

**RECORDING REQUESTED BY  
AND WHEN RECORDED RETURN TO:**

City of Pleasanton  
City Clerk's Office  
123 Main Street  
Pleasanton, CA 94566

Recording Fees Exempt Pursuant to Government Code § 27383

**EXHIBIT B**

ABOVE SPACE FOR RECORDER'S USE

**DEVELOPMENT AGREEMENT  
FOR AUF DER MAUR/RICKENBACH SITE**

THIS DEVELOPMENT AGREEMENT ("**Agreement**") is made and entered into in the City of Pleasanton on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by and between the CITY OF PLEASANTON, a municipal corporation ("**City**"), and RING FINANCIAL, INC., a California corporation ("**Developer**"), pursuant to the authority of California Government Code sections 65864 *et seq.* City and Developer are sometimes referred to herein individually as a "party" and collectively as the "parties."

**RECITALS**

A. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California enacted California Government Code sections 65864 *et seq.* (the "**Development Agreement Statute**"), which authorizes City to enter into an agreement with any person having a legal or equitable interest in real property regarding the development of such property.

B. Developer has a legal or equitable interest in certain undeveloped real property located in the City of Pleasanton, County of Alameda, California consisting of approximately 16 acres located at 3150 Bernal Avenue, as more particularly described in **DA Exhibit A-1** attached hereto, and as diagrammed in **DA Exhibit A-2** attached hereto (the "**Project Site**"). Developer anticipates developing at the Project Site a sustainable mixed use village known as "The Vintage," including 345 apartments, approximately 39,000 square feet of retail uses, parking areas, and related on-site and off-site improvements (the "**Project**"), all as more particularly described in the Project Approvals (defined below).

C. In October 2010, the City Council confirmed an 11-member Housing Element Task Force ("**Task Force**") with the mission to oversee the update of the City's Housing Element. After nine Task Force meetings, four community workshops, input from housing experts, and extensive community input, the Task Force recommended a draft list of sites for rezoning to residential uses. On recommendation of the Planning Commission, the City Council, following duly noticed public hearings, approved: a General Plan Amendment to change the land use designation of the Project Site from "Retail/Highway/Service Commercial Business and Professional Offices" to "High Density Residential" (on 11.5 acres of the Project Site, hereinafter referred to as the "**Residential Parcel**") and to "Retail/Highway/Service Commercial Business

and Professional Offices" (on 4.5 acres of the Project Site, hereinafter referred to as the "**Retail Parcel**"); and the rezoning of the Project Site, as one of nine rezoned sites, to Planned Unit Development-High Density Residential (PUD-HDR) and Commercial (PUD-C) Districts, to allow high-density residential use on the Residential Parcel and retail uses on the Retail Parcel, consistent with the Task Force recommendations, the Housing Commission recommendations from its November 17, 2011 hearing and the direction of the Planning Commission-City Council Joint Workshop held December 6, 2011.

D. City has undertaken several actions to meet its Regional Housing Needs Allocation ("**RHNA**") and to review and plan for future housing and retail uses on the Project Site, including, without limitation, the following:

(1) CEQA Compliance. A Supplemental Environmental Impact Report was prepared and, on January 4, 2012, certified by City for the City of Pleasanton Housing Element and Climate Action Plan General Plan Amendment ("**Housing Element EIR**") and Rezoning. In connection with the Housing Element EIR, City also adopted a Mitigation Monitoring and Reporting Program ("**MMRP**"), portions of which were made applicable to the Project Site. The Housing Element EIR anticipated that a high-density residential project of 345 residential units and up to 40,000 square feet of retail space would be constructed on the Project Site. Upon receipt of Developer's project applications, City prepared and considered an Addendum to the Housing Element EIR and determined that the Housing Element EIR fully analyzed all the impacts of the Project.

(2) General Plan Amendment. As referenced in Recital C above, following review and recommendation by the City Planning Commission and after duly noticed public hearings and certification of the Housing Element EIR, the City Council, by Resolution \_\_\_\_\_, approved a General Plan Amendment changing the land use designation of the Project Site from "Retail/Highway//Service Commercial Business and Professional Offices" to "High Density Residential" (11.5 acres) and "Retail/Highway/Service Commercial Business and Professional Offices" (4.5 acres) (the "**GPA**").

(3) PUD Modification. As referenced in Recital C above, following review and recommendation by the City Planning Commission and after a duly noticed public hearing and certification of the Housing Element EIR, the City Council, by Ordinance 2032, approved a modification to the Planned Unit Development ("PUD") for the Stanley Business Park (PUD 81-25) that rezoned the Project Site from the Planned Unit Development - Commercial (PUD-C) District to the Planned Unit Development - High Density Residential (PUD-HDR) and Commercial (PUD-C) Districts, with a minimum density of 30 units/acre allowed on the Residential Parcel and the same uses allowed and development standards applicable to the Retail Parcel as those of the C-N (Neighborhood Commercial) District (the "**PUD Modification**").

(4) Housing Site Development Standards and Design Guidelines. On September 4, 2012, the City Council adopted the Housing Site Development Standards and Design Guidelines ("**Design Guidelines**") to guide development on the rezoned sites, including the Residential Parcel of the Project Site.

(5) PUD Development Plan and Design Review. Following review and recommendation by the City Planning Commission and after a duly noticed public hearing, preparation and consideration of an Addendum to the Housing Element EIR and approval of the GPA and the PUD Modification, the City Council, by Ordinance \_\_\_\_\_, approved the PUD Development Plan (PUD-87) for the Project as more particularly described in attached **DA Exhibit B** (the "**Project Design Review**").

(6) Growth Management Agreement. Following review and approval of the Project Design Review, the City Council, by Resolution \_\_\_\_ determined that it was in the best interests of the City to approve a Growth Management Agreement covering the Project Site (the "**GMA**") and further determined that the City's obligations to meet its RHNA is best served if City issues the residential and retail building permits for the Project Site consistent with the GMA.

(7) Affordable Housing Agreement. Following review and recommendation of the Housing Commission and after a duly noticed public hearing, the City Council, by Resolution \_\_\_\_\_, approved an Affordable Housing Agreement covering the Residential Parcel of the Project Site (the "**AHA**").

(8) Development Agreement. Following review and recommendation by the City Planning Commission and after a duly noticed public hearing, the City Council, by Ordinance \_\_\_\_\_, determined that this Agreement was consistent with the City's General Plan, PUD 81-25as amended by the PUD Modification, and PUD-87, and approved this Agreement.

The approvals described in this Recital D are collectively referred to herein as the "**Project Approvals**."

E. In exchange for the benefits to City described in these recitals, including but not limited to assurance that a residential project consistent with the PUD Modification and Design Guidelines intended to meet the City's RHNA can proceed, together with the other public benefits that will result from the development of the Project Site, Developer will receive by this Agreement assurance that it may proceed with the Project in accordance with the "**Applicable Law**" (defined below), and therefore desires to enter into this Agreement.

NOW, THEREFORE, with reference to the foregoing recitals and in consideration of the mutual promises, obligations and covenants herein contained, City and Developer agree as follows:

## **AGREEMENT**

### **ARTICLE 1**

#### **Description of Property, Effective Date and Term**

Section 1.1 Description of Property. The real property which is the subject of this Agreement is the Project Site, as more particularly described and depicted in the attached **DA Exhibit A-1** and **DA Exhibit A-2**.

Section 1.2 Effective Date. This Agreement shall become effective upon the date the City ordinance approving this Agreement becomes effective (the "**Effective Date**").

Section 1.3 Term. The term of this Agreement shall commence on the Effective Date and expire ten (10) years thereafter (the "**Term**").

## **ARTICLE 2**

### **Standards, Laws and Procedures Governing the Project**

Section 2.1 Vested Right To Develop. Developer shall have a vested right to develop the Project at the Project Site in substantial conformance with the terms and conditions of the Project Approvals, the Subsequent Approvals (defined in Section 4.4 below) (as and when issued), the Applicable Law (defined below) and any amendments to the Subsequent Approvals or this Agreement as shall, from time to time, be approved pursuant to this Agreement. Without limiting the preceding sentence, while Developer contemplates developing the Project Site in accordance with the Project Design Review, Developer shall have the vested right to develop the Project Site with 345 apartment units, up to 39,000 square feet of retail uses, surface parking, and related site improvements, in accordance with the PUD Development Plan and PUD Modification.

Section 2.2 Permitted Uses. The permitted uses and the density and intensity of use of the Project Site; the maximum height, bulk and size of the proposed buildings; provisions for reservation or dedication of land for public purposes and the location of public improvements; the general location of public utilities; and other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and, as and when they are issued (but not in any limitation of any right to develop as set forth in the Project Approvals), any Subsequent Approvals (defined below).

Section 2.3 Applicable Law. "Applicable Law" shall mean, collectively, the Project Approvals and the other existing (as of the Effective Date) rules, regulations, official policies, standards and specifications governing permitted uses of the Project Site, governing density, and governing the design, improvements, the City's Residential Growth Management Program (as set forth in Chapter 17.36 of the Pleasanton Municipal Code), and applicable City regulations, and construction standards and specifications applicable to the Project Site as set forth in this Agreement and the Project Approvals, and in force and effect on the Effective Date. During the Term, to the extent there are any conflicts between the Project Approvals (including but not limited to conditions to any of the Project Approvals) and this Agreement, the terms and conditions of this Agreement shall govern. Further, the parties further acknowledge that the GMA, once approved, is a vested element of this Agreement, notwithstanding subsequent RHNA cycles, or existing timing provisions or subsequent changes to the City's Growth Management Ordinance (the "**GMO**"). Further, during the Term, to the extent there are any conflicts between the GMA and the GMO, the terms and conditions of the GMA shall govern.

Section 2.4 Moratorium, Initiatives and Conflicting Enactments. To the extent consistent with State law (and excepting a declaration of a local emergency or state emergency as defined in Government Code section 8558), if any ordinance, resolution or other measure is enacted subsequent to the Effective Date, whether by action of City, by initiative, referendum, or

otherwise, that imposes a building moratorium, a limit on the rate of development, or a voter-approval requirement which would otherwise affect the timely development or implementation of the Project or Project Approvals or Subsequent Approvals on or for all or any part of the Project Site ("**City Law**"), City agrees that such City Law shall not apply to the Project, the Project Site, this Agreement, the Project Approvals, or the Subsequent Approvals, if any, during the Term.

Section 2.5 Life of Project Approvals or Subsequent Approvals. The term of any Project Approval or Subsequent Approval shall automatically be extended for the longer of the Term of this Agreement or the term otherwise applicable to such Project Approval or Subsequent Approval if this Agreement is no longer in effect. The Term of this Agreement, any other Project Approval or Subsequent Approval shall not include any period of time during which any applicable development or utility moratorium, lawsuit or the actions of other public agencies that regulate land use, delays the granting of any Subsequent Approval or the development of the Project.

Section 2.6 Development Timing. Subject to Applicable Law, including the GMA, Developer shall have the right to develop the Project on the Project Site in such order and at such rate and at such times, if any, as Developer deems appropriate within the exercise of its subjective business judgment.

Section 2.7 Compliance with State and Federal Law. This Agreement is subject to Developer's compliance with all applicable federal and State laws and regulations and compliance with applicable provisions of the California Environmental Quality Act, Public Resources Code sections 21000 et seq. ("**CEQA**").

### **ARTICLE 3** **Developer Obligations**

Section 3.1 Obligations of Developer Generally. The parties acknowledge and agree that City's agreement to perform and abide by the covenants and obligations of City set forth in this Agreement is a material consideration for Developer's agreement to perform and abide by its long term covenants and obligations, as set forth herein. The parties acknowledge that many of Developer's long term obligations set forth in this Agreement are in addition to Developer's agreement to perform all the mitigation measures identified in the MMRP and specifically applicable to the Project Site.

Section 3.2 Development Impact Fees. Except as otherwise specifically set forth in this Article 3 or otherwise herein, Developer shall pay to City only those development impact fees and exactions which are in effect as of the Effective Date. A complete list of these applicable development impact fees and exactions is attached as **DA Exhibit C**. Developer may defer payment of development impact fees and exactions (including but not limited to those set forth or referenced in Sections 3.3, 3.4(c) and 3.7) until issuance of certificates of occupancy. Further, in the event Developer applies for multiple grading or building permits covering portions or phases of the Project, Developer shall only pay those development impact fees (or prepare such study or studies) applicable to the portion or phase of the Project covered by the issued permit. However, during the Term of this Agreement, except as specifically set forth in

this Agreement or the Project Approvals, Developer shall pay those periodic cost of living or similar indexed increases, decreases or adjustments to such fees and exactions as are applicable and in effect at the time such fees or exactions would otherwise be payable to City.

Section 3.3 Traffic Mitigation Measures; Traffic Impact Fees. Developer shall be obligated to mitigate the traffic related impacts of the Project in conformance with the Housing Element EIR, Mitigation Measure 4.N-7, which shall be deemed full compliance with General Plan policy, by complying with each of the following:

(a) Pleasanton Traffic Impact Fee. Developer shall pay to City the Pleasanton Traffic Impact Fee in accordance with the City's Non-NPID fee schedule in effect on the Effective Date of this Agreement, and

(b) Tri-Valley Transportation Committee Fee. Developer shall pay to the City the Tri-Valley Transportation Committee Fee as may be applicable.

Section 3.4 Below Market Rate Units

(a) Developer shall be obligated to comply with its obligations set forth in the AHA;

(b) City acknowledges and finds that in recognition and consideration of Developer's execution of the AHA, the Project is exempt from any obligation to pay the City's Lower Income Housing Fee; and

(c) As more particularly set forth in the AHA, in lieu of providing any affordable units and in full satisfaction of all requirements of Developer under the AHA, City may elect, not later than the first to occur of one year after the effective date of the AHA or forty-five (45) days after Developer notifies City in writing of its intent to apply for a building permit, to require a one time in-lieu fee in the amount of Four Million Five Hundred Thousand Dollars (\$4,500,000), which shall be payable prior to City's issuance of the first certificate of occupancy for a residential unit.

Section 3.5 School Fees. Developer shall pay school fees in accordance with a written agreement entered into, or to be entered into, between Developer and the Pleasanton Unified School District ("**PUSD**"), and Developer shall provide to City, prior to building permit issuance, PUSD's written confirmation of such agreement.

Section 3.6 Processing Fees; Permit Fees.

(a) Building Permit. Developer shall pay to City building permit fees in accordance with the City's building permit ordinance in effect at the time the applicable building permit is granted by City.

(b) Processing Fees. Developer shall pay to City the City's reasonable application processing fees for the Project in accordance with the City's fee schedule in effect at the time Developer submits the applicable Project application for processing.

Section 3.7 Park Fees. Consistent with, and in satisfaction of Developer's Quimby Act (Gov't Code section 66477) and City Park Fee Ordinance (Chapter 19.44 of the Pleasanton Municipal Code), Developer will pay City park fees totaling approximately Two Million Seven Hundred Thousand Dollars(\$2,700,000). The precise amount of this contribution will be determined in accordance with the terms of the City's Park Land Fee Ordinance (Ordinance No. 1605) in effect on the Effective Date. Developer acknowledges that the inhabitants of the Project will benefit whether the City elects to apply these funds to the acquisition of parkland or to park and recreational improvements to Tawny Park, Orloff Park, BMX Park, Lions Wayside Park, Delucchi Park, Staples Ranch Community Park, Alviso Adobe Community Park, Creekside Park, Bernal Community Park, Tennis and Community Park, Sports Park, and recreational trails, or a combination thereof.

#### **ARTICLE 4** **City Obligations**

Section 4.1 Protection of Vested Rights. To the maximum extent permitted by law, City shall take any and all actions as may be necessary or appropriate to ensure that the vested rights provided by this Agreement can be enjoyed by Developer and to prevent any City Law from invalidating or prevailing over all or any part of this Agreement. City shall cooperate with Developer and shall undertake such actions as may be necessary to ensure this Agreement remains in full force and effect. City shall not support, adopt, or enact any City Law, or take any other action which would violate the express provisions or intent of the Project Approvals or the Subsequent Approvals (defined below).

Section 4.2 Availability of Public Services. To the maximum extent permitted by law and consistent with its authority, City shall assist Developer in reserving and securing capacity for sewer, water and any other utilities or services as may be necessary or appropriate to serve the Project.

Section 4.3 Developer's Right to Rebuild. City agrees that Developer may renovate or rebuild the Project Site within the Term of this Agreement should it become necessary due to natural disaster, changes in seismic requirements, or should the buildings located within the Project Site become functionally outdated, within Developer's sole discretion, due to changes in technology. Any such renovation or rebuilding shall be subject to the square footage and height limitations vested by this Agreement, and shall comply with the Project Approvals, any Subsequent Approvals, the building codes existing at the time of such rebuilding or reconstruction, and the applicable requirements of CEQA.

Section 4.4 Processing Subsequent Approvals. "**Subsequent Approvals**" shall mean those certain other land use approvals, entitlements, and permits other than the Project Approvals which are necessary or desirable for the development of the Project on the Project Site. The Subsequent Approvals may include, without limitation, the following: amendments of the Project Approvals, vesting tentative map, lot line adjustments and/or parcel maps or subdivision maps (to create separate legal parcels for the Residential Parcel and the Retail Parcel), improvement agreements, grading permits, building permits, sewer and water connection permits, and certificates of occupancy. The Subsequent Approvals shall be deemed tools to implement those final policy decisions reflected by the Project Approvals and shall be issued by

City so long as they comply with this Agreement and Applicable Law and are not inconsistent with the Project Approvals. Without limiting the preceding provisions of this Section 4.4 or Sections 2.10-2.2, City shall not (a) impose any conditions of approval or other requirements upon any Subsequent Approvals that conflict with any Project Approvals or that could prevent or materially increase the cost of development of the Project pursuant to the Project Approvals; or (b) require any further legislative level entitlements to enable Developer to build out the Project on the Project Site.

Section 4.5 Permitted Retail Uses. The retail uses listed on attached **DA Exhibit D** shall be deemed uses permitted on the Retail Parcel, without any requirement for a conditional use permit, notwithstanding any provision to the contrary in this Agreement or Applicable Law. Without limiting the preceding sentence, the other uses allowed on the Retail Parcel shall be those permitted or conditionally permitted under the C-N (Neighborhood Commercial) district.

## **ARTICLE 5** **Miscellaneous**

### Section 5.1 Amendment to Project Approvals or Subsequent Approvals.

(a) Administrative Project Amendments. Upon the written request of Developer for an amendment or modification to a Project Approval or Subsequent Approval, the Director of Community Development or his/her designee shall determine (i) whether the requested amendment or modification is minor when considered in light of the Project as a whole; and (ii) whether the requested amendment or modification is substantially consistent with this Agreement and Applicable Law. If the Director of Community Development or his/her designee finds that the proposed amendment or modification is minor, substantially consistent with this Agreement and Applicable Law, and will result in no new significant impacts not addressed and mitigated in the Housing Element EIR and Addendum thereto, the amendment shall be determined to be an "**Administrative Project Amendment**" and the Director of Community Development or his designee may, except to the extent otherwise required by law, approve the Administrative Project Amendment without notice and public hearing. Without limiting the generality of the foregoing, lot line adjustments, minor increases or reductions in the density which do not affect the number of required affordable units as described in Section 3.4 above, minor increases or decreases in the intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, minor variations in color, changes in trail alignments, substitutions of comparable landscaping for any landscaping shown on any final development plan or landscape plan, variations in the location of structures that do not substantially alter the design concepts of the Project, variations in the location or installation of utilities and other infrastructure connections or facilities that do not substantially alter the design concepts of the Project, and minor adjustments to the Project Site diagram or Project Site legal description shall be treated as Administrative Project Amendments.

(b) Other Project Amendments. Any request of Developer for an amendment or modification to a Project Approval or Subsequent Approval which does not satisfy the

requirements for an Administrative Project Amendment shall be subject to the review, consideration and action by City pursuant to the Applicable Law and this Agreement.

Section 5.2 Amendment of Agreement. This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest, as follows:

(a) Administrative Amendments to Agreement. Any amendment to this Agreement which does not substantially affect (i) the Term of this Agreement, (ii) permitted uses of the Project Site, (iii) provisions for the reservation or dedication of land, (iv) conditions, terms, restrictions or requirements for subsequent discretionary actions, (v) the density or intensity of use of the Project Site or the maximum height or size of proposed buildings, or (vi) monetary contributions by Developer, shall not, except to the extent otherwise required by law, require notice or public hearing before the parties may execute an amendment hereto. Such amendment may be approved by the Community Development Director who shall make the determination in the context of the overall Project.

(b) Amendment Exemptions. No amendment of a Project Approval or Subsequent Approval shall require an amendment to this Agreement. Instead, any such amendment automatically shall be deemed to be incorporated into the Project and vested under this Agreement.

(c) Scope of Amendment. An amendment to this Agreement may properly address new impacts, if any, resulting from the proposed amendment and shall not serve as an opportunity for City to revisit vested rights unrelated to such amendment.

Section 5.3 Cooperation in Event of Legal Challenge. In the event of an administrative, legal or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of this Agreement or any Project Approval or Subsequent Approval, the parties shall cooperate in defending such action or proceeding. The parties shall use best efforts to select mutually agreeable legal counsel to defend such action, and Developer shall pay compensation for such legal counsel; provided, however, that such compensation shall include only compensation paid to counsel not otherwise employed as City staff and shall exclude, without limitation, City Attorney time and overhead costs and other City staff overhead costs and normal day-to-day business expenses incurred by City. Developer's obligation to pay for legal counsel shall not extend to fees incurred on appeal unless otherwise authorized by Developer. In the event City and Developer are unable to select mutually agreeable legal counsel to defend such action or proceeding, each party may select its own legal counsel at its own expense.

Section 5.4 Defaults. In the event City or Developer defaults under the terms of this Agreement, City or Developer shall have all rights and remedies provided under law. No default hereunder shall render invalid the lien of any deed of trust, mortgage or security interest in or upon the Project Site or any improvements or fixtures at any time located thereon.

Section 5.5 Periodic Review. Throughout the Term of this Agreement, at least once every twelve (12) months following the execution of this Agreement, City shall review the extent of good-faith compliance by Developer with the terms of this Agreement.

Section 5.6 California Law. This Agreement shall be construed and enforced in accordance with California Law.

Section 5.7 Attorneys Fees. In any legal action or other proceeding brought by either party to enforce or interpret a provision of this Agreement, or otherwise arising out of the subject matter of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and any related costs incurred in that proceeding in addition to any other relief to which it is entitled.

Section 5.8 Severability. If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties.

Section 5.9 Covenants Running with the Land. All of the provisions contained in this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors and assigns, representatives, and all other persons acquiring all or a portion of the Project Site, or any interest therein, whether by operation of law or in any manner whatsoever, including, without limitation, purchasers or ground lessees thereof. All of the provisions contained in this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law including, without limitation, *California Civil Code section 1468*.

Section 5.10 Assignment of Interests, Rights and Obligations. Developer may transfer or assign all or any portion of its interests, rights or obligations under this Agreement, the Project Approvals or Subsequent Approvals to any affiliate of Developer or any third parties acquiring an interest or estate in the Project Site or any portion thereof including, without limitation, purchasers or ground lessees of lots, parcels or facilities.

Section 5.11 Notices. Any notice or communication required hereunder between City and Developer must be in writing, and may be given either personally, by telefacsimile (with original forwarded by regular U.S. Mail) by registered or certified mail (return receipt requested), or by FedEx or other similar courier promising overnight delivery to the respective addresses specified by each party. Any party hereto may at any time, by giving ten (10) days written notice to the other party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to City, to: City of Pleasanton  
City Hall  
123 Main Street  
P.O. Box 520  
Pleasanton, CA 94566  
Attn: Nelson Fialho, City Manager  
Telephone: (925) 931-5002  
Facsimile: (925) 931-5482

With Copies to: City of Pleasanton  
City Hall  
123 Main Street  
P.O. Box 520  
Pleasanton, CA 94566  
Attn: Jonathan Lowell, City Attorney  
Telephone: (925) 931-5015  
Facsimile: (925) 931-5482

If to Developer, to: Ring Financial, Inc.  
1880 Century Park East, Suite 716  
Los Angeles, CA 90067  
Attn: Joe Marasco  
Telephone: (310) 458-0458  
Facsimile: \_\_\_\_\_

With Copies to: Holland & Knight LLP  
50 California Street, Suite 2800  
San Francisco, CA 94111  
Attn: David L. Preiss  
Telephone: (415) 743-6914  
Facsimile: (415) 743-6910

Section 5.12 Exhibits. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

DA EXHIBIT A-1.....Legal Description of Project Site

DA EXHIBIT A-2.....Diagram of Project Site

DA EXHIBIT B .....PUD Development Plan

DA EXHIBIT C .....List of City Development Impact Fees and Exactions

DA EXHIBIT D .....Partial List of Permitted Retail Uses

Section 5.13 Entire Agreement, Counterparts and Exhibits. This Agreement is executed in two (2) duplicate counterparts, each of which is deemed to be an original. This

Agreement consists of [\_\_\_\_] pages and [\_\_\_\_] exhibits which constitute in full, the final and exclusive understanding and agreement of the parties and supersedes all prior and contemporaneous negotiations or agreements of the parties with respect to all or any part of the subject matter hereof. Any waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of City and the Developer.

Section 5.14 Estoppel Certificate. Developer may, at any time, and from time to time, deliver a written notice to City requesting City to certify in writing that: (a) this Agreement is in full force and effect and a binding obligation of the parties, (b) this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments entered into by the parties, and (c) to the knowledge of City, neither party is or has been in default under this Agreement, or if any such default has to City's knowledge occurred, describing the nature of any such event of default and any cure thereof. City shall execute and return such certificate to Developer within ten (10) days following City's receipt thereof, and if City fails so to do within such 10-day period, the information in Developer's notice shall conclusively be deemed true and correct in all respects. The Director of Community Development, on behalf of City, shall execute certificates requested by Developer hereunder. City acknowledges that any certificate hereunder may be relied upon by any transferee or mortgagee of any interest of Developer hereunder.

Section 5.15 Further Assurances. Each of the parties covenants, on behalf of itself and its successors and assigns, to take all actions and to execute, with acknowledgment or affidavit if required, any and all documents and writings, that may be reasonably necessary, proper or convenient to achieve the purposes and objectives of this Agreement.

Section 5.16 Interpretation. Captions and headings in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of any provision of this Agreement. As used herein: (a) the singular shall include the plural (and vice versa) and the masculine or neuter gender shall include the feminine gender (and vice versa) where the context so requires; (b) locative adverbs such as "herein," "hereto," and "hereunder" shall refer to this Agreement in its entirety and not to any specific section or paragraph; (c) the terms "include," "including," and similar terms shall be construed as though followed immediately by the phrase "but not limited to;" (d) "shall," "will," "must," "agrees," and "covenants," are mandatory and "may" is permissive; and (e) "or" is not exclusive. The parties have jointly participated in the negotiation and drafting of this Agreement, and this Agreement shall be construed fairly and equally as to the parties, without regard to any rules of construction relating to the party who drafted a particular provision of this Agreement.

Section 5.17 Recordation of Development Agreement. Pursuant to California Government Code section 65868.5, no later than ten (10) days after City enters into this Agreement, the City Clerk shall record an executed copy of this Agreement in the Official Records of the County of Alameda.

IN WITNESS WHEREOF, this Agreement has been entered into by and between Developer and City as of the day and year first above written.

**"CITY"**

Dated: \_\_\_\_\_

CITY OF PLEASANTON,  
a municipal corporation

By: \_\_\_\_\_  
Nelson Fialho  
City Manager

Dated: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_  
Jonathan Lowell  
City Attorney

**"DEVELOPER"**

Dated: \_\_\_\_\_

RING FINANCIAL, INC., a California  
corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

State of California

County of \_\_\_\_\_)

On \_\_\_\_\_ before me \_\_\_\_\_  
(insert name and title of the officer) personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that  
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

State of California

County of \_\_\_\_\_)

On \_\_\_\_\_ before me \_\_\_\_\_  
(insert name and title of the officer) personally appeared \_\_\_\_\_,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same  
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument  
the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that  
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**EXHIBIT A-1  
TO  
DEVELOPMENT AGREEMENT  
FOR AUF DER MAUR/RICKENBACH SITE**

**LEGAL DESCRIPTION OF PROJECT SITE**

**[See Attached]**

**EXHIBIT A-2  
TO  
DEVELOPMENT AGREEMENT  
FOR AUF DER MAUR/RICKENBACH SITE**

**DIAGRAM OF PROJECT SITE**

**[See Attached]**

**EXHIBIT B  
TO  
DEVELOPMENT AGREEMENT  
FOR AUF DER MAUR/RICKENBACH SITE**

**PUD DEVELOPMENT PLAN  
(PUD-87)**

**[See Attached]**

**EXHIBIT C  
TO  
DEVELOPMENT AGREEMENT  
FOR AUF DER MAUR/RICKENBACH SITE**

**LIST OF CITY DEVELOPMENT IMPACT FEES AND EXACTIONS**

**[See Attached]**

**EXHIBIT D  
TO  
DEVELOPMENT AGREEMENT  
FOR AUF DER MAUR/RICKENBACH SITE  
PARTIAL LIST OF PERMITTED RETAIL USES**