding construction, the City Attorney will extend the time for completing construction past the December 31, 2017 date, and such good cause shall be determined in the exercise of his reasonable discretion. The progress of the Project shall not be deemed good cause because the obligation to complete the hillside restoration is independent from the City's obligation to process the Project in the normal course of business.
  - c. No later than May 31, 2017, CII will submit applications to the City for the Supplemental Plan and Project Approvals;
  - d. By May 5, 2017, CII must obtain and provide to the People Performance Bonds, in substantially the form of Exhibit A attached to this Agreement and incorporated by this reference into this Agreement, totaling \$1 Million Dollars (\$1,000,000), such Bonds to be to the benefit of the People and to guarantee the remediation of the hillside on the Property pursuant to the Restoration Plan or the Supplemental Plan approved by City acting on the People's behalf; the Performance Bonds must further provide that:
    - i. The Performance Bonds amount may be reduced and/or partially cancelled by CII with the People's written consent, such consent

Settlement Agreement and Mutual Release

- not to be unreasonably withheld, if the actual bid by contractors for the remediation of the Property pursuant to approved plans is less than \$1 million;
- ii. Subject to the limitations set forth herein, if CII defaults on its obligation to remediate the Property, the People may use all or part of the Performance Bonds to remediate the Property through any means determined by City, acting on behalf of the People;
  - iii. The Performance Bonds will be cancelled once CII remediates the hillside on the Property and such remediation is accepted by the People as may be evidenced by a certificate of completion recorded by City on the People's behalf;
  - iv. As the remediation proceeds, the Performance Bonds amount may be reduced or cancelled by CII with the People's written consent, such consent not to be unreasonably withheld, in an amount commensurate to the amount that the People would need to complete the remediation if CII abandoned the work.
- e. If the estimated cost of the remediation of the Property by the City once the Restoration Plan is approved is reasonably estimated by the City to be more than \$1 million, the Performance Bonds amount must be increased by CII to an amount reasonably required by the People to cover the costs of remediation by the City;
- f. As part of its obligations, CII must regularly monitor and maintain all of the following until the permanent remediation of the slope pursuant to approved Restoration Plan (as may be amended by the Supplemental Plan), as the case may be, is complete as determined by the People:
- 1. Maintain winterization measures and temporary erosion control plan in place as shown on City-approved plans or as approved in the slope remediation construction Permit;
  - 2. Maintain and remove vegetation such that it does not become overgrown and become a fire hazard;
  - 3. Expeditiously remove debris in the public right-of-way that may slough off of the unstable hillside; and
  - 4. Remove graffiti within two business days of notice by the People.
- g. On or before April 15, 2016, CII paid the City the sum of \$35,000.00 to reimburse the City for the costs incurred by the People for the prosecution

Settlement Agreement and Mutual Release

of this abatement action up until that point. On or before April 28, 2017, CII must reimburse the People an additional \$22,600.00 for additional costs incurred as a result of prosecuting this action since that time.

2. If CII fails to perform the obligations described in the preceding paragraph number 1, CII will be in default of this Agreement. In the event of CII's default, the People may lodge with the Court for immediate entry against CII the Stipulated Judgment which is attached to this Agreement as Exhibit B.

3. Notwithstanding the foregoing, nothing herein shall obligate the People or the City to exercise its discretion in any particular manner with respect to the alternative Restoration Plan, and any exercise of discretion reserved hereunder or required by law, shall not be deemed to constitute a breach of the People's duties under this Agreement.

4. CII hereby agrees to waive any and all rights of notice and hearing, except as otherwise expressly provided herein, that it may have under the principles of *Rooney v. Vermont Investment Corp.*, 10 Cal.3d 351 (1973), or otherwise concerning the Stipulated Judgment. CII does further agree hereby to forever waive the right to move for a new trial, to request findings of fact and conclusions of law, and/or to appeal from the Stipulated Judgment.

5. The Parties expressly agree that this Agreement is admissible to enforce this settlement pursuant to Evidence Code section 1123.

6. Pursuant to Code of Civil Procedure section 664.6, the Parties request and agree that the Court retain jurisdiction over the Parties to enforce this Agreement until there is full performance of the terms herein.

7. Attached to this Agreement as Exhibit C is a Stipulation Re: Dismissal, [Proposed] Order. Upon the People's receipt of the fully-executed Agreement and the fully-executed Stipulation Re: Dismissal from CII, the People will cause to be filed the Stipulation re Dismissal in the Action.

**IV. RELEASES**

1. The People's Release. The People hereby forever and fully release, acquit, and discharge CII, its predecessors, principals, parents, heirs, successors, assigns, subsidiaries, affiliates, commonly controlled entities, companies, enterprises, ventures, partners, insurers, investors, attorneys, officers, shareholders, directors, agents, representatives employees, clients, administrators, executors, personal representatives, and each of them, of and from any and all claims, demands, actions, causes of action, suits, liens, debts, obligations, promises, agreements, costs, damages, liabilities, and judgments of any kind, nature, or amount whether in law or equity, whether known or unknown, anticipated or unanticipated, liquidated or unliquidated, including any and all claimed or unclaimed compensatory damages, consequential damages, interest, costs, expenses and fees (including reasonable or actual attorneys' fees), arising out of or related to the Action and the claims raised therein.

Settlement Agreement and Mutual Release

2. CII's Release. CII hereby forever and fully releases, acquits, and discharges the People, and the City of Monterey Park, their predecessors, principals, parents, heirs, successors, assigns, subsidiaries, affiliates, commonly controlled entities, companies, enterprises, ventures, partners, insurers, investors, attorneys, officers, shareholders, directors, agents, representatives employees, clients, administrators, executors, personal representatives, and each of them, of and from any and all claims, demands, actions, causes of action, suits, liens, debts, obligations, promises, agreements, costs, damages, liabilities, and judgments of any kind, nature, or amount whether in law or equity, whether known or unknown, anticipated or unanticipated, liquidated or unliquidated, including any and all claimed or unclaimed compensatory damages, consequential damages, interest, costs, expenses and fees (including reasonable or actual attorneys' fees), arising out of or related to the Action and the claims raised therein.

3. Unknown Claims. The releases contained in this Article IV, RELEASES, release all claims, demands, actions, causes of action, suits, liens, debts, obligations, promises, agreements, costs, damages, liabilities, and judgments of any kind whether known, unknown, unforeseen, patent or latent which any of the Parties may have against any other Party, arising out of or relating directly or indirectly to the Action, except those obligations otherwise set forth in this Agreement, notwithstanding Section 1542 of the California Civil Code which provides that:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

The Parties understand and acknowledge the significance and consequence of such a specific waiver of Section 1542 and hereby assume full responsibility for any injuries, damages and losses which they may incur from or by reason of any of the above-mentioned matters.

4. Voluntary Release. The releases contained in this Article IV, RELEASES, are freely and voluntarily executed by the Parties after having been apprised of all relevant information and data. Each Party, in executing this Agreement, has not relied on any inducements, promises or representations made by any Party hereto or his agents or attorneys except as expressly set forth in this Agreement.

5. Covenant Not to Sue. Each Party further agrees, promises and covenants that neither the Party, nor any person, organization or any other entity acting on its behalf will file, charge, claim, sue or cause or permit to be filed, charged or claimed, any action for damages or other relief (including injunctive, declaratory, monetary relief or other) against any other Party for any claim released by the respective Party in this Article IV, RELEASES, including, but not limited to, any matter occurring in the past up to the date of this Agreement or involving any continuing effects of actions or practices which arose prior to the date of this Agreement.

Settlement Agreement and Mutual Release

**V. MISCELLANEOUS**

1. Attorney Fees, Injunctive Relief. In the event legal action arises by reason of any controversy claimed in a dispute relating to this Agreement, the interpretation thereof, or the failure of any Party to perform the terms of this Agreement, the prevailing party in such action is entitled, in addition to damages, to injunctive relief or other relief, to reasonable costs and expenses not limited to taxable costs, and reasonable attorney fees to be fixed by the court.

2. Entire Agreement. This Agreement contains the entire agreement between the Parties whose signatures are affixed hereto relating to the rights and obligations contained herein and any representations, negotiations or agreements between the Parties are merged into this Agreement. No subsequent modification or amendment between the Parties shall be effective unless in writing signed by all Parties to this Agreement.

3. No Admission of Liability. This Agreement is the compromise of the above-mentioned disputed claim and shall never be treated as an admission of liability by any Party for any purpose.

4. Binding Effect. This Agreement and each and every provision hereof, shall bind and shall inure to the benefit of the respective heirs, personal representatives, successors-in-interest, and assigns of the Parties hereto.

5. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original for all purposes.

6. Time is of the Essence. Time is of the essence for performance of all obligations under this Agreement.

7. Law Applicable. This Agreement is entered into in the State of California and all questions concerning the validity, interpretation or performance of any of its terms or provisions or of any rights or obligations of the Parties hereto, are governed by and resolved in accordance with the laws of the State of California. If it becomes necessary for the court to interpret this Agreement, the Agreement shall be considered to have been jointly drafted by all the Parties hereto and the court shall not construe any ambiguities in the Agreement in favor of any Party.

**VI. EXECUTION**

1. Each Party hereto acknowledges that it has been represented by counsel in the negotiation and preparation of this Agreement, that it has read the Agreement; that it is fully aware of its contents and of its legal effect, that the preceding paragraphs recite the sole consideration for this Agreement, that all agreements and understandings among the Parties are embodied and expressed herein; and that it has entered into this Agreement freely, without coercion, and based on its own judgment and not in reliance on representations or promises not contained in this Agreement or on a release other than the Mutual Releases contained herein.

Settlement Agreement and Mutual Release

2. Each Party represents and warrants that it has the sole right and exclusive authority to execute this Agreement (and the Releases contained herein), that it is not restricted in doing so, and that it has not made or suffered any assignment, transfer, conveyance, encumbrance, hypothecation or other disposition, voluntary or involuntary, of any claim or demand relating to any matter covered by this Agreement (and the Releases contained herein).

3. Each Party whose signature appears below has read the Agreement in its entirety, and understands, and agrees to, and will perform each and every one of its provisions and conditions.

4. The effective date of this Agreement shall be April 24, 2017 ("Effective Date").

*Signatures on next page*

People of the State of California v. Center Int'l Investments, Inc.  
Los Angeles County Superior Court Case No. DC 605783

Settlement Agreement and Mutual Release

Dated: April 25, 2017

Plaintiff the People of the State of California

By: *Elizabeth M. Galloway*  
Elizabeth M. Galloway, Asst. City Atty  
for

Dated: April 25, 2017

Defendant Center Int'l Investments, Inc.

By:

*Justin F. Chung*  
Justin F. Chung

*W. H. Do*  
W. H. Do

Approved as to form:

Dated: April 25, 2017

Counsel for Defendant

*Robert W. Chung*  
Robert W. Chung

1                   **FIRST AMENDED AND RESTATED SETTLEMENT AGREEMENT BETWEEN**  
2                                   **THE CITY OF MONTEREY PARK AND**  
3                                   **CENTER INTERNATIONAL INVESTMENTS, INC.**

4           THIS FIRST AMENDED AND RESTATED SETTLEMENT AGREEMENT (this  
5 “Agreement”) is entered into this \_\_\_\_\_ day of March 2019 by and between the CITY OF MONTEREY  
6 PARK, a general law city and municipal corporation (“CITY”) acting on behalf of Plaintiff, the People  
7 of the State of California, *ex rel.* Mark D. Hensley, City Attorney (“Plaintiff”), and CENTER INT’L  
8 INVESTMENTS, INC., a California Corporation (“CII”) (collectively, the “Parties”). Each of the  
9 undersigned representatives certifies that he or she is fully authorized to enter into the terms and  
10 conditions of this Agreement, and to execute and bind to this Agreement the entity which he or she  
11 represents.

12 **1. RECITALS.** The Parties enter into this Agreement with reference to the following facts and  
13 objectives:

- 14           **A.**     On December 31, 2015, Plaintiff commenced an action against CII captioned *People of*  
15                   *the State of California, ex rel., Mark D. Hensley, City Attorney for the City of Monterey*  
16                   *Park v. Center Int’l Investments, Inc., and Does 1 through 25*, Los Angeles County  
17                   Superior Court, Case No. BC605788 (the “Action”).
- 18           **B.**     In the Action, Plaintiff sought to abate a nuisance involving an unsafe, unsightly and  
19                   dangerous condition of real property in the City of Monterey Park, including an  
20                   unstable hillside (the “Nuisance”), located approximately between 1600-1688 West  
21                   Garvey Avenue and more particularly described in the Complaint in this case  
22                   (“Property”), and sought to recover the costs incurred by Plaintiff for abating such  
23                   nuisance from CII, the owners of said real property.
- 24           **C.**     Because Plaintiff does not have land use authority within CITY’s jurisdiction, CITY has  
25                   agreed to act on Plaintiff’s behalf in order to resolve the Action in accordance with this  
26                   Agreement. Plaintiff believes that such action is in the public interest and consents to  
27                   CITY’s implementation of this Agreement on Plaintiff’s behalf.
- 28           **D.**     The Parties previously executed a Settlement and Mutual Release dated April 25, 2017

1 (the “Original Agreement”). The Parties intend for the Original Agreement to be  
2 merged and consolidated by reference into this Agreement. To the extent, however,  
3 there is a conflict between the Original Agreement and this Agreement, the terms and  
4 conditions of this Agreement will prevail.

5 **E.** CII seeks to develop the Property for residential uses. CII’s plan requires certain  
6 discretionary approvals from CITY including, without limitation, a development  
7 agreement and subdivision map. To implement its plan and resolve the Action, CII also  
8 proposes to abate the Nuisance as part of its residential project (collectively, “Plan A”).

9 **F.** To resolve the Action, however, Plaintiff requires that CII also prepare a separate plan  
10 that, if required to be implemented, only abates the Nuisance regardless of any  
11 residential development (“Plan B”). Plan B may be voluntarily implemented by CII if  
12 Plan A is not pursued by CII or approved by CITY by the deadline set forth in the  
13 Project Schedule, as described below in Section 1(H) and attached as Exhibit “A,” and  
14 incorporated by reference (the “Project Schedule”). Plan B may also be imposed by  
15 Plaintiff and CITY under the circumstances contemplated in this Agreement.

16 **G.** During the time that Plan A is considered by CITY, CII must construct and maintain  
17 erosion control and slope stabilization plans approved by CITY to temporarily abate the  
18 Nuisance (“Interim Maintenance Program”). Such Winterization Measures must be  
19 completed at CII’s cost and will be monitored by CITY (also at CII’s cost) to ensure  
20 compliance.

21 **H.** The Project Schedule attached as Exhibit “A,” and incorporated by reference, provides  
22 the critical path schedule for Plan A and Plan B as contemplated in this Agreement. CII  
23 understands and agrees that absent good cause, as determined by CITY in its sole  
24 discretion (and contemplated below), the Project Schedule will not be altered.

25 **I.** The Parties also understand and agree that a separate instrument dated December 11,  
26 2018 and entitled “Planning and Processing Agreement” by and between CITY and CII  
27 will govern the manner of processing Plan A and also how CII will reimburse CITY for  
28 all costs associated with abating the Nuisance (“Processing Agreement”).

1 **2. SPECIFIC TERMS OF AGREEMENT AND RELEASES.** For and in consideration of the above-  
2 referenced recitals and the promises and covenants contained in this Agreement, the Parties agree as  
3 follows:

4 **A.** CII agrees to:

- 5 i. Abate the Nuisance as contemplated in this Agreement including, without  
6 limitation, the Project Schedule, at its sole cost. While CII may abate the  
7 Nuisance pursuant to Plan A and the Project Schedule, it must perform Plan B  
8 should it fail to obtain CITY's approval for Plan A. CII's failure to voluntarily  
9 perform Plan A (if approvals are granted) or Plan B will result in CITY  
10 implementing Plan B on Plaintiff's behalf at CII's cost.
- 11 ii. Maintain the Interim Maintenance Program in accordance with CITY approved  
12 plans and permit at CII's cost.
- 13 iii. Implement weed abatement measures in accordance with applicable law  
14 including, without limitation, the Monterey Park Municipal Code, and at the  
15 direction of CITY's Fire Marshal.
- 16 iv. Promptly remove debris in the public right-of-way that may slough off of the  
17 Property. If CITY notification is required, within two business days after being  
18 notified.
- 19 v. Remove graffiti within two business days after notification by CITY.
- 20 vi. Provide Plaintiff, in CITY'S name, a performance bond in a penalty amount set  
21 forth in an operational memorandum, ancillary to this Agreement, to secure  
22 performance of Plan B. The Parties understand that the penalty amount is an  
23 engineering estimate based upon the industry-standard cost of plans and  
24 specifications for Plan B. The actual cost for constructing Plan B may be more.  
25 If the penalty amount of the performance bond is expended, CII will be liable to  
26 Plaintiff and CITY for any excess costs associated with completing Plan B.  
27 Upon determining the actual cost of the performance bond, CII must deliver to  
28 the CITY an executed performance bond in a form prescribed in these

1 documents as security for the performance of Plan B. The surety issuing the  
2 performance bond, and the form of the performance bond, are subject to the  
3 approval of the CITY.

4 vii. CII grants to CITY an irrevocable license to enter onto the Property to inspect  
5 and monitor compliance with this Agreement. CITY's authorized  
6 representatives, including the Project Manager, may enter onto the Property as  
7 reasonably required. CII agrees to hold CITY harmless and to defend and  
8 indemnify CITY to the extent contemplated below for any claim or cause of  
9 action arising from entry onto the Property. CITY will strive to provide 24-hour  
10 notice to CII for any such entry onto the Property.

11 viii. Should CITY be required to implement Plan B, CII grants CITY an irrevocable  
12 license to enter onto the Property to abate the Nuisance in accordance with this  
13 Agreement. CII agrees that neither Plaintiff nor CITY will be required to obtain  
14 an abatement warrant in accordance with applicable law in order to exercise  
15 Plaintiff's rights, by and through CITY, to implement Plan B. Accordingly, CII  
16 specifically waives any rights it may have to prevent CITY's access to the  
17 Property under applicable law should it fail to voluntarily perform Plan B in  
18 accordance with the Project Schedule.

19 ix. Indemnify and hold CITY harmless from and against any claim, action, damages,  
20 costs (including, without limitation, attorneys' fees), injuries or liability arising  
21 from and directly related to CITY's approval of Plan A or Plan B. Should CITY  
22 be named in any suit, or should any claim be brought against it by suit or  
23 otherwise, whether the same be groundless or not, arising out of CITY approval  
24 of Plan A or Plan B, CII agrees to defend CITY (at CITY's request and with  
25 counsel satisfactory to CITY) and will indemnify CITY for any judgment  
26 rendered against it or any sums paid out in settlement or otherwise. For purposes  
27 of this Section, "CITY" includes Plaintiff, CITY's elected officials, appointed  
28 officials, officers and employees.

- 1           **B.**     CITY agrees to:
- 2           i.       Process Plan A as contemplated by and according to the Project Schedule.
- 3           ii.       Provide a project team to process Plan A, the Interim Maintenance Program, and
- 4                     (if required) implement Plan B (the project team is collectively referenced as
- 5                     “Project Manager”). The cost of such project team will be borne solely by CII.
- 6           iii.       For good cause shown, such as a delay in CITY reviewing CII’s proposed
- 7                     development plans, CITY processing or issuing a grading or building permit, or
- 8                     because of unusual inclement weather impeding construction, the Project
- 9                     Manager may extend the time set forth in the Project Schedule by a period of
- 10                    time equal to the length of the delay. Such an extension of time must be in
- 11                    writing, executed by both Parties, and included as an operational memorandum
- 12                    ancillary to this Agreement.

13 **3. DEFAULT; COURT ORDER.**

- 14           **A.**     If CII fails to perform its obligations under this Agreement, it will be in default. CITY
- 15                     may, but is not required to, provide CII with a five day notice to cure its default. In the
- 16                     event of CII’s default, Plaintiff may lodge with the Court for immediate entry against
- 17                     CII the Stipulated Judgment attached as Exhibit “B,” and incorporated by reference.
- 18           **B.**     Nothing in this Agreement obligates CITY to exercise its discretion in any particular
- 19                     manner with respect to Plan A. Any exercise of CITY’s discretion regarding Plan A in
- 20                     accordance with applicable law cannot be deemed to constitute a breach of Plaintiff’s
- 21                     duties under this Agreement.
- 22           **C.**     CII waives any and all rights of notice and hearing, except as otherwise expressly
- 23                     provided by this Agreement that it may have under the principles of *Rooney v. Vermont*
- 24                     *Investment Corp.* (1973) 10 Cal.3d 351 or otherwise concerning the Stipulated
- 25                     Judgment. CII also agrees to forever waive the right to move for a new trial, to request
- 26                     findings of fact and conclusions of law, and/or to appeal from the Stipulated Judgment.
- 27           **D.**     The Parties expressly agree that this Agreement is admissible to enforce this settlement
- 28                     pursuant to Evidence Code § 1123.

1           **E.** Pursuant to Code of Civil Procedure § 664.6, the Parties request and agree that the  
2           Court retain jurisdiction over the Parties to enforce this Agreement until there is full  
3           performance.

4           **4. MUNICIPAL POWERS.** Nothing in this Agreement is intended to, nor can it, act as a limitation  
5           on CITY’s present or future exercise of municipal powers in accordance with the California Constitution  
6           and applicable law.

7           **5. LEGAL ADVICE.** Each Party warrants and represents that in executing this Agreement, each Party  
8           sought legal advice from the attorney of its choice, that the terms of this Agreement and its consequences  
9           were completely read and explained to each Party by that attorney, and that each Party fully understands the  
10          terms of this Agreement.

11          **6. FULL DISCLOSURE.** Each Party acknowledges and represents that each Party was apprised of all  
12          relevant information and data relevant to this Agreement, including, without limitation, future risks,  
13          complications, and costs. Each Party further acknowledges and represents that, in executing this Agreement,  
14          the Party has not relied on any inducements, promises, or representations made by the other Party or any  
15          representative of the other Party.

16          **7. WAIVER.** CITY’s acceptance of payment from CII under this Agreement or the Processing  
17          Agreement and CII’s acceptance of approval for Plan A by the City Council will not be construed to  
18          operate as a waiver of any rights the Parties may have under this Agreement or of any cause of action  
19          arising from their performance. A waiver by either Party of any breach of any term, covenant, or  
20          condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of  
21          the same or any other term, covenant, or condition contained in this Agreement, whether of the same or  
22          different character.

23          **8. WAIVER OF APPEAL.** Notwithstanding any other part of this Agreement or applicable law, under  
24          no circumstances may CII appeal the design, cost, construction, or any other implementation of the  
25          Interim Maintenance Measures or Plan B by CITY to any of CITY’s legislative bodies or to any court  
26          of competent jurisdiction. CII specifically waives any rights it may have to perfect such appeals in order  
27          to compromise and settle the Action through this Agreement and, specifically, to induce Plaintiff and  
28          CITY to consider Plan A as an alternative to abating the Nuisance.

1 **9. NOTICES.** All communications to either Party by the other Party must be in writing and will be  
2 deemed made when received by such Party at its respective name and address as follows:

3 CITY  
4 Karl H. Berger, Assistant City Attorney  
5 City of Monterey Park  
6 320 W. Newmark Ave  
7 Monterey Park, CA 91754

CII  
Center Int'l Investments, Inc.  
Attn: Karrie On  
Chief Executive Officer  
501 West Garvey, Suite 207  
Monterey Park, CA 91754

8 With copies to:  
9 Sheppard Mullin Richter & Hampton LLP  
10 Attn: Alfred Fraijo Jr.  
11 333 South Hope Street, 43<sup>rd</sup> Floor  
12 Los Angeles, CA 90071-1422

13 Any such written communications by mail will be conclusively deemed to have been received by the  
14 addressee upon deposit thereof in the United States Mail, postage prepaid and properly addressed as  
15 noted above. In all other instances, notices will be deemed given at the time of actual delivery.

16 Changes may be made in the names or addresses of persons to whom notices are to be given by giving  
17 notice in the manner prescribed in this Section.

18 **10. INTERPRETATION.** This Agreement was drafted in and will be construed in accordance with  
19 the laws of the State of California, and exclusive venue for any action involving this Agreement will be  
20 in Los Angeles County.

21 **11. ENTIRE AGREEMENT.** This Agreement sets forth the entire understanding of the Parties. There  
22 are no other understandings, terms or other agreements, expressed or implied, oral or written.

23 **12. RULES OF CONSTRUCTION.** Each Party had the opportunity to independently review this  
24 Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and  
25 in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.

26 **13. SEVERABILITY.** If any portion of this Agreement is declared by a court of competent  
27 jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent  
28 necessary in the opinion of the court to render such portion enforceable and, as so modified, such  
portion and the balance of this Agreement will continue in full force and effect.

**14. ELECTRONIC SIGNATURES.** This Agreement may be executed by the Parties on any number  
of separate counterparts, and all such counterparts so executed constitute one agreement binding on all



1 the Parties notwithstanding that all the Parties are not signatories to the same counterpart. In  
2 accordance with Government Code §16.5, the Parties agree that this Agreement, agreements ancillary  
3 to this Agreement, and related documents to be entered into in connection with this Agreement, will be  
4 considered signed when the signature of a party is delivered by electronic transmission. Such  
5 electronic signature will be treated in all respects as having the same effect as an original signature.

6 **15. CAPTIONS.** The captions of the Sections of this Agreement are for convenience of reference only  
7 and will not affect the interpretation of this Agreement.

8 **16. TIME IS OF ESSENCE.** Time is of the essence for each and every provision of this Agreement.

9  
10 **Plaintiff the People of the State of California**

11 Dated: 3/22/2019

12   
By: Karl H. Berger for *ex rel.*, Mark D. Hensley, City Attorney

13 **City of Monterey Park**

14 Dated:

15   
Ron Bow, City Manager

16 **Defendant Center Int'l Investments, Inc.**

17 Dated:

18 \_\_\_\_\_  
By: Karrie On, Chief Executive Officer

**Option 2(A) Timeline<sup>1</sup>:**

**Residential Development (Plan A) with Slope Stabilization (Plan B)**

**17 SFD's/14 Condos – Complying w/R3 Zoning**

Updated 4-1-19

- 01/29/19 – First oversight meeting with Project Manager<sup>2</sup> [CII/City] (*Complete*)
- 02/22/19 – Temporary winterization abatement to be confirmed [CII/City].
- 02/22/19 – Investors' review and comments regarding onsite street design and building footprints [CII]
- 02/25/19 – Rejection of Plan B documents as incomplete and unusable. CII has until 3/18/2019 to submit usable Plan B documents or City will design Plan B at CII's cost. [CII/City]
- 02/25/19 – Commencement of new site grading and preliminary wall analysis per new building footprints and onsite street profile [CII]
- 03/07/19 – CII's geotechnical consultant to complete its portion of work on Plan B [CII]
- 03/11/19 – Applicant commences drafting IS/EIR for City review [CII]
- 03/18/19 – Either usable Plan B documents submitted by CII or City commences design of Plan B documents at CII cost. [CII/City]
- 03/18/19– Meeting re Preliminary Residential Development design status and Plan B with Project Manager [CII/City]
- 03/18/19 – Completion of new site grading and preliminary wall analysis per new building footprints and onsite street profile [CII]
- 03/19/19 - Commencement of MSE wall, upper retaining wall preliminary designs, and update of soil report (incorporate cross sections) [CII]
- 03/28/19 - Either usable revised Plan B documents submitted by CII by 5pm or City commences design of Plan B documents at CII cost. [CII/City]
- 04/08/19 – Proposed Residential Development Design meeting with Project Manager [CII/City]
- 04/28/19 – Plan B Document Review Completed by City [City]
- 04/30/19 – Project Application documents status meeting with Project Manager [CII/City]
- 05/13/19 – File Project application with City [CII]

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<sup>1</sup> Substantial compliance required; Project Manager may determine reasonableness of any proposed alteration by CII.

<sup>2</sup> City Project Manager may determine check-in meetings in his discretion.

<sup>3</sup> Schedule assumes no DRB will be required, this process will be folded into the Planning Commission hearing.

05/13/19 – File tentative map (TM) application with City [CII]

05/13/19 - Screencheck IS/EIR submitted to City [CII]

05/21/19 – City determination regarding Project application completeness [City]

05/21/19 – NOP issued for 30-Day Review of Initial Study [City]

06/24/19 - City returns comments on Screencheck IS/EIR [City]

06/30/19 – Submit draft Development Agreement (DA) to City [CII]. Discussions and revisions between City and CII re DA to be completed no later than 03/13/20. [CII/City]

08/08/19 – Draft EIR submitted to City [CII] (Tony Locacciato)

09/12/19 – City returns comments on Draft EIR [City]

9/30/19 – Winterization stabilization complete [CII]

10/10/19 – Applicant submits revised Draft EIR in response to City comments [CII]

11/14/19 – Completion of City review of Draft EIR [City]

11/15/19 – Publish DEIR/Notice of Availability/Notice of Completion for Circulation (30 days) [City]

01/31/20 – Prepare response to comments on DEIR [CII]

02/7/20 – Submit Final EIR with Draft EIR comments addressed [CII]

03/6/20 – City completes review of Final EIR [City]

03/13/20 – City staff approval of TM/DA/Final EIR [City]

04/14/20 – Planning Commission public hearing [City]<sup>3</sup>

05/06/20 – City Council hearing: first reading (Plan A-DA ordinances) [City]

05/06/20 – *If City Council denies Residential Development Project (Plan A) – Plan B Slope Stabilization Mobilization commences [CII/City]*

05/20/20 – City Council: second reading (Plan A) [City]

05/21/20 – File Notice of Determination – 30 Day Period [City]

06/22/20 – Horizontal permits issued and Horizontal improvements commence [City/CII]

06/22/20 – Prepare Building Design package for submittal for Residential Development Project (Plan A) Building Permits [CII]

11/25/20 – *If no go for Plan A: Plan B Slope Stabilization complete per City approved plan [CII]*

11/30/20 – Submit Building Design package for approval for Building Permits [CII]

12/30/20 – Completion of City review of Architectural Design Package – Project ready for Building Permits [City]

03/31/21 – Stabilization complete for the overall Residential Development Project [CII]

07/20/21 – Project complete – Horizontal Improvements [CII]

TBD – Construction of Homes Commences – Phase 1

1           **SECOND AMENDED AND RESTATED SETTLEMENT AGREEMENT BETWEEN**  
2                                   **THE CITY OF MONTEREY PARK AND**  
3                                   **CENTER INTERNATIONAL INVESTMENTS, INC.**

4           THIS SECOND AMENDED AND RESTATED SETTLEMENT AGREEMENT (this  
5 “Agreement”) is entered into this 8th day of June 2020 by and between the CITY OF MONTEREY  
6 PARK, a general law city and municipal corporation (“CITY”) acting on behalf of Plaintiff, the People  
7 of the State of California, *ex rel.* Mark D. Hensley, City Attorney (“Plaintiff”), and CENTER INT’L  
8 INVESTMENTS, INC., a California Corporation (“CII”) (collectively, the “Parties”). Each of the  
9 undersigned representatives certifies that he or she is fully authorized to enter into the terms and  
10 conditions of this Agreement, and to execute and bind to this Agreement the entity which he or she  
11 represents.

12 **1. RECITALS.** The Parties enter into this Agreement with reference to the following facts and  
13 objectives:

- 14           **A.**     On December 31, 2015, Plaintiff commenced an action against CII captioned *People of*  
15                   *the State of California, ex rel., Mark D. Hensley, City Attorney for the City of Monterey*  
16                   *Park v. Center Int’l Investments, Inc., and Does 1 through 25*, Los Angeles County  
17                   Superior Court, Case No. BC605788 (the “Action”).
- 18           **B.**     In the Action, Plaintiff sought to abate a nuisance involving an unsafe, unsightly and  
19                   dangerous condition of real property in the City of Monterey Park, including an  
20                   unstable hillside (the “Nuisance”), located approximately between 1600-1688 West  
21                   Garvey Avenue and more particularly described in the Complaint in this case  
22                   (“Property”), and sought to recover the costs incurred by Plaintiff for abating such  
23                   nuisance from CII, the owners of said real property.
- 24           **C.**     Because Plaintiff does not have land use authority within CITY’s jurisdiction, CITY has  
25                   agreed to act on Plaintiff’s behalf in order to resolve the Action in accordance with this  
26                   Agreement. Plaintiff believes that such action is in the public interest and consents to  
27                   CITY’s implementation of this Agreement on Plaintiff’s behalf.
- 28           **D.**     The Parties previously executed a Settlement and Mutual Release dated April 25, 2017

1 (the "Original Agreement"). The Parties then entered into the *First Amended and*  
2 *Restated Settlement Agreement Between the City of Monterey Park and Center*  
3 *International Investments, Inc.* (the "First Amended Agreement") on March 22, 2019.  
4 The Parties intend for the Original Agreement and the First Amended Agreement to be  
5 merged and consolidated by reference into this Agreement. To the extent, however,  
6 there is a conflict between the Original Agreement, the First Amended Agreement, and  
7 this Agreement, the terms and conditions of this Agreement will prevail.

- 8 **E.** As previously stated in the Original Agreement and the First Amended Agreement, CII  
9 seeks to develop the Property for residential uses. CII's plan requires certain  
10 discretionary approvals from CITY including, without limitation, a development  
11 agreement and subdivision map. To implement its plan and resolve the Action, CII also  
12 proposes to abate the Nuisance as part of its residential project ("Plan A").
- 13 **F.** To resolve the Action, however, Plaintiff required that CII also prepare a separate plan  
14 that, if required to be implemented, only abates the Nuisance regardless of any  
15 residential development ("Plan B"). Under the Original Agreement and the First  
16 Amended Agreement, Plan B could be voluntarily implemented by CII if Plan A was  
17 (1) not pursued by CII or (2) not approved by CITY by the deadline set forth in the  
18 Project Schedule that had been attached to the First Amended Agreement.
- 19 **G.** Since the execution of the First Amended Agreement, CII has made progress toward the  
20 implementation of Plan A. However, due to additional delays, the Parties are entering  
21 into this Agreement to, among other things, amend the Project Schedule as described  
22 below in Section 1(l) and attached as **Exhibit "A,"** and incorporated by reference (the  
23 "Amended Project Schedule"). As in both the Original Agreement and the First  
24 Amended Agreement, Plan B may also be implemented by Plaintiff and CITY under the  
25 circumstances contemplated in this Agreement.
- 26 **H.** During the time that Plan A is considered by CITY, CII must construct and maintain  
27 erosion control and slope stabilization plans approved by CITY to temporarily abate the  
28 Nuisance ("Interim Maintenance Program"). The Interim Maintenance Program must be

1 completed at CII's cost and will be monitored by CITY (also at CII's cost) to ensure  
2 compliance.

3 I. The Amended Project Schedule attached as Exhibit "A," and incorporated by reference,  
4 provides the critical path schedule for Plan A and Plan B as contemplated in this  
5 Agreement. CII understands and agrees that absent Good Cause, as determined by  
6 CITY in its sole discretion (and contemplated below), the Amended Project Schedule  
7 will not be altered. "Good Cause" shall mean demonstrated progress and effort by CII  
8 in its performance, delays attributable to the CITY's review of Plan A project materials,  
9 CITY processing or issuing a grading or building permit, or because of unusual  
10 inclement weather impeding construction.

11 J. The Parties also understand and agree that a separate instrument dated December 11,  
12 2018 and entitled "Planning and Processing Agreement" by and between CITY and CII  
13 will govern the manner of processing Plan A and also how CII will reimburse CITY for  
14 all costs associated with abating the Nuisance ("Processing Agreement").

15 **2. SPECIFIC TERMS OF AGREEMENT AND RELEASES.** For and in consideration of the above-  
16 referenced recitals and the promises and covenants contained in this Agreement, the Original Agreement,  
17 and the First Amended Agreement (to the extent not altered by this Agreement), the Parties agree as  
18 follows:

19 A. CII agrees to:

20 i. Cause liens to be recorded, in favor of CITY, on real property that is valued in  
21 the amount of at least \$ 6.8 million (the "Liens"). The Parties understand that the  
22 amount of the Liens (\$6.8 million) is an engineering estimate based upon the  
23 industry-standard cost of work for Plan B. The Liens shall be documented  
24 through a Performance Deed of Trust on each of the real properties that CII is  
25 using to satisfy its obligations. A form of the Performance Deed of Trust is  
26 attached hereto as Exhibit "B."

1           ii.     Complete either Plan A or Plan B by the dates set forth in the Amended Project  
2                     Schedule and proceed in accordance with the interim deadlines contained  
3                     therein.

4       **B.**     CII, CITY and Plaintiff agree that:

5           i.     CII shall follow the Amended Project Schedule attached hereto as Exhibit "A,"  
6                     which hereby supersedes any prior Project Schedules attached to the Original  
7                     Agreement and/or the First Amended Agreement. The Amended Project  
8                     Schedule may be amended by agreement between CII, CITY, and Plaintiff  
9                     without further need to amend this Settlement Agreement.

10          ii.    The scope and/or timing and implementation of Plan B may change subject to  
11                     the Parties mutual agreement and CITY approval.

12          iii.   The document attached hereto as Exhibit "C" is a true and correct copy of the  
13                     project that will be implemented as Plan A and such project will serve to abate  
14                     the Nuisance at the Property.

15          iv.   Staff for the City have reviewed Plan A and have accepted the plan as complete  
16                     for purposes of taking final action upon completion of the environmental study.

17          v.     In the event that Plan B is not underway by the deadline set forth in the  
18                     Amended Project Schedule, CITY may (1) enter the Property, abate the  
19                     Nuisance, and/or complete Plan B, and (2) foreclose on the Liens recorded in its  
20                     favor pursuant to Section 2(A)(i) to recover the cost of completing Plan B. In  
21                     the event that the actual completion cost is less than the amounts recovered by  
22                     CITY through the foreclosure of the Liens, CITY will return all sums recovered  
23                     exceeding the actual cost of completion of Plan B to CII.

24       **C.**     CITY agrees to:

25           i.     CITY consents to the cancellation of the performance bond in the amount of  
26                     \$1,000,000 that CII previously secured with respect to the slope stabilization  
27                     work.  
28



# **EXHIBIT A**

**Option 2(A) Timeline:**

**Residential Development (Plan A) with Slope Stabilization (Plan B/B2)**

Updated 06/01/20

- 05/22/20 – File Plan A Project Application with City [CII] **Received**
- 05/22/20 – File Plan A vesting tentative map (VTM) application with City [CII] **Received (6/1)**
- 05/29/20 – Submit Specific Plan to City [CII] **Received**
- 05/29/20 – Screencheck IS/EIR submitted to City [CII] **Received**
- 05/29/20 – NOP issued for 30-Day Review of Initial Study [City] **Draft Received**
- 06/22/20 – City determination regarding Project application completeness [City]
- 07/10/20 – Submit Draft EIR [CII]
- 07/10/20 – Publish DEIR/Notice of Availability/Notice of Completion for Circulation (30 days) [City]
- 08/21/20 – Submit Final EIR with Draft EIR comments addressed [CII]
- 09/28/20 – City staff approval of VTM/DA/Final EIR/Specific Plan [City]
- 10/13/20 – Planning Commission Hearing [City]
- 11/04/20 – City Council hearing: first reading [City]
- 11/05/20 – *If City Council denies Residential Development Project – Plan B2 Slope Stabilization Mobilization commences [CII/City]*
- 12/02/20 – City Council hearing: second reading [City]
- 01/02/21 – Ordinance Effective [City]
- 01/15/21 – Horizontal permits issued [City]
- 02/02/21 – Final Map Recorded [City]
- 03/02/21 – File Writ Period Ends [City]
- 03/08/21 – Mobilize for Horizontal Improvements [CII]
- 04/05/22 – *If no go for Residential Development Project: Plan B2 Slope Stabilization complete per City approved plan [CII]*
- 09/08/22 – Stabilization complete for the overall Residential Development Project [CII]