ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANAHEIM (i) APPROVING DEVELOPMENT AGREEMENT NO. 2008-00002 BY AND BETWEEN THE CITY OF ANAHEIM AND K/L ANAHEIM PROPERTIES I LLC AND K/L ANAHEIM PROPERTIES II LLC (ii) MAKING CERTAIN FINDINGS RELATED THERETO, AND (iii) AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT FOR AND ON BEHALF OF THE CITY.

WHEREAS, Article 2.5 of Chapter 4 of Division 1 of Title 7 (commencing with Section 65864) of the Government Code of the State of California (hereinafter "Statute") authorizes a city to enter into a contract which is called a development agreement in order to establish with certainty what regulations will govern the construction of a development; and

WHEREAS, the City of Anaheim (hereinafter the "City"), as a charter city, heretofore enacted Ordinance No. 4377 (hereinafter "Enabling Ordinance") on November 23, 1982, making the City subject to the Statute; and

WHEREAS, pursuant to subdivision (c) of Section 65865 of the Statute, the City heretofore on November 23, 1982, adopted Resolution No. 82R-565 (hereinafter the "Procedures Resolution") establishing procedures and requirements for consideration of development agreements upon receipt of an application by the City; and

WHEREAS, on May 25, 2004, the Anaheim City Council approved General Plan Amendment No. 2004-00419 setting forth the City’s vision for development of the City of Anaheim ("General Plan Amendment"), and certified Final Environmental Impact Report No. 330, adopting Findings of Fact and a Statement of Overriding Considerations, and associated Mitigation Monitoring Plans ("FEIR No. 330"), in conjunction with its consideration and approval of the General Plan Amendment, amendment of the City’s zoning code, and a series of related actions; and

WHEREAS, the General Plan sets forth a vision for development of Mixed Uses, Office High, Office Low, Industrial and Institutional land uses within an approximately 820-acre area generally bounded by the Santa Ana River on the east, the Anaheim City limits on the south, the Santa Ana Freeway (Interstate 5) on the west, and the Southern California Edison Company Easement on the north ("The Platinum Triangle"); and

WHEREAS, in order to carry out the goals and policies of the General Plan for The Platinum Triangle, on August 17, 2004, the City Council adopted Resolution No. 2004-177, approving The Platinum Triangle Master Land Use Plan, setting forth the new vision for The Platinum Triangle; and
WHEREAS, to further implement the goals and policies of the General Plan for The Platinum Triangle and pursuant to the procedures set forth in Chapter 18.76 of the Anaheim Municipal Code, on August 24, 2004, the City Council adopted Ordinance No. 5935 amending Title 18 of the Anaheim Municipal Code to establish zoning and development standards for the Platinum Triangle Mixed-Use (PTMU) Overlay Zone (the “PTMU Overlay Zone”) and Ordinance No. 5936, amending the zoning map to reclassify approximately three hundred and seventy-five acres within The Platinum Triangle into the PTMU Overlay Zone as depicted in The Platinum Triangle Master Land Use Plan to provide opportunities for high quality, well-designed development projects that could be stand-alone projects, or combined residential and non-residential uses including office, retail, business services, personal services, public spaces and uses, and other community amenities within the area; and

WHEREAS, the PTMU Overlay Zone requires an approved Final Site Plan and a Development Agreement between the property owner and the City of Anaheim to implement all development in the Katella, Gene Autry and Gateway Districts of the PTMU Overlay Zone, except as otherwise exempt under the Code; and

WHEREAS, on August 17, 2004, the City Council adopted Resolution No. 2004-179, approving the form of the Standard Development Agreement for the PTMU Overlay Zone; and

WHEREAS, on October 25, 2005, the City Council certified Final Subsequent Environmental Impact Report No. 332 (FSEIR No. 332) and the Updated and Modified Mitigation Monitoring Program No. 106A in connection with its consideration of General Plan Amendment No. 2004-00420, Zoning Code Amendment No. 2004-000036, Miscellaneous Case No. 2004-00089 to amend The Platinum Triangle Master Land Use Plan, Miscellaneous Case No. 2005-00114 to amend The Platinum Triangle Standardized Development Agreement, Miscellaneous Case No. 2005-00115 to rescind, in part, the Resolution of Intent pertaining to reclassification of the North Net Fire Training Center site and Reclassification No. 2004-00134; and

WHEREAS, on February 13, 2007, the City Council initiated (i) General Plan Amendment No. 2007-00454; (ii) Zoning Code Amendment No. 2007-00056; (iii) an amendment to The Platinum Triangle Master Land Use Plan (MIS2007-00188); (iv) Reclassification No. 2007-00196; (v) an amendment to The Platinum Triangle Standardized Development Agreement (MIS2007-00203); and (vi) further discretionary actions described in Draft Subsequent Environmental Impact Report No. 2006-00334 (the “Draft SEIR”), pertaining to The Platinum Triangle (herein collectively referred to as the “Platinum Triangle Expansion Project”); and

WHEREAS, on April 8, 2008, the City Council certified Final Subsequent Environmental Impact Report No. 2006-00334 (FSEIR No. 334) and the Updated and Modified Mitigation Monitoring Program No. 106B, and approved General Plan Amendment No. 2007-00454, Amendment to the Platinum Triangle Master Land Use Plan Miscellaneous Case No. 2006-00188, Zoning Code Amendment No. 2007-00056, Zoning Reclassification No. 2007-00196, Amendment to the Platinum Triangle Standardized Development Agreement Form
WHEREAS, on January 22, 2008, pursuant to the Statute, the Enabling Ordinance, and the Procedures Resolution (hereinafter collectively referred to as the “Development Agreement Law”), K/L Anaheim Properties I LLC and K/L Anaheim Properties II LLC (hereinafter “Applicant”), submitted an application to the Planning Department for approval of Development Agreement No. 2008-00002 (hereinafter the “Application”), which included a proposed development agreement (hereinafter the “Development Agreement”) prepared in conformance with the Standard Development Agreement for The Platinum Triangle to vest certain project entitlements and address the implementation of the Platinum Gateway Project; and

WHEREAS, the Development Agreement pertains to approximately 8.7 acres of real property commonly known as 905-917 East Katella Avenue in the City of Anaheim, County of Orange, State of California, as more particularly shown in Exhibit “A” attached hereto and incorporated herein by this reference (hereinafter the “Property”), which is located in the Katella District of The Platinum Triangle and zoned I (PTMU Overlay) (Industrial – Platinum Triangle Mixed Use (PTMU) Overlay); and

WHEREAS, the Applicant desires to develop the Property in accordance with the provisions of the Development Agreement by developing a mixed-use project consisting of a 138-room hotel, 12-story office building, 320-unit residential apartment complex, and a 7-story parking structure, as more particularly set forth in Final Site Plan No. 2008-00001 and Conditional Use Permit No. 2008-05304 (collectively referred to herein as the “Platinum Gateway Project”); and

WHEREAS, on May 7, 2008, the Planning Director approved Final Site Plan No. 2008-00001 to provide for the development of the Platinum Gateway Project, contingent upon the approval of Development Agreement No. 2008-00002 and Conditional Use Permit No. 2008-05304; and

WHEREAS, the City Planning Commission did hold a public hearing at the Civic Center in the City of Anaheim on May 12, 2008, at 2:30 p.m., notice of said public hearing having been duly given as required by law and in accordance with the provisions of the Anaheim Municipal Code, Chapter 18.60, to hear and consider evidence for and against said Development Agreement, and to investigate and make findings and recommendations in connection therewith; and

WHEREAS, the City Planning Commission, by its Resolution No. PC2008-58, which is incorporated herein by this reference, made certain findings that the Applicant has demonstrated eligibility to enter into Development Agreement No. 2008-00002 and that the Agreement meets the criteria set forth in the Procedures Resolution and has recommended to the City Council that said Development Agreement be approved; and
WHEREAS, the City Council did hold a public hearing upon the Development Agreement, notice of said public hearing having been duly given as required by law; and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act ("CEQA"), the City Council, as lead agency for the Development Agreement, by motion, did find and determine, based upon its independent review and consideration of an Initial Study conducted pursuant to CEQA for Development Agreement No. 2008-00002, and the requirements of CEQA, including Section 21166 of the California Public Resources Code and Section 15162 of the CEQA Guidelines, and the evidence received at the public hearing, that FSEIR No. 334 and Mitigation Monitoring Program No. 106B and Mitigation Monitoring Plan No. 153 are adequate to serve as the required environmental documentation for the Development Agreement and satisfy all of the requirements of CEQA, and that no further environmental documentation need be prepared for this Development Agreement.

WHEREAS, the Applicant has demonstrated that the Project meets the eligibility requirements of the Procedures Resolution to enter into the Development Agreement by showing that, upon completion, the Project will result in the construction of a mixed-use project consisting with a 138-room hotel, 12-story office building, 320-unit residential apartment complex, and a 7-story parking structure; and

WHEREAS, the City Council of the City of Anaheim, after due inspection, investigation and study made by itself and in its behalf, and after due consideration of and based upon all of the evidence and reports offered at said hearing, including the evidence presented at the Planning Commission meeting and Planning Commission Resolution No. PC2008-58, does find upon review of the land use aspects of the Development Agreement:

1. That the Project is consistent with the City's General Plan, as amended by the Platinum Triangle Expansion Project, in that it is in conformance with the General Plan Mixed Use land use designation and with the goals, policies and objectives for The Platinum Triangle as set forth in the General Plan.

2. That the Project is compatible with the uses authorized in and the regulations prescribed for the applicable zoning district in that the Project is in compliance with the PTMU Overlay Zone requirements, as amended by the Platinum Triangle Expansion Project, and as further set forth in Final Site Plan No. 2008-00001, which has been approved by the Planning Director, and Conditional Use Permit No. 2008-05304.

3. That the Project is compatible with the orderly development of property in the surrounding area in that it is in conformance with and implements The Platinum Triangle Master Land Use Plan and the PTMU Overlay Zone requirements, as amended by the Platinum Triangle Expansion Project.

4. That the Project is not otherwise detrimental to the health and safety of the citizens of the City of Anaheim.
5. That the Development Agreement constitutes a lawful, present exercise of the City’s police power and authority under the Statute, the Enabling Ordinance and the Procedures Resolution.

6. That the Development Agreement is entered into pursuant to and in compliance with its charter powers and the requirements of Section 65867 of the Statute, the Enabling Ordinance and the Procedures Resolution.

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

SECTION 1.

That Development Agreement No. 2008-00002 be, and the same is hereby, approved.

SECTION 2.

That the Mayor be, and is hereby, authorized to execute said Development Agreement for and on behalf of the City.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the ___ day of ____________, 2008, and thereafter passed and adopted at a regular meeting of said City Council held on the ___ day of ____________, 2008, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF ANAHEIM

By:

MAYOR OF THE CITY OF ANAHEIM

ATTEST:

CITY CLERK OF THE CITY OF ANAHEIM

69301.v1/MGordon
**Exhibit A**

Source: Recorded Tract Maps and/or City GIS. Please note the accuracy is +/- two to five feet.

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**Subject Property**

**Conditional Use Permit No. 2008-05304**

**Development Agreement No. 2008-00002**

905-917 East Katella Avenue